



Report to Suffolk County Council

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

REPORT ON THE EXAMINATION INTO THE SUFFOLK MINERALS CORE STRATEGY DEVELOPMENT PLAN DOCUMENT

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1 Introduction and Overall Conclusion

- 1.1 Under the terms of section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
 - (a) whether it satisfies the requirements of section 19 and section 24(1) of the 2004 Act, the regulations under section 17(7), and any regulations under section 36 relating to the preparation of the document; and
 - (b) whether it is sound.
- 1.2 This report contains my assessment of the Minerals Core Strategy DPD in terms of the above matters, along with my recommendations and the reasons for them, as required by section 20(7) of the 2004 Act.
- 1.3 I consider the soundness of the submitted DPD against each of the tests of soundness set out in PPS12. In line with national policy, the DPD is presumed to be sound unless it is shown to be otherwise by evidence considered during the Examination. The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the tests of soundness in PPS12. None of these changes should materially alter the substance of the overall plan and its policies, or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 I do not deal with individual objections in this report, but I have taken them all into account to the extent that they are relevant to my task. In considering representations I have supported the Council's view that there is no need to include policies that simply replicate national policies without any locally distinctive aspects. This reflects Government guidance in PPS12(2.30).
- 1.5 During the Examination the Council proposed a number of changes to the DPD. I refer to these as the 'Proposed Changes'. They are numbered MCS1 – MCS37 and are contained in documents CD61 and CD66. They are proposed in order to correct errors, to provide clarification and to address points made in the written representations. The Council considers them to be compatible with the Sustainability Appraisal and not significant enough to warrant public consultation.
- 1.6 It is clear that my task is to examine the submitted DPD and not the Proposed Changes. Nevertheless I do support those Proposed Changes insofar as they enable statutory requirements to be met or make the DPD sound, for example by correcting an error or providing essential clarification. Some of the Proposed Changes are simply improvements and I do not recommend them if they are unnecessary to make the DPD sound. After all, my role is **not** to make the DPD '**more** sound'. Moreover, a few of these Proposed Changes also seem to me to be so substantive as to require further public consultation; and at this late stage I would not be content to

endorse them simply on the basis on which they have been presented to the Examination. An example is the proposed extension of the area delineating the Hamilton Dock wharf site on Inset Map P6, to which policy 6 is applicable. The Proposed Changes I recommend and consider to be necessary are included in Annexe 2.

- 1.7 A few of the Proposed Changes I have accepted subject to slight amendment. The amendments are explained in my report and the changes concerned are included with my other recommended changes in Annexe 1.
- 1.8 My report firstly considers the procedural tests, and then deals with the main issues considered during the Examination in terms of the tests of conformity, coherence, consistency and effectiveness.
- 1.9 My overall conclusion is that the DPD complies with statutory requirements and is sound, provided it is changed in the ways explained in the report. For convenience all the changes I consider to be necessary are set out in full in Annexe 1 and Annexe 2. In summary, I consider the key changes to be first, amendments to policy 3 to make clear its scope and to allow for the mitigation of adverse cumulative impacts; secondly, an addition to the implementation section to monitor the landbank and, where necessary, take action to maintain it; and thirdly, some changes to the Proposals Map, for clarification purposes.

2 Procedural Tests

Test 1 - Consistency with Local Development Scheme

- 2.1 The Minerals Core Strategy DPD is contained within the Council's Minerals and Waste Development Scheme, dated May 2007. There, its Public Examination is shown as commencing in May 2008. The Examination hearings planned for that time proved not to be necessary. The role and content of the DPD is as described in the Scheme. I conclude that soundness test 1 is met.

Test 2 - Compliance with Statement of Community Involvement (SCI) and Associated Regulations

- 2.2 The Council's Statement of Community Involvement (SCI) has been found sound by the Secretary of State and was formally adopted by the Council in May 2006. It is evident from the documents submitted by the Council, including the Regulation 28 and 31 Statements and its Self Assessment Statement, that the DPD has been prepared in accordance with the SCI. I conclude that soundness test 2 is met.

Test 3 - Sustainability Appraisal

- 2.3 Alongside the preparation of the DPD it is evident that the Council has carried out a parallel process of sustainability appraisal. The

Final Sustainability Appraisal Report (October 2007) was submitted with the DPD. I conclude that soundness test 3 has been met.

- 2.4 To the extent that there are shortcomings in the Sustainability Appraisal I have considered the implications in applying the other tests; but I find no unsoundness other than that referred to in the next section of my report.

Conclusion

- 2.5 Accordingly, I conclude that the procedural tests 1, 2 and 3 have all been satisfied.
- 2.6 In conjunction with the procedural tests I can report that during the Examination the Council clarified some aspects of its assessment under Part IVA of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). I am satisfied from this (CD64) and from the related response from Natural England (CD65) that the DPD is not likely to have significant effects on any of the European sites in Suffolk or neighbouring counties, either of itself or in combination with other plans or projects.

3 Conformity, Coherence, Consistency and Effectiveness Tests (tests 4-9)

- 3.1 In applying these tests I have identified a number of main issues as set out below. It is of general relevance here that the East of England Regional Assembly has notified the Council that the DPD is in general conformity with the emerging Regional Spatial Strategy (The East of England Plan), which I understand to have reached a very advanced stage.
- 3.2 Since I find that due regard has been paid to the local Community Strategies, and that there are no soundness issues arising on this matter, I can conclude at the outset of this section that test 5 has been met. My conclusion takes account of the Council's Proposed Change MCS5, which updates the reference to the Western Suffolk Community Strategy in the supporting text of the DPD.
- 3.3 ***Issue 1 – The adequacy of the vision, aims and objectives (chapter 4)***
- 3.3.1 The DPD's 'Vision' makes no mention of **geodiversity**. Geological and geomorphological conservation could also have been given more attention in Aim 2 and its associated objectives. While accepting that these are weaknesses, I do not consider that they render the DPD unsound. These matters are covered to some extent in the objectives and in the policies that follow. They are not as prominent as other aspects of nature conservation but I do not find that they are so lacking as to be unacceptable or inconsistent

with national or regional planning policy. I conclude that in this respect there is no failure to meet soundness test 4.

3.3.2 There is no specific reference to the **historic** environment in the Vision or Aim 2. But again I do not consider that this causes any failure to meet soundness tests. References to the environment can be taken to include the historic dimension. This is reflected by the content of Objective 3 under Aim 2, and of policies DC1 and DC3. However, for the purpose of soundness test 7 I accept the need for the Council's Proposed Change MCS33, which adds key external policy links to PPG15 and PPG16 under policy DC1 (landscape features).

3.4 ***Issue 2 – Is there a clear delivery mechanism for bringing forward the required allocated sites? (Policy 1)***

3.4.1 It appears that the site allocations DPD currently in preparation will allocate sufficient land to meet the requirement, as expressed in policy 1, for the whole Plan period. Although it is not explicit under policy 1, the Council will maintain a landbank of at least 7 years in accordance with Government guidance in MPS1. The landbank will be monitored in the Annual Monitoring Report (AMR) and, if necessary, action will be taken to review the site allocations DPD. While it might have been helpful to explain this in the reasoned justification for policy 1 I accept that it is not necessary to repeat national policy guidance, which is already referred to in the key external policy link below policy 1, and that monitoring and implementation aspects are covered in chapter 10.

3.4.2 However, I find that chapter 10 is not sufficiently clear in this respect. To make the DPD sound, a sentence at the end of paragraph 10.9.1 could be added, stating that: *'The landbank of at least 7 years will be monitored in the AMR and, if necessary to maintain it, action will be taken to review the Site Specific Allocations DPD.'* With this, I conclude that soundness test 8 is met in relation to Issue 2.

3.5 ***Issue 3 – Whether there is scope within the preferred area of policy 2 for making all the required allocations without significantly affecting European sites (SPAs and SACs).***

3.6 ***Issue 4 – Whether the policy 2 presumption in favour of extensions is compatible with the need to protect the European sites.***

3.6.1 Since issues 3 and 4 both relate to policy 2, I will deal with them together. They arose from uncertainties about the Council's assessment of the implications of the DPD for 'European sites' under Regulation 85B of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended).

- 3.6.2 The first paragraph of policy 2 effectively defines a preferred area for aggregates, as shown within the 'broad locations' on Map A. Although this area overlaps with some European and Ramsar sites I accept that it is so extensive as to be able to accommodate the required mineral working allocations without significantly affecting those sites.
- 3.6.3 The second paragraph of policy 2 establishes a presumption in favour of extensions to existing sites in the allocation of land for mineral working. The presumption is qualified and it is clear that there would also need to be compliance with other policies in the Minerals Core Strategy. I take 'other policies' to include those referred to in section 9.3 of the DPD, including those relating to the statutory requirements of the above-mentioned regulations. I am also aware of the possibility that a proposed extension could enhance the objectives of a European site. I am satisfied that the policy 2 presumption in favour of extensions is not incompatible with the need to protect European sites.
- 3.6.4 My views on these issues take account of evidence from the Council and Natural England (core documents 64 & 65), and I find no evidence to the contrary. They lead me to conclude that there is no failure to meet soundness tests 4, 6, and 7 in respect of policy 2.
- 3.7 ***Issue 5 – Whether policy 3 could be implemented effectively and without leading to delayed completions in situations where one local operator is competing with another.***
- 3.7.1 Policy 3 aims to limit the cumulative impacts of proposals for additional mineral workings in the same locality as allocated or permitted sites. There is some lack of clarity in how the policy would be implemented and some understandable concern that the way the policy is worded could lead to the commencement of phased permissions being unduly delayed by the actions of competitors where the commencement of those permissions depends on the completion of operations controlled by other operators.
- 3.7.2 The policy is couched in terms of considering the acceptability of proposals, and it is clear from the Council's Examination statement that this is intended to apply to the allocation of land for mineral workings as well as the granting of planning permissions. I recommend a minor change to the text of paragraph 8.2.2 of the DPD to make this clear. The change replaces the first sentence of paragraph 8.2.2 with the following: *'It is important to consider the suitability of allocating land, or of granting permission for sites, that would be in close proximity to other minerals sites.'*
- 3.7.3 The Council's Proposed Change MCS10 would allow proposals to be accepted where the developer addresses adverse cumulative impacts, thus providing an alternative to dependency on the completion of competitors' operations. I support this change subject

to substituting the words 'adequately mitigated' for "addressed". The word 'addressed' is vague in that it could be taken to mean some form of mitigation even if that mitigation did not go as far as to make the proposal acceptable.

3.7.4 I conclude that these changes are needed to enable policy 3 to meet soundness tests 7 and 8. Inevitably there would be some uncertainty in the timing of mineral operations, but it should still be possible to come to reasonable conclusions on whether or not a proposal could lead to unacceptable cumulative effects.

3.8 ***Issue 6 - Is there adequate provision for ensuring that mineral extraction proposals do not have a significant adverse impact on flood flows or flood storage capacity?***

3.8.1 The Council maintains that national planning policy provision is adequate and that there is nothing about Suffolk that warrants a more specific local approach to these matters. I have no good reason to question that view and in view of guidance in PPS12(2.30) I accept that there is no need to repeat national policy on flooding in section 8.9 of the DPD. However, given that there is a national policy and that the format of the DPD provides distinct sections for key external policy links, I also accept the need for the Council's Proposed Change MCS17 insofar as it would add the relevant reference to MPS1(17). The reference to MPS2(15) is incorrect and in any event that part of the Change, concerning the encouragement of pre-application discussions, is not in my view a spatial policy with a direct effect on land use.

3.8.2 In view of the above, and because there is no DPD policy included in section 8.9, I consider it unnecessary to add to the reasoned justification in the way envisaged in the Council's Proposed Change MCS16. The text concerned does not add significantly to the national policy referred to and would simply add to the length of a section that is already more than long enough for its limited role.

3.8.3 To make the DPD sound I conclude that it should be changed in accordance with Proposed Change MCS17, insofar as it relates to MPS1(17). In relation to this issue no further changes are necessary to meet soundness test 7.

3.9 ***Issue 7 – Is there adequate policy protection for designated historic sites and their settings? (policy DC1)***

3.9.1 National planning guidance (for example MPS1, PPS7, PPG15 and PPG16) contains policies for the protection of historic buildings, parkland and other historic and archaeological features and their settings. I accept the Council's view that there is no need to repeat such policies in the DPD. Policy DC1 is justifiably limited to playing a locally distinctive role. It seeks to ensure that mineral working developments respect the Suffolk Landscape Character Assessment. This is appropriate and in my view there is no need to extend the

policy by duplicating elements of national policy. Such an extension would also be likely to detract from the focus of the policy as presently worded. The fact that historic features are mentioned in policy DC1 only in the context of a Suffolk Landscape Character Type does not mean that they would in other respects be left unprotected.

3.9.2 Although the key external policy links to policy DC1 are not as numerous as they could be I have no reason to believe that they are inadequate. I conclude that the policy protection for designated historic sites and their settings is not inadequate and that soundness test 7 is met in relation to this issue.

3.10 ***Issue 8 - Is there adequate provision for conserving those Regionally Important Geological Sites (RIGS) that have finite features of significance, which are irreplaceable? (policy DC2)***

3.10.1 Paragraph 9.4.2 could be interpreted as drawing a distinction between RIGS and sites of ecological interest in terms of their irreplaceability. This could have implications for the importance attached to *in situ* preservation and the way that policy DC2 is applied. The Council accepts the need for clarification and I accept that its Proposed Change MCS18 to paragraph 9.4.2 should avoid possible misinterpretation. I support the change, which is needed to meet soundness test 7.

3.11 ***Issue 9 – Should policy DC2 be requiring not just that measures mitigate any harm, but that mitigation should be sufficient, especially in view of the balancing exercise described in paragraph 9.4.6? And should paragraph 9.4.6 be part of the policy statement?***

3.11.1 To take the last part of the issue first, paragraph 9.4.6 is part of the reasoned justification of policy DC2, yet, as the Council recognises, it may be confusing and contradictory. This is because it reads more as a policy than as a supporting justification; and its approach is rather different to that in the policy itself. The Council's Proposed Change MCS21 would delete paragraph 9.4.6 and I support that change, which would achieve the consistency required by soundness test 6.

3.11.2 Policy DC2 appears to suffer from an unintended weakness. It indicates that permission for a harmful proposal would be granted if mitigation measures could be put in place. The Council's Proposed Change MCS22 would require such measures to be '**sufficient**', and I agree that this is necessary for the policy to be effective. Otherwise, a harmful proposal could satisfy the policy on the basis of measures that would result in only minimal reductions in the harm it would cause. With this change the policy would be the most appropriate, even allowing for the deletion of the balancing exercise described in paragraph 9.4.6. I conclude that the change

would make the DPD sound, particularly in respect of soundness test 7.

3.12 *Issue 10 – The adequacy of the table under paragraph 10.10.1 in terms of identifying the key targets and indicators against which the effectiveness of the Core Strategy and its policies would be measured.*

3.12.1 Section 10.10 of the DPD is headed 'Monitoring' and it consists of 'the monitoring framework' set out in tabular form. Although it is stated that the framework has been taken from the Sustainability Appraisal Report it is easy to get the impression that the table represents the monitoring provision for the DPD and that it lists all the performance indicators to be used for monitoring purposes.

3.12.2 It needs to be clear that other indicators for monitoring are included in the earlier sections of chapter 10 and that the monitoring framework in section 10.10 relates only to the Sustainability Appraisal. To this end, and to make the DPD sound, the heading of section 10.10 should be changed to '*Monitoring in relation to the Sustainability Appraisal*'.

3.13 *Issue 11 - Would it be clear which maps constitute the Proposals Map?*

3.13.1 Only Map A is entitled the Proposals Map. I question the appropriateness of this for two reasons. First, the information on Map A is shown in diagrammatic or broad-brush form, on a background that is small scale and limited in content. It does not allow sites or areas to be precisely identified on the ground. The Map is accommodated well within the A4 size page and the scale is uncertain, being described as "*1:330,000 at A3 paper size*". PPS12(A2) indicates the need for the adopted Proposals Map to be at a registered scale which allows the policies and proposals to be illustrated clearly, and Regulation 14¹ sets out similar requirements.

3.13.2 Secondly, Map B performs the function of a Proposals Map in identifying the mineral safeguarding areas (where policy 5A applies) and the locations of Inset Maps P1-P6. The latter define at a suitable scale the boundaries of the existing wharves and railheads the subject of policy 6. Such sites are included in the adopted Proposals Map of the Suffolk Minerals Local Plan (1999). PPS12(A2) confirms that it is appropriate to include mineral safeguarding areas and safeguarded wharves and railheads on the Proposals Map. Yet it is not clear from the DPD that Map B forms any part of the submission Proposals Map.

¹ Of the Town and Country Planning (Local Development) (England) Regulations 2004

3.13.3 To make the DPD sound, particularly in respect of soundness tests 4 and 7, I consider that the following changes are required. First, Map A should be described as a key diagram rather than the Proposals Map. This is appropriate in terms of guidance in PPS12(A1). Apart from the diagrammatic nature of some of the sites and areas shown, not all of which relate specifically to the DPD's policies, the '*broad locations for sand and gravel extraction, aggregate handling and recycling activities*' are clearly of a broad, strategic nature. This is reflected by their inclusion in policy 2, one of the two policies in the 'spatial strategy' chapter of the DPD.

3.13.4 Secondly, Map B should be re-named as the Proposals Map. It should be reproduced at a larger scale for ease of use (as envisaged in the Council's Proposed Change MCS13), and with some technical modifications to bring it into line with Government guidance and Regulation 14. In particular, it should be at a registered scale and should show national grid lines with reference numbers and a key to explain the notation used. The application of policies to the area covered by an Inset Map should be shown on the Inset Map only. References to the Proposals Map in the text of the DPD would also need to be amended of course.

3.13.5 The minerals safeguarding and consultation areas on Map B have a geometric appearance, but have been defined at a fine level of resolution (1 km grid squares). I see no need to refer to them as 'broad areas' or to indicate that they will be delineated more precisely in the site allocations DPD. Once the map is enlarged I would expect no difficulty in determining whether a development site lies within or outside the minerals safeguarding and consultation areas. As the Council points out, these areas could easily be digitised for inclusion on District Proposals Maps. I do not consider that there would be a problem of consistency with District DPDs or any failure to meet soundness test 6.

3.14 ***Issue 12 - Should areas protected by policies DC1 (historic features) and DC2 be delineated on the Proposals Map?***

3.14.1 The Council maintains that it would be confusing to include on its Proposals Map all the designated areas of environmental protection; and that it would also be unnecessary given their inclusion on the Proposals Maps adopted by District Councils. I have no reason to believe that the adopted Proposals Maps are lacking in this respect. I conclude that there is no failure to meet soundness tests on this issue.

3.15 ***Issue 13 – The justification for the policy DC3 requirement of a full archaeological evaluation for all mineral working proposals on sites of 5 ha or over.***

3.15.1 In seeking clarification of this policy requirement the Council points to a transcription error and proposes a corrective change (MCS24) so that the requirement is for a 'field' rather than a 'full'

evaluation. I accept the need for this change to make the policy appropriate and consistent with its reasoned justification in paragraph 9.5.4.

3.15.2 There is still an issue as to whether a field evaluation is justified for all proposals on sites of 5 ha or over. Site size is just one of the criteria used to gauge the probability of encountering archaeological remains. The fact that the threshold size relates to the average density of archaeological sites throughout the county appears to me to be not unreasonable in this context, and I find the explanation in paragraph 9.5.3 to be adequate.

3.15.3 Government guidance in PPG16(21) recognises that this sort of evaluation, that is, a field evaluation, is quite distinct from full archaeological excavation and is normally a rapid and inexpensive operation. I do not accept that the policy requirement, as amended by the Proposed Change, would be unduly onerous. I conclude that further changes in addition to MCS24 would be unnecessary to meet soundness test 7.

3.16 **Conclusion**

3.16.1 I conclude that with the changes I have referred to the DPD would meet soundness tests 4 – 9 in relation to the main issues identified.

4 **Minor Changes**

4.1 Apart from the changes I recommend in the previous section, I consider it necessary to make the following additional minor changes to make the DPD sound.

4.2 First, there is a need to clarify the period covered by the DPD, having regard to advice in PPS12(2.8). As suggested by the Council this could be achieved by adding a sentence to paragraph 3.1.1 of the DPD. My recommendation modifies Proposed Change MCS1 by making it clear that the period is **to the end of 2021**.

4.3 Secondly, I consider that it is necessary to delete the words *"highlighted in the Suffolk GAP"* at the end of policy DC7. This is because it is not clear exactly which geological and geomorphological resources are **'highlighted'** in the Suffolk Local Geodiversity Action Plan (GAP). It appears that the GAP is still in draft form with considerable work yet to be done in relation to this matter. Although some resources are referred to in its Appendix, I do not find that those described as highlighted in the policy are readily identifiable. I conclude that the deletion is required to give the policy the clarity required to meet soundness test 7. It is consistent with the reasoned justification, particularly paragraph 9.10.4, and I see no need to delete the reference to the GAP in that paragraph.

- 4.4 As I noted in the introduction, the Council has produced Proposed Changes to the submitted DPD in order to clarify and correct various parts of the text. Some of the Changes do not address key issues in relation to soundness but are nonetheless of importance. For example MCS26 is necessary to comply with Regulation 13(5), and others are required to bring the DPD up to date or enable it to be properly understood. Those minor Proposed Changes that I consider necessary I endorse on a general basis and reproduce in Annexe 2 in the same form as presented by the Council. I accept the need to delete 'Preferred Options' in paragraph 6.8.1 of the DPD but because it is not necessary to replace that term with the word 'Submission' I have included Proposed Change MCS6 in modified form in Annexe 1.

5 Overall Conclusions

- 5.1 I conclude that, with the amendments I recommend in Annexes 1 and 2, the DPD satisfies the requirements of section 20(5) of the 2004 Act and the associated Regulations, is sound in terms of section 20(5)(b) of the 2004 Act, and meets the tests of soundness in PPS12. It is adequate for its purpose and provides a good framework for the Site Allocations DPD.

G C Cundale

INSPECTOR

Annexe 1

CHANGES NEEDED TO MAKE THE DPD SOUND

1. Add the following sentence to the end of paragraph 3.1.1: ***'It is intended to cover the period up to the end of 2021 in line with the emerging East of England Plan.'***
2. Delete the words 'Preferred Options' in the third line of paragraph 6.8.1.
3. Replace the first sentence of paragraph 8.2.2 with the following: ***'It is important to consider the suitability of allocating land, or of granting permission for sites, that would be in close proximity to other minerals sites.'***
4. Amend the wording of policy 3 to the following: ***'Where a proposed minerals site is considered acceptable (in its own right) but the cumulative impact of a proposal in***

conjunction with other existing, permitted or allocated minerals sites in proximity is considered unacceptable, the proposal may be considered acceptable if phased so that one site follows the completion of the other or it can be demonstrated that the adverse cumulative impacts can be adequately mitigated'.

5. Add the following to the key external policy links under paragraph 8.9.6: ***'MPS1 paragraph 17 ensures mineral extraction proposals in areas at risk of flooding do not have significant adverse impacts on flood flows or storage capacity'.***
6. Delete the words ***'highlighted in the Suffolk GAP'*** in policy DC7.
7. Add the following sentence to the end of paragraph 10.9.1: ***'The landbank of at least 7 years will be monitored in the AMR and, if necessary to maintain it, action will be taken to review the Site Specific Allocations DPD.'***
8. Change the heading of section 10.10 to ***'Monitoring in relation to the Sustainability Appraisal'.***
9. Re-name Map A as a Key Diagram rather than the Proposals Map.
10. Re-name Map B as the Proposals Map. Reproduce it at a larger scale for ease of use (as envisaged in the Council's Proposed Change MCS13), and with some technical modifications to bring it into line with Government guidance and Regulation 14. In particular, it should be at a registered scale and should show national grid lines with reference numbers and a key to explain the notation used. The application of policies to the area covered by an Inset Map should be shown on the Inset Map only. Correct the references to the Proposals Map in the text of the DPD to accord with these changes.