Suffolk Minerals & Waste Local Plan
Statement of common ground
RSPB

May 2019
Contact

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For more information about our minerals and waste planning policy go to: https://www.suffolk.gov.uk/planning-waste-and-environment/planning-applications/minerals-and-waste-policy/

Cover photograph acknowledgements:

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2. Cavenham Quarry, with permission from Allen Newport Ltd.
CONTENTS
1. Format .............................................................................................................................................. 3
2. Vision, Aims and Objectives ........................................................................................................... 4
3. General Policies ............................................................................................................................... 7
4. Minerals Site Policies ....................................................................................................................... 8
5. Sizewell A Nuclear Power Station ................................................................................................. 16
6. Other ................................................................................................................................................ 17
1. **Format**

1.1 This document sets out the representations made by RSPB to the Submission Draft Suffolk Minerals & Waste Local Plan and Appropriate Assessment consults. A response is made to each representation by Suffolk County Council. Proposed changes are made in bold type.

1.2 At the time of writing all of the objections made by RSPB still remain.

G. Gunby

Graham Gunby
Development Manager
Suffolk County Council
2. **VISION, AIMS AND OBJECTIVES**

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</table>
| 90772535         | Mr Mike Jones (received via email), Conservation Officer, RSPB | No | No | Yes | As stated in our Preferred Options consultation response, the National Planning Policy Framework requires the planning system to:  
- Provide net-gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing ecological networks that are more resilient to current and future pressures (para. 109);  
- Set out a strategic approach in Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure (para. 114);  
- Plan for biodiversity at a landscape-scale across local authority boundaries (para. 117); and  
- Identify and map components of the local ecological networks, including … areas identified … for habitat restoration or creation (para. 117). This plan is the appropriate means for delivery of these requirements. We therefore strongly recommend that the plan Vision should reflect the requirements of the NPPF for the plan to provide positive direction to strategic landscape-scale restoration to biodiversity and green infrastructure.  

The site allocations element of the plan should include the following information for each mineral site:  
- The proposed restoration and after-use, prioritising biodiversity-led restoration (as required by draft minerals policy MP7) and the establishment of coherent and resilient ecological networks (the draft Nottinghamshire Minerals | SCC recognises the potential for minerals restoration for habitat creation and the Plan does contain policy (policy MP6) which sets a preference for a biodiversity led approach to restoration, with creation and management for priority habitat, protected species, priority species, Red Data Book Species and links to surrounding habitats. |
Local Plan provides a good example of this biodiversity-led approach1);

- How the restoration will contribute to delivering: (i) the landscape-scale conservation objectives for the area (as per draft policy MP7); (ii) a net-gain in biodiversity; (iii) local biodiversity targets; and (iv) a coherent and resilient ecological network (the Somerset Minerals Local Plan’s Restoration Topic Paper1 provides a good example of identifying how clusters of mineral sites can contribute to the ecological network of the area.);

- the priority habitats that would be the most appropriate (but emphasising that restoration should avoid habitat packing, where small areas of lots of habitats are packed into the site) (the draft Nottinghamshire Minerals Local Plan provides a good example of this approach);

- a target for the minimum area (and type) of priority habitat that will be created (i.e. at least x hectares of y habitat) (the Essex Minerals Local Plan provides a good example of this approach, as outlined in its topic paper on ‘The Implementation of Biodiversity and Habitat Creation Targets’1);

- how the proposed restoration will complement the restoration of other mineral sites in the vicinity (Cambridgeshire’s Block Fen/ Langwood Fen Supplementary Planning Document1 provides a good example of this approach, with a ‘masterplan’ approach that covers a cluster of mineral sites);

- how the proposed restoration will complement existing priority habitat and nature conservation designations in the vicinity (Northamptonshire’s assessment of habitat creation opportunities through the restoration of allocated minerals sites provides a good example of this approach1);

- for sites on Best and Most Versatile (BMV) agricultural land, indicate how the long-term potential of the BMV soils will be preserved (whilst delivering biodiversity-led restoration) (the Surrey Minerals Local Plan provides a good example of this approach1);
• for riparian sites, give consideration to the opportunity for floodplain reconnection and naturalising the river channel (the draft Nottinghamshire Local Plan provides a good example of this approach).
### 3. GENERAL POLICIES

**POLICY GP1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT**

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<td>Mr Mike Jones (received via email), Conservation Officer, RSPB</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Exceptional to the presumption in favour of sustainable development are noted in part &quot;b&quot; of the policy. Where sites are in the proximity of European wildlife sites or other wildlife interests this is stated in site specific policies and supporting text.</td>
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This policy refers to the general presumption in favour of sustainable development. Given the proximity to or presence within European designated sites of many of the proposed minerals allocations in this plan, it is important that this policy should also highlight that the general presumption in favour of permission does not apply to European wildlife sites (i.e. Special Protection Areas and Special Areas of Conservation). Clear reference should be made to paragraph 119 of the National Planning Policy Framework (NPPF) which highlights the additional requirements associated with planning applications in or near such areas.

This policy refers to the general presumption in favour of sustainable development. Given the proximity to or presence within European designated sites of many of the proposed minerals allocations in this plan, it is important that this policy should also highlight that the general presumption in favour of permission does not apply to European wildlife sites (i.e. Special Protection Areas and Special Areas of Conservation). Given the precautionary approach required by the Habitats Regulations, we recommend that it would be acceptable to make clear reference to paragraph 119 of the National Planning Policy Framework (NPPF) which highlights the additional requirements associated with planning applications in or near such areas, in the supporting text of this policy, rather than the indirect reference currently proposed.
### 4. Minerals Site Policies

**Policy MS1 Barham**

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<td>No</td>
<td>No</td>
<td>Yes</td>
<td>The strategic planning requirements set out in NPPF paragraphs 109, 114 and 117 (see our comments on the Vision, Aims and Objectives) and the requirement of policy MP6, which states that 'preference will be given to restoration proposals that incorporate a net gain for biodiversity' and 'providing links to surrounding habitats is also encouraged', indicate that it is appropriate for the plan to include strategic guidance on the most appropriate restoration proposals. We would also recommend that in the course of revising the HRA for this plan, that revisions to site policies giving guidance to the most suitable forms of biodiversity restoration are an acceptable means of ensuring that the plan is effective and that sites can deliver any restoration proposals required under HRA. For this site, we recommend that the following are incorporated into the site policy and/or supporting text where appropriate.</td>
<td>SCC considers that it is appropriate to determine the restoration of sites at the planning application stage, however advice from RSPB is helpful and noted.</td>
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### POLICY MS2 BARNHAM

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<td>SCC considers that it is appropriate to determine the restoration of sites at the planning application stage, however advice from RSPB is helpful and noted.</td>
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within the stone-curlew habitat of the SPA should be to Brecks grass-heath, the preferred habitat of stone-curlew, in order to maximise the likelihood of the SPA species returning to use the site after the minerals working.

- Given the proposed allocation’s location within the SPA, any allocation must be able to demonstrate that it will be able to avoid any significant increases in pollution to the surrounding site, from sources including (but not necessarily limited to) dust, noise, lighting, human and vehicle disturbance on site and on access routes and changes to the surrounding hydrology.

- We expect that such measures would also apply to any similar international designations (such as Ramsar sites and SACs) and also include similar measures to avoid adverse effects on Sites of Special Scientific Interest.

- If the above is possible and the sites are taken forwards in the plan, then they should be included as site specific policies in the submission stage of the plan, and accompanied by the appropriate level of detailed assessment in a revised HRA.
## Policy MS4 Cavenham

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<td>No</td>
<td>No</td>
<td>Yes</td>
<td>The strategic planning requirements set out in NPPF paragraphs 109, 114 and 117 (see our comments on the Vision, Aims and Objectives) and the requirement of policy MP6, which states that ‘preference will be given to restoration proposals that incorporate a net gain for biodiversity’ and ‘providing links to surrounding habitats is also encouraged’, indicate that it is appropriate for the plan to include strategic guidance on the most appropriate restoration proposals. We would also recommend that in the course of revising the HRA for this plan, that revisions to site policies giving guidance to the most suitable forms of biodiversity restoration are an acceptable means of ensuring that the plan is effective and that sites can deliver any restoration proposals required under HRA.</td>
<td>SCC considers that it is appropriate to determine the restoration of sites at the planning application stage, however advice from RSPB is helpful and noted. SCC has revised the HRA, due to the European Court of Justice People Over Wind decision and has carried out a focussed consultation on this.</td>
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In addition, minerals extraction on this site, within the Breckland SPA, will result in an adverse effect on the integrity of the SPA through displacement of nesting birds, and without mitigation would not be permissible at the development control level, leaving the plan undeliverable for this site, we recommend that as an absolute minimum the following are incorporated into the site policy and/or supporting text where appropriate.

- Provision of alternative habitat for displaced SPA features for the period of the extraction. Whilst the proposed allocation is temporary, it will result in a loss of SPA habitat for a significant period, and this should be mitigated for by provision of suitable nesting habitat elsewhere for the period of the works.
- Restoration to wildlife-rich habitats. In line with existing minerals consents in the SPA, restoration of mineral sites...
within the stone-curlew habitat of the SPA should be to Brecks grass-heath, the preferred habitat of stone-curlew, in order to maximise the likelihood of the SPA species returning to use the site after the minerals working.

- Given the proposed allocation’s location within the SPA, any allocation must be able to demonstrate that it will be able to avoid any significant increases in pollution to the surrounding site, from sources including (but not necessarily limited to) dust, noise, lighting, human and vehicle disturbance on site and on access routes and changes to the surrounding hydrology.

- We expect that such measures would also apply to any similar international designations (such as Ramsar sites and SACs) and also include similar measures to avoid adverse effects on Sites of Special Scientific Interest.

- If the above is possible and the sites are taken forwards in the plan, then they should be included as site specific policies in the submission stage of the plan, and accompanied by the appropriate level of detailed assessment in a revised HRA.
The strategic planning requirements set out in NPPF paragraphs 109, 114 and 117 (see our comments on the Vision, Aims and Objectives) and the requirement of policy MP6, which states that ‘preference will be given to restoration proposals that incorporate a net gain for biodiversity’ and ‘providing links to surrounding habitats is also encouraged’, indicate that it is appropriate for the plan to include strategic guidance on the most appropriate restoration proposals. We would also recommend that in the course of revising the HRA for this plan, that revisions to site policies giving guidance to the most suitable forms of biodiversity restoration are an acceptable means of ensuring that the plan is effective and that sites can deliver any restoration proposals required under HRA.

At this stage, we have not been provided with any ecological information specific to the site of the proposed quarry extension, and therefore cannot comment on details of how wildlife currently using the site itself could be affected. Therefore, if proposals for this site are progressed and more information becomes available, we may need to comment further. However, we are concerned that the proposed quarry extension is less than 350m from the nationally and internationally protected wildlife sites, the Minsmere-Walberswick Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI). It is also close to Suffolk Wildlife Trust’s Hen Reedbeds reserve. Given the proximity of the proposed quarry extension to designated sites, Habitats Regulations Assessment of the possible impacts of the proposals on these sites will be required.

At present, the strategic-level HRA does not provide confidence that impacts can be avoided (see our comments above). The requirement for project-level HRA should also

SCC considers that it is appropriate to determine the restoration of sites at the planning application stage, however advice from RSPB is helpful and noted.

SCC has carried out an appropriate assessment and has undertaken focussed consultation.
potential hydrological impacts, disturbance from quarry operations and vehicle movements, and deposition of dust. Should adverse impacts be likely, the site can only be considered suitable if robust measures to avoid or mitigate impacts can be proposed. This site is being proposed by CEMEX UK. The RSPB and CEMEX UK have a long standing national partnership, working together to help restore and manage sites for priority habitats and species. If proposals at this site can be progressed without negative impacts on important wildlife sites, we would be keen to work with CEMEX UK to create a restoration plan which would provide high quality wildlife habitat following the working of the site. Be recognised in the site specific policy. Particular consideration should be given to
### Policy MS8 Wetherden

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<td>Mr Mike Jones (received via email), Conservation Officer, RSPB</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>The strategic planning requirements set out in NPPF paragraphs 109, 114 and 117 (see our comments on the Vision, Aims and Objectives) and the requirement of policy MP6, which states that ‘preference will be given to restoration proposals that incorporate a net gain for biodiversity’ and ‘providing links to surrounding habitats is also encouraged’, indicate that it is appropriate for the plan to include strategic guidance on the most appropriate restoration proposals. For this site, we recommend that the following are incorporated into the site policy and/or supporting text where appropriate. We note that the Site Selection Report proposes that the quarry area will be restored to an agricultural after-use. We recommend that opportunities are sought to incorporate enhancements for biodiversity within the restoration, in accordance with draft minerals policy MP7, which states that: “Preference will be given to restoration proposals that incorporate a net gain for biodiversity with the creation and management of priority habitats and that support protected priority and Red Data Book Species and/or that conserve geological and geomorphological resources. Such habitats, species and resources should be appropriately and sustainably incorporated into restoration proposals focussed on flood alleviation, reservoirs, agriculture, forestry, amenity, or ecology.” Enhancements could include provision of habitat for declining farmland birds, such as the turtle dove, which is known to be present in the wider area. Specific measures for turtle dove that could be employed both during quarry management and restoration can be found in Annex 1 to our Preferred Options consultation response.</td>
<td>SCC considers that it is appropriate to determine the restoration of sites at the planning application stage, however advice from RSPB is helpful and noted. SCC has carried out an appropriate assessment and has undertaken focussed consultation.</td>
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### 5. SIZEWELL A NUCLEAR POWER STATION

**Policy WS1**

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<td>Mr Mike Jones (received via email), Conservation Officer, RSPB</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Potential impacts on Sizewell Marshes SSSI are accounted for in part &quot;b&quot; of this policy</td>
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The proposed allocation is in close proximity to Sizewell Marshes SSSI. In order to ensure to safeguard the ecological interest of this designated site, it is appropriate that the policy wording should reflect the need for careful assessment prior to any permission being granted.

We note that the Site Selection Report indicates that development required at this site may include new buildings and other required facilities, the need to manage waste in-situ, and potentially the need to manage land contamination. Due to the proximity of this site to Sizewell Marshes SSSI, potential impacts on ecological features will require careful assessment. We consider that this should be specified within the policy for this site.
### Habitats Regulations Assessment

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<td>Mr Mike Jones (received via email), Conservation Officer, RSPB</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>In our Preferred Options consultation response, we highlighted that there was insufficient evidence in the plan to demonstrate that it would be able to avoid adverse effects on European Sites, and that this left the draft plan unsound and contrary to the requirements of the Habitats Regulations. The HRA presented in support of the Submission stage consultation is identical to that provided with the Preferred Options stage plan, with no reference to our comments on the fundamental problems with the HRA, or the similar concerns raised both by Natural England and Suffolk Wildlife Trust. The HRA states without evidence in Appendix 3 for all proposed allocations that there will be a neutral effect (i.e. likely negative significant effects would be avoided), typically noting ‘until such time as a project-specific HRA screening process and Appropriate Assessment has been undertaken’, and ‘there may well be other ecological constraints which will need to be assessed and the necessary mitigation strategies agreed’. We disagree with the screening out of these sites in the HRA as no evidence has been provided to allow the Council to safely conclude that these allocations would avoid adverse effects on European sites. This approach effectively abdicates responsibility for determining the Likely Significant Effects and any subsequent Appropriate Assessment of allocations on European sites until the development control stage. This is unnecessary given that assessments based on site locations and constraints can be made at this stage of the plan. It is the responsibility of the Council, as the</td>
<td>SCC has revised the appropriate assessment and undertaken an additional focussed consultation.</td>
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Competent Authority under the Habitats Regulations, to ensure that the plan will not result in an adverse effect on the integrity of the Natura 2000 network of European sites. Sound planning requires that the Council not rely on the allocation of sites where delivery is uncertain as, regardless of the required revisions to the plan HRA, the plan can offer no guarantee that project-level HRA would be passed.

We are also concerned about the assertion made repeatedly in Appendix 3, that ‘developers will need to undertake suitable survey work and prepare a detailed avoidance, mitigation, compensation and enhancement strategy’. Notwithstanding our wider concerns, compensation measures as suggested should not be promoted like this. Compensation in a HRA has a strict legal definition and is only for the rarest of situations where avoidance and mitigation of the impacts is not possible, there are no alternative solutions and the proposal is demonstrated to be of over-riding public importance and with the approval of national government. Any plan that proposed compensation as a means of resolving adverse effects on European sites would be unsound and so proposing it as a measure in the plan HRA would be to fundamentally fail the requirements of the Habitats Regulations.

We have recently met with the Council, alongside Natural England and Suffolk Wildlife Trust, to help inform the process of revision of the HRA, in response to the collective concerns raised during the Preferred Options stage. We are pleased to see the direction the Council are progressing in and are happy to provide ongoing support the Council as it revises the HRA in order to ensure it is compliant with the Habitats Regulations but no revised HRA has been produced to date and recognise that our comments in the consultation must refer to the documents as published in the Submission consultation.

We therefore strongly recommend that the plan needs to be accompanied by a HRA that properly follows the tests set out in the Regulations, and provides sufficient evidence to demonstrate that the plan can confidently avoid resulting in adverse effects on European Sites. The current HRA
document does not meet these tests and needs significant revision before it can do so. We strongly recommend that the HRA undergoes significant revision, firstly evaluating all sites and policies against the test of Likely Significant Effect (LSE) and then following with an Appropriate Assessment of those elements of the plan where LSE is determined. We also recommend that the HRA documents of neighbouring counties’ adopted minerals and waste plans are used as a guide to the level of detail required in the HRA in order to successfully update it to the necessary level.

102329844  Mark Nowers, RSPB  Yes  No  Yes  We understand that comments at this stage are only requested in relation to the Appropriate Assessment (AA) published for consultation on the 5 November 2018. This has been presented for consultation after the submission stage of the Minerals Plan, to which we provided comments in July 2018. Any disagreement we have with the contents of the AA, would mean that the plan itself is unsound. We consider it unusual to apply tests of soundness to the HRA process. Assessing the impacts on stone-curlews should not be based on the allocation as a percentage of the SPA, but on up to date information around the number of nesting pairs, foraging extent and their sensitivity to disturbance. It is imperative that any areas that could support stone-curlews are not compromised. We acknowledge and agree with the AA’s findings that “restoration to high quality nesting habitat for stone-curlew would be an essential part of those [Barnham/Cavenham] applications” (para 3.1.3), but leaving any restoration to application stage cannot be the most appropriate strategy in the context of an operation that is taking place over a significant period of time within an SPA. This would not be justified in terms of the tests of soundness.

We recommend that the Plan incorporates distinct policy-wording (policies MS2, MS4, MP6 and MP7) that will ensure there is no Adverse Effect on Integrity (AEOI) and that restoration of minerals sites to brecks grass-heath creation for stone-curlews can be achieved. Paragraph 204(f) of the National Planning Policy Framework (NPPF) encourages councils in their planning policies to “set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment”. Suffolk

Paragraphs 3.2.17 and 3.3.11 demonstrate that the location of recent nest sites was known, and considered, but this information was not published as it may put nests at risk of egg theft. The recommendation by the respondent has already been carried out.

SCC considers that policy GP4 secures all measures necessary to avoid harm to a European site. Details are not necessary at Local plan stage; SCC is satisfied that all measures are realistic and achievable, and can be delivered through planning applications. SCC does not think that the Local Plan is contrary to NPPF.
County Council has an opportunity to revise the findings of the AA and the policy wordings to ensure that these measures are secured. We remain willing to work with SCC and other key stakeholders (Natural England and the Suffolk Wildlife Trust) to ensure that a genuinely sustainable solution is agreed.