



The Planning Inspectorate

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# **Report to Worcestershire County Council**

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**Inspectors appointed by the Secretary of State**

**Date 06 May 2022**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Worcestershire Minerals Local Plan**

The Plan was submitted for examination on 17 December 2019

The examination hearings were held between 11 November and 18 December 2020

File Ref: PINS/E1855/429/6

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## **Abbreviations used in this report**

AONB	Area of Outstanding Natural Beauty
AWP	West Midlands Aggregate Working Party
BGS	British Geological Survey
EA	Environment Agency
HRA	Habitats Regulation Assessment
LAA	Local Aggregate Assessment
MM	Main Modification
NE	Natural England
NPPF	National Planning Policy Framework (July 2021)
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
The Council	Worcestershire County Council
The Plan	Worcestershire Minerals Local Plan
MoU	Memorandum of Understanding

## Non-Technical Summary

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

Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal [SA] and habitats regulations assessment [HRA] of them. The MMs were subject to public consultation over a six week period. In some cases, we have amended the detailed wording of the MMs where necessary. We have recommended their inclusion in the Plan after considering the SA and HRA and, all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Emphasising the existence and possible effect of functionally linked land on minerals development;
- Revising the approach to the strategic location of development to more clearly set out the approach to development within and outside of strategic corridors;
- Revising the mineral supply policies to ensure that they contain targets and the scale of provision required;
- Amending the Development Management policies to provide clarification and consistency with the National Planning Policy Framework [NPPF];
- Revising the approach to the safeguarding of mineral resources and infrastructure to ensure more safeguarding and to reflect the 'agent of change' principle
- Revising the implementation and monitoring framework to include triggers for targets to ensure a more robust mechanism to assess the effectiveness of the Plan; and
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains our assessment of the Worcestershire 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.
2. The NPPF 2021 (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. The NPPF replaced the 2019 National Planning Policy Framework that was in force at the time that the Plan was submitted. Therefore, the policies as originally written within the Plan did not have regard to the revised NPPF. Nevertheless, none of the NPPF revisions significantly impacted on the scope and content of the Plan. Consequently, the publication of the revised NPPF during the examination did not alter our recommendations on soundness. However, as a number of the recommended main modifications to the Plan make reference to the NPPF, these have, where necessary, been amended slightly to reference the revised NPPF paragraph numbers and wording.
3. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The Worcestershire Minerals Local Plan submitted in December 2019 (CD1) is the basis for our examination. It is the same document as was published for consultation in August 2019.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that we should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. Our 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.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for six weeks between 31 August and 12 October 2021. Consultation previously started on 2 August 2021 but had to be terminated on 10 August 2021 as the Council became aware that not all of the proposed modifications were correctly shown on the draft policies map. We have taken account of the consultation responses in coming to our conclusions in this report and in this light we have made some amendments to the detailed wording of the main modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has been undertaken. Where necessary we have highlighted these amendments in the report.

## **Policies Map**

6. 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 draft Policies Map which forms part of the interactive minerals mapping tool accessed via the Council's website.
7. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
8. These further changes to the policies map were published for consultation alongside the MMs.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the Schedule of Main Modifications June 2021 (amended February 2022).

## **Context of the Plan**

10. The Plan sets out a long term vision for mineral development in Worcestershire to 2036 and provides the framework to assess any form of mineral development. It contains strategic policies for where minerals development should take place and the expected level of provision for a steady and adequate supply of aggregate minerals and an appropriate supply of industrial minerals. The Plan also includes development management policies and policies to ensure that mineral resources and supporting infrastructure is safeguarded and not sterilised by non-minerals development. The Council is also currently preparing a Minerals Site Allocations Development Plan Document (DPD) which, once completed, will allocate specific sites and preferred areas for mineral development to support the delivery of the Plan.
11. The Plan is proposed to replace the saved policies of the County of Hereford and Worcester Minerals Local Plan, adopted April 1997. The new Plan will form part of the statutory Development Plan for Worcestershire and will apply to the whole of the County. The Development Plan is also made up of Development Plan Documents that have been prepared by the County Council and the City, Borough and District Councils in Worcestershire as well as adopted Neighbourhood Plans in the County. The County of Worcestershire consists of the city of Worcester, borough of Redditch and the districts of Bromsgrove, Malvern Hills, Wychavon and Wyre Forest.

12. Parts of two Areas of Outstanding Natural Beauty [AONB] are within Worcestershire: the Malvern Hills AONB and the western extremity of the extensive Cotswolds AONB. The County also has 2 Special Areas of Conservation [SAC], 4 national nature reserves, over 100 Sites of Special Scientific Interest [SSSI] together with 135 Conservation Areas, over 7000 listed buildings and 176 Scheduled Monuments.

## **Public Sector Equality Duty**

13. We have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included our consideration during the examination as to whether the Plan would result in any form of discrimination or other conduct that is prohibited by or under the Equality Act. An Equality Impact Relevance Screening exercise was carried out by the Council prior to the submission of the Plan (CD20). This concluded that an Equality Impact Assessment was not required.

## **Assessment of Duty to Co-operate**

14. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. When preparing the Plan, the Council is required to engage constructively, actively and on an on-going basis with a range of local authorities and a variety of prescribed bodies in order to maximise the effectiveness of plan preparation with regard to strategic, cross-boundary matters.
15. Details of how the Council has met this duty are set out in the Duty to Co-operate Statement, incorporating the Statement of Common Ground - October 2019 (Ref CD7), the Consultation Statement – December 2019 (Ref CD3) and the Council's written responses to pre-hearing questions. These documents set out how co-operation has taken place over all relevant strategic matters. In the context of this Plan these are minerals provision; green infrastructure and the safeguarding of mineral resources, sites and supporting infrastructure.
16. In addition to the formal consultation stages of the Plan, engagement with a wide range of stakeholders has taken place by the holding of various meetings and workshops and by extensive liaison by telephone, email and letter. The Council maintains ongoing liaison with adjoining planning authorities and other prescribed bodies, including through its membership of relevant County, regional and national groups such as the West Midlands Aggregate Working Party [AWP].
17. Further evidence of the duty being met can be found in the Memorandum of Understanding [MoU] between Gloucestershire County Council, Herefordshire Council and Worcestershire County Council concerning the steady and adequate supply of sand and gravel, crushed rock, and industrial minerals (as well as covering sustainable waste management) (Reference CD39) and in the MoU between Worcestershire County Council, Natural England [NE], and the Environment Agency [EA] concerning "functionally linked land" (Reference CD7zo). The first of these MoUs agree that the signatory Councils will work collaboratively with regard to strategic minerals and waste matters. The

second MoU provides a true record of the discussions and agreements reached with regard to the consideration of functionally linked land and functionally linked watercourses insofar as these issues relate to the development of, and Habitats Regulations Assessment of, the Plan.

18. It is clear that many of the pre-submission changes to the Plan that were brought forward by the Council were as a result of consultation with relevant parties such as local residents, parish councils and local and national bodies including Historic England and the EA, to address their concerns in a constructive and active manner.
19. While concerns of detail remain, notably in respect of the use of the phrase 'planning permission will be granted' in numerous policies within the Plan, these relate to matters of soundness rather than any failure in the Duty to Co-operate. We address these matters later in the report.
20. The evidence demonstrates that the Council has undertaken effective and ongoing formal and informal engagement on strategic matters with Duty to Co-operate bodies throughout the plan-making process. We are therefore 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 been met.

## **Assessment of Other Aspects of Legal Compliance**

21. Our examination of the legal compliance of the Plan is summarised below.
22. The Plan has been prepared in accordance with the Council's Local Development Scheme which was updated in September 2020 to reflect delays resulting from restrictions associated with the Covid-19 pandemic and updated again in September 2021.
23. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
24. The Council carried out a sustainability appraisal [SA] of the Plan, prepared a report of the findings of the appraisal, and published the report (CD12) along with the Plan and other submission documents under regulation 19. The SA was updated to assess the main modifications (DOC7a). Overall, we are satisfied that the SA has been carried out satisfactorily and that there is nothing which undermines the SA findings. The SA process was proportionate, objective and the judgements reached were reasonable and it, thus, constitutes appropriate evidence to inform the Plan.
25. The original Habitats Regulations Assessment [HRA] Report of May 2019 (CD16) and updated report of February 2020 (CD16a) set out why an Appropriate Assessment is not necessary. The updated report specifically addresses the issue of "functionally linked land" in response to matters raised by NE. This matter and the MMs necessary to make the Plan sound in this respect, are addressed in more detail later in the report. The HRA was further updated in June 2021 (DOC 8) to assess the proposed main and additional modifications to the Plan and at this stage it was deemed necessary for an appropriate assessment to be carried out. The assessment concluded that in



light of the avoidance and mitigation measures proposed within the Plan (incorporating the Main and Additional Modifications to the Publication Version, June 2021), no adverse effect on site integrity of a European or Ramsar site is predicted, either alone or acting in combination with other plans or projects, and no residual effects are anticipated. We are satisfied that the HRA process has been robust and note that Natural England are in agreement with it.

26. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area.
27. 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 (policies within Chapter 4 Spatial Strategy (strategic policies) and Chapter 6 Development Management (non-strategic policies)).
28. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## **Assessment of Soundness**

### **Main Issues**

29. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified a number of 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 land use designation in the Plan.
30. A large number of policies in the Plan use the phrase "planning permission will be granted" and then go on to set out the particular set of circumstances within the policy that would need to be met for that to occur. A large number of representors have objected to the use of this phrase, and others similar to it, in the Plan as they consider it to be too permissive. However, whilst we have had regard to these representations, noting that the Plan is to be read as a whole, and that in order to be sound the Plan needs to be positively prepared, we do not consider that the use of this phrase means that the Plan is unsound. Consequently, we have not recommended any modifications in relation to this issue.

### **Issue 1 – Whether the vision, objectives and spatial strategy are soundly based.**

31. Chapters 1 to 4 of the Plan set out the scope of and the context for the Plan and its policies, the vision and objectives of the Plan and finally the spatial strategy. Chapter 2 states that the most important issues for the Plan are the steady and adequate supply of aggregates (sand and gravel and crushed rock) and locally and nationally important industrial minerals such as brick clay and silica sand, the adequate and diverse supply of building stone and the need to safeguard locally and nationally important mineral resources, permitted mineral sites and supporting infrastructure from sterilisation.

32. Chapter 3 of the Plan states that strategic policies in the Plan should provide an overall strategy for the pattern, scale and quality of development, the infrastructure for the provision of minerals, climate change mitigation and adaptation, and conservation and enhancement of the natural and built and historic environment, including landscape and green infrastructure.
33. The Plan notes that in Worcestershire, there is a strong relationship between the location of mineral resources and the character of the landscapes in which they are found. The Plan considers that this relationship gives scope for greater gains to be delivered by pursuing a co-ordinated approach across a wider area than if sites are considered individually, and for minerals development to help to address some of Worcestershire's important economic, environmental and social issues by working and restoring minerals sites in a locally beneficial way.
34. The Plan's vision is therefore that mineral supply will be delivered from working and processing at multiple sites over the life of the Plan, focused in five strategic corridors. These mineral sites will be designed to deliver and enhance multifunctional green infrastructure and become integrated into Worcestershire's green infrastructure network. The Plan has six objectives focusing on the supply of minerals, the protection and enhancement of green infrastructure, the built and natural environment, health and well-being and the local economy and to ensure the prudent use of natural resources.
35. The spatial strategy of the Plan sets out the approach taken within the Plan to achieve the vision and objectives and confirms that mineral development in Worcestershire should be located in the strategic corridors.
36. Although the general vision, objectives and spatial strategy are soundly based, a number of modifications are required to chapters 1 to 4 of the Plan in order to make the Plan sound. These are set out below.

#### *Functionally Linked Land*

37. The HRAs submitted to support the Plan dated May 2019 (CD16) & February 2020 (CD16a) refer to possible functional linkages between land and/or watercourses in Worcestershire to the international designations of the Severn Estuary (SPA & SAC) due to the mobile or migratory bird and fish species associated with these designated sites. NE are in the process of mapping the location of such areas of functionally linked land and is also in discussion with the EA regarding fish species. Discussions between the Council and NE resulted in an update to the original HRA to provide greater clarity on the treatment of land and watercourses which may potentially be functionally linked to an international site. Although the earlier HRA's concluded that an appropriate assessment is not necessary, the June 2021 HRA deemed it necessary for an appropriate assessment to be carried out. The assessment predicted no adverse effect on European or Ramsar sites.
38. A MoU (CD7zo), signed by the Council, NE and the EA in February 2020 sets out what discussions have taken place between the parties and confirms that there is agreement with regard to the changes made to the HRA. It also confirms that notwithstanding the issue of functionally linked land, NE are

satisfied that the tests set out within part c) of policy MLP 21 (now Policy MLP 31) are sufficient.

39. The uncertainty about the actual location of functionally linked land means that at this stage it is not possible for such areas to inform strategic policies within the Plan or to be shown on the policies map. NE agrees with the Council that potential pathways for impact relating to minerals development affecting functionally linked land can be cascaded down to appropriate plans and projects including the Council's emerging Site Allocations Plan, where greater resolution of data enables such assessment.
40. However, given the potential impact of functionally linked land on the scale and location of minerals development, in order to be effective, the Plan needs to make more reference to the existence and possible effect of such land. **MM a1** to **MM a7** (inclusive) modify the reasoned justification within Chapters 2 and 4 of the Plan to refer to the presence of functionally linked land within the County and the potential for the land to support particular species of the Severn Estuary SPA, SAC and Ramsar site. This includes land within the strategic corridors. The wording of **MM a1** and **MM a3** to **MM a7** (inclusive) was amended slightly following public consultation on the MMs to reflect the most up to date evidence regarding functionally linked land and for clarity in relation to what species are found where. These modifications are necessary to ensure effectiveness and to make the Plan sound.

#### *General*

41. Paragraphs 4.48 to 4.50 (inclusive) of the Plan provide a background to and information on the strategic corridor priorities. As submitted for examination, these paragraphs do not provide sufficient clarity regarding the balance between the three pillars of sustainability (economic, social and environmental) or regarding the role of strategic corridors in mitigating and adapting to climate change. Consequently, they are not consistent with national policy which seeks to achieve sustainable development and states that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (NPPF paragraphs 7 & 8). National policy also states that plans should take a proactive approach to mitigating and adapting to climate change (NPPF paragraph 153).
42. **MM f1** is therefore necessary to ensure that the reasoned justification paragraphs relating to the strategic corridor priorities are modified to provide greater clarity in relation to sustainable development and climate change. The modification is required to ensure that the Plan is effective, consistent with national policy and that it is sound.
43. **MM f2** modifies paragraph 4.53 of the Plan which relates to the characteristics of the Avon and Carrant Brook Strategic Corridor to further emphasise the linkages between agriculture and the economy of Worcestershire having regard to the three pillars of sustainability set out in the NPPF. In addition, the modification adds a new footnote regarding the Worcestershire Strategic Economic Plan to replace the existing footnote regarding Worcestershire Local Enterprise Partnership. This modification is required to ensure that the Plan is effective, consistent with national policy and that it is sound.

*Policy MLP 1: Strategic Location of Development*

44. As stated above, the Plan's vision is to focus mineral development in the five strategic corridors. Policy MLP 1 of the Plan deals with the strategic location of development. However, as submitted for examination, the policy is too broad and attempts to address all development within and outside of strategic corridors and also refers to development within allocated sites, areas of search and preferred areas without any obvious distinction between these areas in terms of priority or otherwise. The policy is therefore unclear and not effective.
45. The policy also introduces vague and imprecise concepts of quality, sustainable supply and exceptional circumstances and fails to adequately address how development proposals would be assessed, particularly given that allocated sites and preferred areas are not set out in the Plan and will form part of the emerging Site Allocations Plan. Modifications are therefore necessary to address these issues and to ensure that the Plan is consistent with national policy, positively prepared and effective.
46. **MM d3** modifies the Plan by deleting Policy MLP 1. **MM d1** includes a new Policy MLP 1 which sets out where different types of mineral are expected to be located. This provides clarity and certainty and is necessary for effectiveness. **MM d2** deals with the consequential modifications to the reasoned justification for policy MLP 1 and is necessary for effectiveness.
47. **MM d4** includes new policy MLP 2 which deals with specific sites and preferred areas and states that these will be allocated within the strategic corridors. The policy then sets out how proposals will be assessed within specific sites and preferred areas. **MM d5** is necessary to address the consequential changes to the reasoned justification for policy MLP 1 and to provide reasoned justification for the new policy MLP 2. We have slightly amended the wording of **MM d5** following public consultation on the MMs for clarity in relation to the circumstances where mineral development is acceptable in preferred areas (para 4.16). These modifications are required for effectiveness.
48. **MM d6** includes new policy MLP 3 which deals with areas of search and windfall sites within strategic corridors and sets out how proposals will be assessed within these areas. **MM d7** is necessary to address the consequential changes to the reasoned justification for policy MLP 1 and to provide reasoned justification for the new policy MLP 3. These modifications are required for effectiveness.
49. **MM d8** includes new policy MLP 4 which deals with windfall sites outside of strategic corridors and sets out how proposals for these will be assessed. **MM d9** is necessary to address the consequential changes to the reasoned justification for policy MLP 1 and to provide reasoned justification for the new policy MLP 4. These modifications are required for effectiveness.
50. **MM d10** includes new policy MLP 5 which deals with extant mineral sites and safeguarded resources and sets out how proposals affecting these will be assessed. **MM d11** is necessary to address the consequential changes to the reasoned justification for policy MLP 1 and to provide reasoned justification for the new policy MLP 5. These modifications are required for effectiveness.

51. Modifications **MM d14** and **MM d15** deal with associated modifications to the glossary. For clarity and effectiveness, **MM d14** modifies the term "allocated site" to "mineral allocation" and **MM d15** provides a new definition of "windfall site".
52. Modifications **MM d1** to **MM d11** (inclusive) and **MM d14** and **MM d15** are required to ensure that the Plan is positively prepared and effective and to ensure that it is sound.
53. The modifications to Policy MLP 1 and other modifications have resulted in the need for a number of new policies. Consequently, the numbering of subsequent policies in the Plan needs to be altered. For clarity, the remainder of the report refers to the original policy numbering and where relevant, the new policy numbering is shown in brackets after the original policy numbering.

*Policy MLP 2: Borrow Pits (now Policy MLP 6)*

54. Policy MLP 2 sets out the circumstances that would need to be met for a mineral proposal to be considered to be a borrow pit. It makes no reference to the location of the proposal. Following the modifications to Policy MLP 1, a consequential modification is required to modify the borrow pit policy to ensure that it refers to borrow pits both within and outside of strategic corridors and that the policy links borrow pits to a specific project. These modifications are included within **MM d12** with **MM d13** dealing with consequential modifications to the reasoned justification for the policy. These modifications are required for effectiveness and to make the Plan sound.

*Policy MLP 3: Green Infrastructure (now Policy MLP 7)*

55. Policy MLP 3 seeks to ensure that proposed mineral development conserves and enhances green infrastructure networks. However, the policy does not adequately deal with proposed development outside of strategic corridors and how such development will be assessed against the policy. Additionally, the latter part of the policy which deals with deviations from the strategic corridor priorities is vague, lacks clarity and is unduly onerous. **MM e1** is necessary to modify the policy to address these issues with consequential changes to the reasoned justification contained within **MM e2**. **MM e3** modifies the definition of green infrastructure within the glossary to rectify an omission to include reference to geodiversity which has been considered as a green infrastructure component in the development of the Plan. These modifications are necessary for effectiveness and to make the Plan sound.

*Strategic Corridors: Policies MLP 4 to MLP 8 (now MLP 8 to MLP 12)*

56. Policies MLP 4 to MLP 8 set out the priorities for the delivery of multifunctional green infrastructure in the five strategic corridors identified within the Plan. The policies are framed in a similar manner with the exception of the identified green infrastructure priorities which are specific to the particular corridor.
57. Policies MLP 4 to MLP 8 do not contain sufficient flexibility or strike the right balance between delivering the identified green infrastructure priorities and other benefits of the proposal, for example the need for a particular mineral resource in a particular location. The policies and associated reasoned

justification also fail to strike the right balance between the three pillars of sustainability. There is not enough reference to economic and social sustainability and additionally insufficient clarity was provided regarding the role of strategic corridors in mitigating and adapting to climate change.

58. **MM f3, MM f6, MM f8, MM f10 and MM f12** contain modifications to the wording of policies MLP 4 to MLP 8 to introduce more flexibility and to clarify how proposals will be assessed when they make limited or no contribution to the delivery of the strategic corridor green infrastructure priorities. **MM f4, MM f5, MM f7, MM f9, MM f11 and MM f13** deal with the consequential modifications to the reasoned justification for these policies.

59. **MM f3 to MM f13** (inclusive) are required to ensure that the Plan is positively prepared, effective and to ensure that it is sound.

### *Conclusion*

60. Subject to the identified modifications, the vision, objectives and spatial strategy are soundly based. The Plan, as modified, is therefore sound in this regard.

## **Issue 2 – Whether the strategic policies for the supply of mineral resources seek to maintain sufficient, sustainable reserves of locally and nationally important minerals.**

### *General*

61. As submitted for examination, the baseline year for the Plan is 2016 with a consequent end year of 2035. However, the passage of time since submission means that in order to be effective, the baseline year needs updating to 2017 with a consequent modification to the end year to 2036, to have regard to the most recently produced Local Aggregate Assessment [LAA]. This requires various modifications to the reasoned justification and updates to a number of figures within chapters 1, 2, 3 and 5 of the Plan. These modifications are included within **MM b1 to MM b20** (inclusive) and are required for effectiveness and to make the Plan sound.

62. Chapter 2 of the Plan contains a number of figures which identify various mineral resources within the County (figures 2.2, 2.4, 2.6, 2.7, 2.8 and 2.9). However, rather than identifying all known mineral resources, the figures show resources after accounting for certain constraints. In this regard, they only show the extent of the resource after the environmental and amenity screening criteria set out within the *Council's Location of development: screening and site selection methodology* (August 2018) document (CD45) have been applied. The consequence of this is that the Plan does not adequately acknowledge the full extent of mineral resource within the County and is not therefore positively prepared or effective. Modifications are therefore necessary to include figures within the Plan showing the full extent of the mineral resource as well as figures showing the location and extent of the resource after the application of the screening criteria set out within CD45 Appendix A. Source Protection Zone 2 has also been removed from the screening criteria as it is not considered necessary for mineral resources in such areas to be excluded from the Areas of Search identified by the Plan.

63. Modifications **MM c1**, **MM c3**, **MM c5**, **MM c7**, **MM c9** and **MM c11** include modifications to the existing figures at 2.2, 2.4, 2.6, 2.7, 2.8 and 2.9 to replace them with two new figures, to indicate the extent of the particular resource before and after the application of the revised screening criteria. Consequential modifications to the reasoned justification are included within modifications **MM c2**, **MM c4**, **MM c6**, **MM c8**, **MM c10** and **MM c12**. These modifications are necessary to ensure that the Plan is positively prepared and effective and to ensure that it is sound.
64. Modifications **MM c13** to **MM c18** (inclusive) all relate to modifications to figures in Chapter 4 relating to the whole of the County and to the strategic corridors. Most of the modifications to the figures are consequential changes as a result of the removal of Source Protection Zone 2 from the screening criteria. In addition, in order to aid clarity and for effectiveness, modifications have been made to the map graphics to use consistent colouring to indicate areas beyond the County boundary. The modifications also rectify a previous error in the mapping in relation to terrace and glacial sand and gravel areas of search as previously Scheduled Ancient Monuments were not applied as a screening criteria to some areas. Consequential changes to the reasoned justification and footnotes within chapters 4 (spatial strategy) and 7 (safeguarding) and to the reasoned justification, definitions and footnotes within Appendices 2 are also required. These are included within modifications **MM c19** to **MM c31** (inclusive) and **MM c33**. The modifications are necessary for effectiveness and to ensure that the Plan is sound.
65. The Plan is not clear how energy minerals relate to the strategic corridors, meaning that it is not effective. Modification **MM c32** addresses this by adding a new paragraph to Appendix 2 making it clear that energy minerals have not fed into the identification of the strategic corridors. This modification is necessary for effectiveness and to ensure that the Plan is sound.
66. Modifications **MM c34** to **MM c36** affect three definitions relating to minerals resources within Appendix 3 of the Plan. As submitted for examination, the definitions are not consistent with national policy, in that they are inconsistent with the NPPFs definition of minerals resources of local and national importance. Two of the definitions require modification (**MM c34** and **MM c36**) and another requires deletion (**MM c35**). These modifications are required to ensure that the Plan is consistent with national policy and that it is sound.

*Recycled Materials: Policy MLP 9 (now Policy MLP 13)*

67. Policy MLP 9 considers the contribution that substitute, secondary and recycled materials and mineral waste make to overall minerals supply. As submitted for examination, the policy is too restrictive in that the second paragraph relating to the management, processing and/or stockpiling of such materials prevents any adverse impact from such activities on the working of minerals sites. This is insufficiently flexible. **MM g1** modifies the policy to refer to unacceptable adverse impact and is necessary for clarity and effectiveness and to make the Plan sound.

*Sand and Gravel: Policy MLP 10 (now Policy MLP 15) & new Policy MLP 14*

68. Policy MLP 10 of the Plan relates to the steady and adequate supply of sand and gravel. However, as submitted for examination, the policy does not include a target for maintaining a landbank of at least 7 years as is required by the NPPF. In addition, the Plan does not contain a policy regarding the scale of provision of sand and gravel, setting out figures for the annual need, overall need for the plan period and current reserves, which would clearly show the balance and hence the minimum production target. Although the figures will alter with each LAA, and minimum policy production targets will be a snapshot in time, they are nonetheless required to assist decision makers and future applicants to understand the projected scale of need throughout the Plan period. In the absence of this, the Plan is not positively prepared or effective.
69. Modification **MM h2** addresses this issue and modifies the Plan by inserting a new policy regarding the scale of sand and gravel production (Policy MLP 14). Modifications **MM h1** and **MM h3** include consequential changes to a heading and to the reasoned justification.
70. As submitted for examination, policy MLP 10 does not include sufficient policy support for particular types of sand and gravel, given their different properties and markets. Modification **MM h4** includes modifications to policy MLP 10 to ensure that it is clear that it relates to delivery and to the delivery of a wide range of sand and gravel materials and products. Modifications **MM h5** and **MM h6** include consequential modifications to the reasoned justification for policy MLP 10. All of these modifications are necessary to ensure that the Plan is positively prepared, effective and that it is sound.

*Crushed Rock: Policy MLP 11 (now Policy MLP 17) & new Policy MLP 16*

71. As with sand and gravel, Policy MLP 11 relating to the steady and adequate supply of crushed rock does not include any target figures for production, largely due to a lack of sales within the County in recent years. In the absence of this, the Plan is not positively prepared or effective. Crushed rock is, however, clearly used in the County and there are resources which might be workable in the future. Although there are currently no operational crushed rock quarries in the Plan area, in order to be positively prepared and effective, the Plan needs to include stronger policy support to encourage crushed rock sites to come forward.
72. Modification **MM i2** addresses the issue relating to a lack of targets and modifies the Plan by inserting a new policy regarding the scale of crushed rock provision (Policy MLP 16). Modifications **MM i1** and **MM i3** include consequential changes to a heading and to the reasoned justification.
73. Policy MLP 11 does not include sufficient policy support for particular types of crushed rock, given their different properties and markets. Modification **MM i4** includes amendments to policy MLP 11 to ensure that it is clear that it relates to delivery and to the delivery of a wide range of crushed rock materials and products. Modifications **MM i5** and **MM i6** include consequential modifications to the reasoned justification for policy MLP 11. All of these modifications are necessary to ensure that the Plan is positively prepared and effective, and that it is sound.



*Brick Clay and Clay Products: Policy MLP 12 (now Policy MLP 19) & new Policy MLP 18*

74. As with other mineral supply policies, Policy MLP 12 relating to the steady and adequate supply of brick clay and clay products does not include any target figures for production. This means that the Plan is not positively prepared or effective.
75. Modification **MM j2** addresses the issue relating to a lack of targets and modifies the Plan by inserting a new policy regarding the scale of brick clay provision (Policy MLP 18). Modifications **MM j1** and **MM j3** to **MM j6** (inclusive) include consequential changes to headings and to the reasoned justification for both new policy MLP 18 and Policy MLP 12 (now Policy MLP 19). All of these modifications are necessary to ensure that the Plan is positively prepared, effective and that it is sound.

*Silica Sand: Policy MLP 13 (now Policy MLP 21) & new Policy MLP 20*

76. Policy MLP 13 relating to the steady and adequate supply of silica sand does not include any target figures for production. In the absence of this, the Plan is not positively prepared or effective.
77. Modification **MM j8** addresses the issue relating to a lack of targets and modifies the Plan by inserting a new policy regarding the scale of silica sand provision (Policy MLP 20). Modifications **MM j7** and **MM j9** to **MM j12** (inclusive) include consequential changes to headings and to the reasoned justification for both new policy MLP 20 and Policy MLP 13 (now Policy MLP 21). All of these modifications are necessary to ensure that the Plan is positively prepared, effective and that it is sound.

*Building Stone: Policy MLP 14 (now Policy MLP 23) & new Policy MLP 22*

78. Policy MLP 14 relating to the adequate and diverse supply of building stone does not include any target figures for production. In the absence of this, the Plan is not positively prepared or effective.
79. Modification **MM j14** addresses the issue relating to a lack of targets and modifies the Plan by inserting a new policy regarding the scale of building stone provision (Policy MLP 22). Modifications **MM j13** and **MM j15** to **MM j18** (inclusive) include consequential changes to headings and to the reasoned justification for both new policy MLP 22 and Policy MLP 14 (now Policy MLP 23). All of these modifications are necessary to ensure that the Plan is positively prepared and effective, and that it is sound.

*Other Minerals: Policy MLP 15 (now Policy MLP 24)*

80. As submitted for examination, Policy MLP 15 refers to the "sustainable" supply of other locally and nationally important industrial mineral resources. This is imprecise and results in the policy being ineffective. Modification **MM j20** addresses this and removes the term sustainable from the policy and is necessary to make the Plan effective and sound.

81. Modifications **MM j19** and **MM j21** include consequential changes to the heading to policy MLP 15 and to the reasoned justification supporting the policy. In addition, the reasoned justification has been expanded to provide additional detail and explanation regarding the extent of known other mineral deposits within the area and how future proposals for other minerals development are likely to be considered. These modifications are necessary to ensure that the Plan is effective and positively prepared, and that it is sound.

*Energy Minerals: Policy MLP 16 (now Policy MLP 25)*

82. Policy MLP 16 deals with the supply of energy minerals. As submitted for examination, the policy includes numerous references to "sustainable" supply. This is imprecise and results in the policy being ineffective. Modification **MM k1** addresses this and removes the term sustainable from the policy and is necessary to make the Plan effective and sound.
83. Modification **MM k2** includes modifications to the reasoned justification supporting policy MLP 16 addressing any consequential changes resulting from modifications to the policy wording and also to provide greater clarity and explanation regarding known energy mineral resources in the area and how future proposals for energy minerals development are likely to be considered. These modifications are necessary to ensure that the Plan is effective and positively prepared, and that it is sound.

*Conclusion*

84. Subject to the identified modifications, the strategic policies for the supply of mineral resources seek to maintain sufficient, sustainable reserves of locally and nationally important minerals. The Plan is therefore sound in this regard.

**Issue 3 – Whether the non-strategic development management policies reflect the Plan's vision, objectives and strike a sound balance between supporting development and protecting people, places and the environment.**

85. The Plan contains a number of development management policies that collectively seek to control impacts from future minerals development. These include criteria-based policies that consider, amongst other things, the impacts of mineral development on natural resources, Green Belt, residential amenity, access and recreation, biodiversity, historic environment, landscape, soils, agricultural land, geodiversity, water resources, flood risk and transport.
86. Apart from policies MLP 25 (now Policy MLP 35) and MLP 30 (now Policy MLP 40) and the corresponding supporting text, which are sound without modification, the remaining development management policies are considered below.

*General*

87. As submitted for examination, none of the development management policies make reference to the cumulative effects of minerals development, though these are referred to in the supporting text. The NPPF states that planning policies should have regard to cumulative impact. Such cumulative effects are

referred to in the NPPF with regard to impact on the natural and historic environment and human health. Consequently, a number of development management policies require modification to refer to cumulative effects, to ensure consistency with national policy in order to ensure that they are sound. These modifications are included within **MM n1, MM r1, MM s1, MM t1, MM u1, MM v1, MM w1, MM x1** and **MM y1** which also address other soundness matters set out below.

88. Policies MLP 21 to MLP 24 (inclusive) (now policies MLP 31 to MLP 34) and MLP 26 (now Policy MLP 36) refer, amongst other things, to the need to protect and conserve various things such as biodiversity, the historic environment, landscape, soils and geodiversity. There is little distinction in practice between protection and conservation and as such the inclusion of both of these phrases within these policies is confusing and unnecessary. Moreover, relevant paragraphs of the NPPF dealing with these issues do not use both terms. Consequently, a number of development management policies require modification to remove reference to one or other of these phrases in order to ensure effectiveness and consistency with national policy, and in order to ensure that they are sound. These modifications are included within **MM s1, MM t1, MM u1, MM z4** and **MM v1**, all of which, with the exception of **MM z4**, also address other soundness matters as set out below. Modifications **MM z1** to **MM z3** (inclusive) and **MM z5** are also necessary to modify a number of headings and reasoned justification paragraphs to ensure the consistent use of the protect and conserve phrases throughout the Plan and to address consequential changes to aid clarity in the application of policies MLP 17 and MLP 23.

*Policy MLP 17: Prudent Use of Resources (now Policy MLP 26)*

89. This policy seeks to ensure that mineral development is designed, worked and restored in a way that ensures minerals are extracted efficiently whilst ensuring that high quality restoration and after use is achieved. However, the policy within the Plan refers to the need for minerals development to make prudent use of natural resources without any explanation as to what would constitute prudent use. Consequently, in order to aid clarity and to ensure effectiveness, a modification is required to replace the term prudent with the term efficient.
90. In addition, the policy has been modified to include reference to land stability. Land stability was initially dealt with by Policy MLP 19 (now Policy MLP 28) which addresses matters relating to amenity. However, given that policy MLP 19 has been modified to relate more specifically to effects on people rather than the environment (details below) and given that the issue of land stability relates closely to restoration and after use, it is most effective and appropriate to deal with the issue within policy MLP 17. Consequently, these modifications, which are included within **MM i7**, are required to ensure effectiveness and to make the Plan sound.
91. The modifications to policy MLP 17 also result in a number of consequential modifications to the reasoned justification for policy MLP 17 and MLP 19 and to other supporting text within the Plan. These modifications are included within **MM i1** to **MM i6** (inclusive) and **MM p1** to **MM p5** (inclusive) and are required to ensure effectiveness and to make the Plan sound.

*Policy MLP 18: Green Belt (now Policy MLP 27)*

92. Policy MLP 18 sets out the approach to assessing mineral development in the Green Belt. As submitted for examination, the policy is not clear as to whether it relates solely to mineral extraction or whether it also relates to associated mineral development including engineering operations, both of which are not inappropriate development according to paragraph 150 of the NPPF, subject to the tests set out. Additionally, the policy makes no reference to how any other aspects of mineral development, for example associated buildings and structures, would be assessed and there is no amplification of what is meant by the term inappropriate development. Consequently, the modifications included in **MM m1** are necessary to reword the policy to ensure effectiveness and consistency with national policy, and to make the Plan sound.
93. Consequential modifications are also required to the reasoned justification for policy MLP 18 and are included within **MM m2** and **MM m3**. Furthermore, given the temporary nature of mineral development, modifications are required to the justification to recognise this and to set out how this might affect the assessment of a proposal on openness (**MM m3**). These modifications are required to ensure effectiveness and to make the Plan sound.

*Policy MLP 19: Amenity (now Policy MLP 28)*

94. This policy seeks to ensure that minerals developments are planned, managed and restored in a way that protects people and other sensitive receptors from unacceptable effects. The policy seeks to control effects on amenity, health and well-being, the environment and areas of tranquillity. This is too broad in scope and results in duplication, as the effects of minerals development on the environment are already covered by other development management policies e.g. MLP 21 (now Policy MLP 31) and MLP 23 (now Policy MLP 33). In addition, it is not clear from the policy wording what is meant by potential harm arising from visual amenity and visual intrusion. The accompanying reasoned justification suggests that this part of the policy relates more specifically to the visual impact of proposals.
95. Consequently, in order to aid clarity and to ensure effectiveness, **MM n1** is required to modify the policy to remove reference to the effect of proposals on the environment and to amend the wording of the policy to refer to visual impacts rather than the less specific visual amenity and visual intrusion.
96. **MM n1** also modifies the policy by removing reference to harm from land instability and air quality as both of these issues are more effectively dealt with by other policies in the Plan. As referenced earlier in this report, **MM i7** modifies policy MLP 17 (now Policy MLP 26) to address the issue of land instability. **MM o2** modifies the Plan to include a new standalone policy on air quality (Policy MLP 29) and this is addressed below.
97. Furthermore, to ensure effectiveness **MM n1** is required to remove reference within the policy to the effect of proposals on areas of tranquillity. Whilst such areas are referred to in national policy, none currently exist within the County, and nor are any anticipated within the Plan period. Should such areas come forward within the Plan period then this would be more appropriately dealt with by a Plan review.

98. **MM n2** to **MM n9** (inclusive), **MM o3**, **MM p1** to **MM p5** (inclusive) and **MM q1** are required to the reasoned justification and glossary to reflect the modifications made to the policy by **MM n1**. These MMs are necessary in order for the Plan to be effective and to make it sound.

*New Air Quality Policy: Policy MLP 29*

99. As previously stated, the Plan proposed to deal with air quality as part of Policy MLP 19 (now Policy 28) relating to amenity and there was no standalone policy. This is unjustified and ineffective, as some minerals development could adversely impact on air quality and this needs to be properly controlled. Consequently, a new policy is required, namely, Policy MLP 29: Air Quality, which sets out protective measures. Much of the proposed text for Policy MLP 29 previously formed part of the air quality part of the reasoned justification for Policy MLP 19. Corresponding reasoned justification text is also required to set out the reasons for the new policy and how it will be implemented.
100. These modifications are included within **MM o1** to **MM o3** (inclusive) and are necessary in order for the Plan to be effective and to make it sound.

*Policy MLP 20: Access and Recreation (now Policy MLP 30)*

101. Policy MLP 20 seeks to protect public rights of way and access provision but makes no specific reference to navigable waterways, which exist within the County. Consequently, the policy would be ineffective as it would not prevent minerals development from having an unacceptable adverse effect on public rights of way and access provision along navigable waterways.
102. **MM r1** addresses this by including specific reference to navigable waterways within the policy. **MM r2** and **MM r3** deal with the consequential changes to the reasoned justification. These modifications are necessary in order for the Plan to be effective and to make it sound.

*Policy MLP 21: Biodiversity (now Policy MLP 31)*

103. This policy sets out the approach to the consideration of the impact of mineral development proposals on biodiversity. However, as submitted for examination, the policy does not adequately or effectively set out the hierarchy of and level of protection offered to international, national and local designated sites in accordance with the NPPF. In addition, the policy is not consistent with national policy as it fails to acknowledge that in some circumstances significant harm may be acceptable where it can be adequately and properly compensated for.
104. Part f) of the policy relates to the effect on local sites and refers to Local Wildlife Sites and locally important ecological networks identified in the Local Biodiversity Action Plan. However, it is not clear exactly what sites this part of the policy relates to and where they are listed and/or mapped. Consequently, the policy is ineffective.
105. **MM s1** addresses these issues by re-wording and re-structuring the policy in order to more clearly distinguish between the hierarchy of sites and

designations relevant to biodiversity. Additionally, the modifications to the policy include an explanation as to what local wildlife sites and priority habitats are and where details of them can be found. Consequential modifications to the glossary are included within **MM s2** to **MM s4** (inclusive) and a modification to adequately address climate change is included in **MM z6**. These MMs are necessary in order for the Plan to be effective and consistent with national policy, and to make it sound.

106. **MM a8** to **a10** (inclusive) are required to modify the reasoned justification for the policy to make reference to functionally linked land (referred to earlier in the report) and to provide definitions for Ramsar Sites and Special Protection Areas. These modifications are required to make the Plan effective and therefore sound.

*Policy MLP 22: Historic Environment (now Policy MLP 32)*

101. Policy MLP 22 sets out the approach to the consideration of the impact of mineral development proposals on the historic environment. The policy is not consistent with the NPPF. In particular, although the first part of the policy is positively prepared and seeks enhancement of the historic environment, it is insufficiently flexible particularly given that the Planning (Listed Buildings and Conservation Areas) Act 1990 includes a duty to conserve but not to enhance.
107. Additionally, the level of technical assessment required by the policy is not proportionate to the significance of the asset. Moreover, the wording of the part of the policy relating to less than substantial harm does not sufficiently reflect that in the NPPF. Although it is unlikely that all of the exceptions listed in paragraph 201 of the NPPF would be met by minerals development, the policy nevertheless needs to acknowledge that these exceptions exist.
108. A number of other changes are required to the policy to ensure consistent wording in order to make it more effective. **MM t1** re-words and re-structures the policy and is necessary to address these issues and consequential modifications to the reasoned justification for the policy are included within **MM t2** to **MM t5** (inclusive).
109. Additionally, as submitted, the Plan does not include a definition of designated heritage asset and the definitions for heritage asset and historic environment are not consistent with the NPPF. Modifications **MM t6** to **MM t8** (inclusive) modify the glossary to the Plan to address these matters. These MMs are necessary in order for the Plan to be effective and consistent with national policy, and to make it sound.

*Policy MLP 23: Landscape (now Policy MLP 33)*

110. This policy sets out the approach to the consideration of the impact of mineral development proposals on the character and distinctiveness of the landscape. The policy is not consistent with national policy in that part c)i of the policy does not refer to enhancement and does not therefore accord with paragraph 176 of the NPPF.

111. **MM u1** addresses this by modifying the policy to refer to enhancement and is necessary in order for the Plan to be consistent with national policy and to make it sound.

*Policy MLP 26: Geodiversity (now Policy MLP 36)*

112. Policy MLP 26 sets out the approach to the consideration of the impact of mineral development proposals on geodiversity. The policy does not adequately or effectively set out the hierarchy of and level of protection offered to the hierarchy of geological conservation interests, is not consistent with the NPPF or with Policy MLP 21 (now Policy MLP 31) relating to biodiversity. In addition, part b)ii of the policy refers to the effect of proposals on Local Geological Sites. However, it is not clear exactly what sites this part of the policy relates to and where they are listed and/or mapped. Consequently, the policy is ineffective.

113. **MM v1** is therefore necessary to address these matters and consequential modifications to the reasoned justification for the policy and the glossary in Appendix 3 are included within **MM v2** and **MM v3**. These modifications are necessary in order for the Plan to be effective, consistent with national policy and to make it sound.

*Policy MLP 27: Water Quality and Quantity (now Policy MLP 37)*

114. This policy seeks to ensure that minerals development is designed and managed to minimise harm to water resources and deliver benefits to the water environment. However, the policy is insufficiently flexible and not consistent with the NPPF as it requires enhancement in all cases and not just where possible.

115. **MM w1** is necessary to address these matters to ensure that the policy is effective and consistent with national policy.

*Policy MLP 28: Flooding (now Policy MLP 38)*

116. Policy MLP 28 sets out the approach to the consideration of the impact of mineral development proposals on flooding. The policy is insufficiently flexible and is inconsistent with the NPPF in that it includes a blanket requirement to contribute to an overall reduction in flood risk.

117. **MM x1** is required to introduce more flexibility to the policy ensuring that it is effective and consistent with national policy, and that it is sound.

*Policy MLP 29: Transport (now Policy MLP 39)*

118. This policy addresses sustainable transport and the effect of minerals development on transport safety and congestion. As submitted, the policy requires proposed development to, amongst other things, provide safe and convenient access for employees and visitors which optimises the use of public transport, walking and cycling. This is insufficiently flexible and is not consistent with the NPPF. In addition, the policy refers to the local and strategic transport network but does not define what that is with no reference made to navigable waterways.

119. **MM y1** is therefore necessary to address these matters and consequential modifications to the reasoned justification for the policy are included within **MM y2** and a modification to adequately address climate change is included in **MM z7**. These MMs are necessary in order for the Plan to be effective and consistent with national policy, and to make it sound.

### *Conclusion*

120. Subject to the identified modifications, the development management policies reflect the Plan's vision and objectives and strike a sound balance between supporting development and protecting, people, places and the environment. The Plan, as modified, is therefore sound in this regard.

### **Issue 4 – Whether the strategic policies for safeguarding mineral resources and supporting infrastructure reflect the Plan's vision and objectives and are soundly based.**

121. Minerals are finite, non-renewable resources and can only be worked where they are found (NPPF 209). In order to ensure the steady and adequate supply of minerals for the future, it is important to safeguard locally and nationally important mineral resources, permitted mineral sites and supporting infrastructure from sterilisation by other development.

122. The Plan identifies types of development which are exempt from safeguarding requirements (Table 7.1). However, the table contents are too restrictive and do not include householder applications, applications for non-material amendments or minor developments within adopted settlement boundaries where not within 250 metres of an existing minerals infrastructure site. Consequently, the Plan is not positively prepared or effective. **MM aa2** includes modifications to Table 7.1 to include the development types set out above and to add a number of new footnotes for clarity, including one relating to different terminology used in the County to describe settlement/development boundaries. The modification is necessary in order for the Plan to be positively prepared, effective and to make it sound.

123. The Plan also makes reference within the reasoned justification in Chapter 7 to cases where the impact of a development on minerals resource and infrastructure would be *de minimis*. This is too vague a concept in the context of the Plan and is not an effective approach. Modification **MM aa3** addresses this by the insertion of Table 7.2 in the Plan which sets out the types of development that are likely to be exempt from mineral safeguarding requirements where impacts are considered to be *de minimis*. This is a clearer, more effective approach. Modification **MM aa1** includes consequential modifications to the reasoned justification at the beginning of Chapter 7. These modifications are necessary to ensure that the Plan is positively prepared and is effective, and to ensure that it is sound.

124. Policy MLP 31 (now Policy MLP 41) of the Plan relates to safeguarding locally and nationally important mineral resources. The policy is ineffective in that it is not clear from the policy how and where mineral safeguarding and mineral consultation areas are identified. Modification **MM aa4** modifies the policy to make it clear that these areas are defined on the Policies Map and is necessary



to make the Plan effective. **MM aa4** also includes modifications to emphasise that sterilisation should be avoided or minimised and to clarify the sequential approach to be taken to ensure that is the case. The modification also introduces more flexibility into the policy by modifying it to say that where sterilisation would occur, the development "may" as opposed to "will" be refused and makes reference to the new table 7.2. Modifications **MM aa5** to **MM aa7** (inclusive) include consequential modifications to the reasoned justification and reference to Minerals Safeguarding Practice Guidance (2019). All of these modifications are necessary to ensure that the Plan is effective and that it is sound.

125. The Plan does not safeguard all known important mineral resources and instead only safeguards what the Council considers to be key or significant resource. This approach is contrary to the British Geological Survey's [BGS] Mineral Safeguarding in England: good practice advice and means that the Plan is not effective. Modification **MM ab1** includes modifications to the reasoned justification paragraph 7.8 to make reference to silica sand resources which were previously missed off the list of resources to be safeguarded and also to modify the footnotes accompanying the paragraph to refer to digital data provided by the BGS rather than to the key or significant resources identified by the Council. **MM ab2** modifies Figure 7.1 to update Mineral Safeguarding Areas and Mineral Consultation Areas to safeguard all known mineral resources without applying any viability, environmental or amenity screening criteria, with the exception of Mercia Mudstone. **MM ab3** includes consequential changes to the reasoned justification at paragraph 7.11 and accompanying footnotes 514 and 515. All of the modifications are required to ensure that the Plan is positively prepared, effective and that it is sound.
126. Policy MLP 32 (now Policy MLP 42) relates to safeguarding mineral sites and supporting infrastructure. Although the policy does briefly reference the agent of change principle, in order to be consistent with national policy and to be effective, more clarity and detail is required about how the agent of change principle should be considered in relation to future non-mineral development that could be significantly adversely affected by an existing or planned mineral site or supporting infrastructure.
127. Modification **MM ac1** includes modifications to policy MLP 32 to add more detail regarding the agent of change principle, to introduce more flexibility into the policy and to refer to Tables 7.1 and 7.2. Modifications **MM ac2** to **MM ac5** (inclusive) include modifications to the reasoned justification to policy MLP 32 to aid clarity in the application of the agent of change principle with **MM ac6** inserting a new definition of mineral sites and supporting infrastructure into the glossary in Appendix 3 of the Plan. These modifications are necessary to make the Plan consistent with national policy and to make it effective, and are required to make it sound.

### *Conclusion*

128. Subject to the identified modifications, the strategic policies for safeguarding mineral resources and supporting infrastructure reflect the Plan's vision and objectives and are soundly based. The Plan, as modified, is therefore sound in this regard.

## **Issue 5 – Whether the implementation and monitoring framework is comprehensive and fit for purpose.**

129. Chapter 8 of the Plan sets out arrangements for monitoring the effectiveness of the Plan in a set of Monitoring Schedules structured by reference to the Plan's objectives identified in Chapter 3. As submitted for examination, the monitoring schedule sets out targets for each indicator but none of the targets include triggers to alert the Council to consider a review of the relevant matter. Although figure 8.1 of the Plan sets out a policy review process which includes what action would be taken should targets be missed, for some indicators this is not specific enough and means that the Plan is ineffective.
130. **MM ad1** modifies paragraphs 8.9 to 8.13 of Chapter 8 to provide clarity about how monitoring will be undertaken and how targets and, where appropriate, review triggers will be used. **MM ad2** modifies the targets missed box of figure 8.1 to also refer to review triggers being missed and to state that this would result in an assessment of the significance of this and a consideration of any actions required. These modifications are required for the Plan to be effective and to make it sound.
131. **MM ad3** to **MM ad8** (inclusive) deal with the consequential modifications to the Monitoring Schedules resulting from modifications to the policies, resulting in the nature and number of policies changing and, in some cases, requiring new indicators, targets and review triggers.
132. As submitted for examination, some of the indicators have the number of sites as a target. However, this is not considered to be effective given that sites will vary in size and capacity. **MM ad4** to **MM ad8** (inclusive) therefore also include new indicators and targets relating to the productive capacity of sand and gravel and crushed rock as set out within the LAA. These modifications are required for the Plan to be effective and to make it sound.

### *Conclusion*

133. Subject to the recommended MMs, the implementation and monitoring is comprehensive and fit for purpose. The Plan, as modified, is therefore sound in this regard.

## **Overall Conclusion and Recommendation**

134. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.
135. The Council has requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the duty to cooperate has been met and that with the recommended main modifications set out in Appendix 1, the Worcestershire Minerals Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound

*Beverley Wilders & Elizabeth Ord*

Inspectors

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