**Minerals and Waste Local Plan Publication Stage Representation Form**

**Page 1: Suffolk Minerals and Waste Local Plan Publication Stage Representation**

**Q1. Please state if you are responding:**

As an individual

**Q2. Personal Details:**

<table>
<thead>
<tr>
<th>Title</th>
<th>Mr and Mrs</th>
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<tbody>
<tr>
<td>First Name</td>
<td>James and</td>
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<td></td>
<td>Emmeline</td>
</tr>
<tr>
<td>Last Name</td>
<td>Winterbotham</td>
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<tr>
<td>Address Line 1</td>
<td>Reydon Hall</td>
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<tr>
<td>Address Line 2</td>
<td>Wangford Road</td>
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<tr>
<td>Address Line 3 (if this is not required, please write N/A)</td>
<td>Reydon</td>
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<tr>
<td>Address Line 4 (if this is not required, please write N/A)</td>
<td>Suffolk</td>
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<tr>
<td>Post Code</td>
<td>IP18 6SJ</td>
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</tbody>
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**Q3. Agent's Details:**

No Response

**Q4. To which part of the Local Plan does this representation relate?**

| Paragraph | - |
| Policy    | MS7 |

**Q5. Do you consider the Local Plan is**

| (1) Legally compliant | Yes |
| (2) Sound             | Yes |
| (3) Complies with the Duty to co-operate | No |
Q6. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Please see attached submission dated 23rd July, 2018

Q7. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Delete MS7

Q8. SCC Response

No Response

Q9. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

No Response

Q10. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

No Response

Q11. Your details:

No Response
SUMMARY

- We strongly object to the inclusion of **Wangford Lime Kiln** in the Plan and challenge **the soundness** of the Policy MS7.

- We objected to this development at the pre-consultation stage as being inappropriate in the AONB, and **do not consider that SCC has responded adequately** to our concerns, merely repeating their earlier case for overriding AONB protections.

- We do not believe that proposed mitigation, which would permanently change the landscape forms, can adequately compensate for the loss of the Area of Outstanding Natural Beauty in this location, nor that the impact on nature, landscape, tranquillity and the local economy (which depends largely on tourism) **have been properly taken into account** by Suffolk County Council.

- Significant details remain to be clarified so it is premature to conclude that the site could be developed within an AONB in a manner consistent with the National Planning Policy Framework. Minerals Policy GP1 is so heavily weighted in favour of the granting of planning consent to applications for sites that are included in the Plan that it is **unsound** to include Wangford Lime Kiln on the basis of evidence submitted to date, even including the information from Cemex dated July 2018 submitted in response to the current consultation that we have seen.

- The Plan includes an excess of resource and there are potentially alternative sources of aggregate available that have not been fully investigated (local deposits at nearby working quarries, marine dredged aggregate) and therefore inclusion of Wangford Lime Kiln in the Plan **has not been justified**.

- **The economic case put forward by Cemex to justify inclusion of Wangford Lime Kiln in the Plan** (including eg road tax and fuel duty but omitting to mention that Cemex itself has paid no UK corporation tax in the last 10 years) is weak and tendentious and takes no account of impact on eg local tourism. Wangford Quarry brings little economic benefit to the local community, certainly insufficient to justify overriding AONB protection, where the economic benefit to the local community should be exceptional rather than marginal in this case.
We therefore continue to believe that an adequate case for AONB override has not been made and that including Wangford Lime Kiln in the Plan is inconsistent with the NPPF.

We also believe that local residents have not been treated fairly in this process or with regard to quarrying at Wangford over the last 20 years, with broken promises and formal undertakings to cease quarrying ignored repeatedly. As a consequence residents cannot rely on any future assurances from SCC or the operator regarding the site or the ending of quarrying unless quarrying is stopped now. In the light of the above we do not consider that the Plan with regard to Wangford Lime Kiln is effective as there can be no guarantee that Cemex or SCC will deliver on their commitments.

Any planning application will be resisted vigorously by the local community and taken to judicial review.
1. **Principle**

In 1997 an Inspector’s Report was published into the Suffolk Minerals Plan then being debated (Appendix 1). His conclusion categorically ruled out the possibility of exceptional circumstances that might overturn AONB protections arising in any Plan (as opposed to a specific planning application).

“to comply with Government and Suffolk County Structure Plan policy it could only be justified on grounds of exceptional circumstances. By definition, schemes which can only be justified under exceptional circumstances cannot be a development plan policy or proposal.”

This judgement was overturned by SCC in 1998 on a basis that we believe failed to recognise the point of the ruling (Appendix 2).

Having examined the original report and the context of the above quoted statement we are satisfied that the statement is unequivocal, and not qualified by any conditions. However, SCC is unable to produce minutes of the subsequent discussion that resulted in it being ignored, or any legal advice that it was proper for SCC to do so.

*Our conclusion is that the original Inspector’s statement remains correct and therefore that the 1998 SCC decision was in error and possibly illegal. Since it does not address this issue of principle or produce any evidence to counteract the Inspector’s statement, SCC’s decision to include Lime Kiln in the Plan is unsound.*

*On this basis Lime Kiln should be excluded from the Plan.*

2. **Process**

There have been numerous failures by SCC in creating the Plan. These include:

- Repeated errors, conflicting information, and uncertainties around material details of the proposals (we are still awaiting clarification of key elements of the proposal that remain undefined/explained in the current consultation documents). The new site is across the parish boundary (Mardle Road) in the parish of Reydon NOT Wangford and this error has been repeatedly ignored, with inadequate notification of Reydon parishioners. On the data, SCC states that 1m tonnes will be extracted yet Cemex proposes 100,000 tonnes for 14 years, while their Traffic report states 920,000 tonnes over 10.5 years.

- Unsubstantiated statements that underpin the proposal eg “The site is inside the AONB however it is accepted that there is an overriding need to work the mineral”. The arguments cited in support of this statement are either irrelevant, inadequate or unsupported by sufficient data for a reasonable judgement to be made.

- Acceptance of submissions/statements from Cemex without challenge/scrutiny. The latest draft of the Wangford Lime Kiln site report (Wangford Lime Kiln Site Report Appendix 1) reproduces in full Cemex’s response to the earlier 2017 consultation as if it is SCC policy – which it appears to be – without reproducing any of the counter arguments advanced by local residents or other objectors. This document contains material inconsistencies and subjective statements that are presented under the SCC’s imprimatur as accepted facts.
• Failure to extract detailed information to justify a decision of national importance – commercial confidentiality is NOT acceptable as a reason not to pursue key lines of inquiry into eg the economics of alternatives.

General Policy GP1 assumes that SCC approval will be forthcoming for a planning application for any site included within the Plan: “It will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible” “without delay” “unless material considerations indicate otherwise”. However the Plan is based on insufficient data to satisfy the rigorous criteria of the AONB override (see section 4 below). Hence it is unsound to include Lime Kiln in the Plan.

Cemex submitted material information on the last day of the October 2017 consultation (as consultee as well as potential developer) making it difficult for others to submit commentary on the new information. SCC has failed to consider any action in this regard. [Cemex have nevertheless been decent enough to send us their latest submission four days ahead of the deadline.]

*The Plan process has been unfair and the lack of rigour in analysing information makes it unsound.*

3. Failure to meet NPPF obligations

NPPF 145 requires relevant authorities to address alternative sources of mineral outside the AONB before allowing development within. SCC has failed to do this.

3.1 Marine dredged aggregate

An obvious source is marine dredged gravel, 4m tonnes of which is extracted offshore from Suffolk and South Norfolk by Cemex Marine and competitors (out of licences for 10m tonnes). SCC had a general policy not to substitute land won gravel by marine won gravel (2017 Suffolk Local Aggregates Assessment) but repeats this without any justification nor addresses whether it is an appropriate strategy in the context of quarrying within the AONB. Indeed it appears from correspondence with SCC executives that this policy has now been dropped:

An email from Graham Gunby to James Winterbotham dated 22nd June, 2018 states “As you can see from the draft Plan SCC have no specific policies regarding marine dredged sand and gravel other than the safeguarding of wharves.”

The marine geology is similar – (see Appendix 3). Marine gravel can be landed at wharves at Ipswich (30 miles distant). Suffolk Coastal (Response E118, Appendix 6) consider “this can help to meet the requirements for sand and gravel” and Brett Aggregate (Response E87) emphasise “the importance of marine aggregates within the Suffolk market” wholly overlooked by SCC and Cemex.

Neither Cemex nor SCC has investigated this alternative or provided any reasons as to why this is not a viable option. Cemex hides behind commercial confidentiality and does not disclose volume, type or price but exports substantial amounts of coarse aggregate to the Continent and advertises coarse aggregate on its website. It does not, however, have its own wharf in Suffolk hence has no commercial interest in pursuing this alternative.

*This is a material failure of process by SCC and disingenuous by Cemex.*

Other minerals companies believe that in the near future East Anglia will have to look to marine dredged aggregate to supply its needs and indeed two that we have spoken to are actively
considering options to do so. Approving the extension of the Wangford quarry merely defers the decision that is inevitable.

3.2 Local sources

Cemex proposes to mine 1m tonnes of aggregate (as stated by SCC in the Plan although their submission proposes 100,000 tonnes per annum for 14 years) at Lime Kiln, 60% of which is gravel. Of this 50% is exported (since we assume local demand to be relatively small – Cemex are unable to provide detailed information). This leaves 210-300,000 tonnes for local supply into the Suffolk region – 20-30,000 tonnes per annum. We believe that much of this can be supplied locally from existing quarries eg at Henham – NOT operated by Cemex. None of this has been properly examined by SCC.

Again, SCC has failed to undertake proper analysis and has relied on statements by Cemex that are driven by self-interest and profit.

The need to quarry at Wangford Lime Kiln has not been justified. SCC has not fulfilled its obligations to comply with NPPF 145 and including Wangford Lime Kiln in the Plan is inconsistent with the NPPF.

4. AONB override

There have been repeated incursions into the AONB at Wangford over the last 20 years, each time against local opposition and only justified by planning gains outside the AONB – the surrender of dormant licences elsewhere.

When extending the Wangford Quarry is considered on its merits alone – in 1997, and in 2006 – it is rejected.

4.1 Damage cannot be mitigated

SCC executives have in the past repeatedly confirmed that quarrying causes permanent damage to the AONB that cannot be mitigated.

The 2006 Planners’ report (quoted in Development Control Committee, DC06/02, 26 January 2006 para 61, Appendix 2) states:

‘The application fails to recognise the cumulative effect extending the quarry would have. The Visual and Landscape Assessment concedes there would be temporary adverse impact of high/very high significance for Green Lane, and medium significance for Mardle Road. The development would result in a permanent change in the landscape character of the site. The landform that would be created would not echo the gentle slopes that currently exist and represents a permanent adverse change to the landscape character of this part of the AONB.’

Consequently executives recommended rejecting Cemex’s then application to extend quarrying. No-one at the Council has yet been able to produce minutes of the discussion that led to the overturn Planning Officers’ recommendation in 2007.

Landscaping to hide the workings of the quarry with high bunds will not only significantly affect the landscape character over the life of the extension (minimum 14 years) but as an Inspector concluded in 2010 “Even if a development in an AONB could not be seen by the public, that did not mean, in and of itself, that it was not harmful to the intrinsic character of the countryside.” Bunds to hide
traffic movements across Mardle Road will be very visible from across the Blyth estuary and wholly out of character with the local landscape.

4.2 Exceptional reasons to allow development in an AONB not adequate

The case for exceptional circumstances to override AONB protections has not made adequately and we summarise these in Appendix 4.

The Plan shows a 30% surplus over forecast need. Revised extraction statistics for the Plan attached as Appendix 5 indicate that Wangford would contribute only 10% to Suffolk’s new minerals supply from the 10 proposed new sites over the next 10 years.

These negate any arguments for exceptional circumstances or the need for inclusion of Wangford Lime Kiln in the Plan.

SCC and Cemex cite the importance of the quarry to the local community – “The site also makes a significant taxation contribution via income tax, business rates, aggregates tax, fuel duty, road fund licence and regulatory fees.” To override AONB protections the economic benefits must be exceptional and these grounds are vague and inadequate, many not reaching the local economy (which is never accurately defined) so that SCC’s application of this NPPF paragraph 116 test is unsound.

Key elements of the proposed extension (eg traffic movements across Mardle Lane, impact on protected species such as curlews) are not addressed. Without these a judgement cannot be made as to the potential to mitigate the impact on the AONB. Given the weight attached to sites in a Plan in SCC’s treatment of subsequent planning applications (GP1), inclusion of Lime Kiln would skew the pitch in favour of development. Lime Kiln should be excluded from the Plan and if Cemex choose to make a planning application (as they have advised that they will) this can be treated on its merits.

An adequate case for overriding protections for the AONB has not been made.

We therefore believe that SCC is acting illegally in contravention of the Countryside and Rights of Way Act 2000.

5. Fairness

5.1 Consultation

Local residents overwhelmingly opposed the extension into Lime Kiln in the earlier 2017 consultation – both parish councils unanimously objected as did 150 individuals as well as the Southwold and Reydon Society representing 350 residents, also the local district councillor and our MP. None of these have been taken into account and all objections have been set aside with a standard and (as noted above) inadequate response. The level of objection was not drawn to Councillors’ attention in the SCC Cabinet meeting that proposed the revised Plan, and the change to the Plan relating to Wangford Lime Kiln was advanced by Cemex on the basis of inadequate aggregate deposits NOT only in response to objections. This is both a failure of process and unfair treatment of legitimate concerns of residents.

Objections received to the earlier consultation and the SCC response are attached as Appendix 6. We do not consider that these have been addressed adequately and therefore that they should be taken as evidence by the Inspector.

SCC executives and elected officials appear to have put forward the site and promoted the case of Cemex, a multinational corporation headquartered in Mexico, with a zeal and enthusiasm that is not
balanced by a concern to protect the interests of the local electorate to whom they are democratically answerable.

The report submitted to the SCC Cabinet summarising responses to the October consultation is attached as Appendix 7. We would draw attention to Paragraphs 213,214, 216 and 219 as illustrations of this attitude.

Our letter to the 78 Councillors who approved the Plan in May 2018 drawing attention to this (which received only one acknowledgement) is attached as Appendix 8.

4.2 A long history of unfairness to local residents and unfair exploitation of the local AONB

Twice approval has been given against Inspector’s and officers’ advice to continue quarrying at Wangford by the surrender of dormant licences elsewhere in Suffolk. Local residents have suffered to benefit others.

Undertakings at the time of the 2006 Extension decision, that the current site would be restored and public access granted by 2013, have been broken as extensions have twice been approved, and these undertakings have proved worthless.

Local residents recall statements made at meetings that were not minuted (including eg unqualified and absolute commitments to cease quarrying by 2013). We are seeking affidavits in this regard that we will submit to the Inspector in due course.

SCC and the operators of the Wangford site have a history of unfair treatment of residents going back to the 1990s. It is unreasonable given this history to expect residents to rely on any statements regarding mitigation or ceasing quarrying in the future.

Indeed we consider that SCC has potentially failed in its duty of care to local people in the manner in which it has failed to enforce undertakings given by the operators of the Wangford Quarry to cease quarrying and provide public access.

In the light of the above we do not consider that the Plan with regard to Wangford Lime Kiln is effective as there can be no guarantee that Cemex or SCC will deliver on their commitments.

5. Environmental impact

A range of organisations have made representations as to the environmental and ecological damage that the quarry causes (eg Suffolk Preservation Society). Others such as the RSPB (themselves recipients of financial support from Cemex) have drawn attention to lack of data.

Concerns raised regarding the impact on endangered species on the site (curlews, on the Red List), public amenity (ramblers using Mardle Road), tranquillity, historic setting and protecting the beauty of the landscape have not been given the weight due to them under NPPF 115 in the process.

Material information on traffic movements across the single track lane Mardle Road (whose name comes from an old Suffolk word meaning to stop and gossip…) remains uncertain – for residents and other consultees to be unable to comment on such a key element of the proposed extension undermines the integrity of the process. Peak traffic movements in summer (one 25 tonne dumper truck every 5 minutes across Mardle Road, travelling increasing distances as the quarry is worked) will coincide with the peak tourist season for the Southwold area. An operating timetable that starts
at 7am is also unreasonable for local residents for a much more exposed site than the current extension.

Our earlier representation setting forth these arguments is attached as Appendix 9 and should be read as part of this submission.

Cemex intend to make a planning application for the Lime Kiln extension whether or not it is included in the Plan. *It is unsound to include the site in the Plan based on current information and pre-judge the outcome of a full planning application and subsequent inquiry were approval to be granted.*

7. Conclusion

The case for inclusion of Wangford Lime Kiln Fields in the Plan has not been justified. On grounds of soundness and fairness we submit that Policy MS7 for the extension of the Wangford Quarry into Lime Kiln Fields in Reydon Parish should be deleted from the SCC Minerals Plan.

We request an opportunity to present our case directly to the Inspector at the open hearings due to take place in 2019.

Appendices

| Appendix 1 | Report on the Objections to the Suffolk Minerals Local Plan, 26th September 1997 |
| Appendix 2 | SCC Development Control Committee, 26th January 2006 |
| Appendix 3 | The Crown Estate and MPA, Aggregate Dredging and the Suffolk Coastline, 2015 |
| Appendix 4 | Analysis of each of the points put forward by SCC to justify exceptional over-ride of AONB protections |
| Appendix 5 | Analysis of relative contributions from proposed quarries to the Plan based on data supporting SCC Plan |
| Appendix 6 | SMWLP-PO-Responses-to-Representations-003-004-Redacted |
| Appendix 7 | SCC Cabinet Meeting Agenda Item 08 - Suffolk Minerals and Waste Local Plan, 17th April, 2018 |
| Appendix 8 | Letter to Suffolk County Councillors, 16th May, 2018 |
| Appendix 9 | Response to Suffolk Minerals Waste Plan Wangford September 2017, James and Emmeline Winterbotham 10th December 2017 |
| Appendix 10 | SMWLP Winterbotham submission Appendix 1 |
| Appendix 11 | SMWLP Winterbotham submission Appendix 2 |