

Warwickshire Minerals Plan 2018

Proposed Main Modifications & Background Documents/Evidence Consultation 2021



Representation Form

This is the representation form for the consultation on the Warwickshire Minerals Plan 2018 – Proposed Main Modifications and associated consultation documents. The Proposed Main Modifications are required to make the submitted Plan sound and legally compliant and will need detailed consideration. The additional background documents/evidence have been prepared as a consequence of matters raised in the Examination hearings and to inform the Proposed Main Modifications. Details of the consultation and all the consultation documents can be found online at: https://warwickshire-consult.objective.co.uk/portal/warwickshire_minerals_plan_examination_website.

The formal representation period is open from **5th November 2021 to 7th January 2022**. All representations must be received during this period.

If you wish to submit a representation, please complete all parts of this form.

A separate form will need to be completed for each Proposed Main Modification, or relevant point made in any other document being consulted upon, that you wish to comment on.

Comments should:

- Relate **only** to Proposed Main Modifications (contained in the Schedule of Proposed Main Modifications to the Minerals Plan), or information contained within any of the Consultation Documents being consulted on, that support them;
- Clearly reference the Proposed Main Modification and/or Consultation Document they relate to, quoting the relevant Main Modification number or the relevant section of the Consultation Document;
- Focus on whether the Proposed Main Modification comply with the legal requirements and is considered sound; and
- Must not repeat any previously submitted comments, as these are already before the Inspector.

To help the Inspector, it is recommended that groups that share a common view, send a single representation rather than multiple copies of representations that repeat the same points. and then send it to us via email or post, using the addresses below.

Please note:

All respondents need to provide their personal details. It is not possible for representations to be anonymous. Names of respondents will be made public. However, if comments made available via the examination webpage contact details will be redacted. A copy of the Council's Privacy Notice can be found at:

<https://www.warwickshire.gov.uk/directory-record/6470/mineral-and-waste-local-plans>

The Consultation Documents are:

- Schedule of Proposed Main Modifications
- Habitats Regulations Assessment 2021

- HRA Interim Statement 2021
- WCC Minerals Plan SA Note Main Modifications
- WCC Minerals Plan SA Note NPPF Modifications
SA: Further Site Assessment Note

Background Documents/Evidence

- PSD06 Flood Risk Assessment Sequential Approach. pdf
- PSD09 SIAM Background Info Paper 090920.pdf
- PSD09 SIAM Background Info Paper Appendices.pdf
- PSD10 HS2 Update 090920.pdf
- PSD19 Minerals Plan Spatial Option Background Paper May 2021.pdf
- PSD20 Minerals Plan Planned Growth Topic Paper May 2021.pdf
- PSD20 Minerals Plan Planned Growth Topic Paper May 2021 Appendices.pdf
- PSD21 Plan Calculation Background Paper May 2021.pdf
- PSD 22 Inspector Letter to Council re Revised NPPF.pdf
- PSD 22a WCC Response to Inspector Letter to Council re Revised NPPF.pdf
- PSD 23 Mineral Safeguard Areas Topic Paper September 2021.pdf
- PSD 24 Minerals plan Recycled Aggregates Topic Paper September 2021.pdf
- PSD 25 Cumulative Effects Background Paper September 2021.pdf
- PSD 25 Cumulative Effects Background Paper Appendices.pdf
- PSD 26 Site 4 LVA September 2021.pdf
- PSD 27 SIAM 2021 Plan Objectives Assessment September 2021.pdf
- PSD 28 SIAM 2021 October 2021.pdf
- PSD 29 SIAM 2021 Results Report October 2021.pdf

Please return completed forms to:

✉ planningstrategy@warwickshire.gov.uk



Planning Policy
Infrastructure & Sustainable
Communities,
Warwickshire County Council
Shire Hall,
Warwick, CV34 4RL

We must receive your representations by January 7th, 2022 (before 5pm). Representations received after this cannot be accepted.

All of the representations received will be reviewed by the Planning Inspector who will consider whether the Plan is 'sound' and complies with the legal requirements.

Guidance Note on soundness and legal compliance

Soundness

Paragraph 35 of the National Planning Policy Framework (2019) sets out the considerations in relation to a plan being considered 'sound'.

- a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.

Legal Compliance

Legal Compliance means the Minerals Plan:

- Is included in the Council's current Local Development Scheme [LDS] and the key stages set out in the LDS should have been followed.
- Is in general accordance with the Council's Statement of Community Involvement [SCI].
- It has regard to national planning policy.
- Has been subject to Sustainability Appraisal [SA] and the SA is adequate
- That the Habitats Regulations Assessment (HRA) is carried out in accordance with the Conservation of Habitats and Species Regulations (The Habitats Regulations) 2010
- Complies with the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012, as

amended [the Regulations].

- That Section 110 of the Localism Act 2011 (Duty to Co-operate) has been complied with.

Office use only
Person No:

Rep Nos:

Part A – Personal details

	Personal details	Agent details (where applicable)
Title	Barford Residents Associations	Mr
First name		Stephen Stoney
Last name		Technical Director
Address line 1		Sir Henry Doulton House
Address line 2		Forge Lane
Address line 3		Stoke-on-Trent
Postcode		ST1 5BD
Email		planning.stoke2@wardell-armstrong.com
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barford Resident Associations	Wardell Armstrong LLP
Job title		Technical Director

Part B – Your representation

1. To which Proposed Main Modification, and/or Background Document/Evidence, does this representation relate?

Main Modification No.	General Submission – supporting representation statement
AND/ OR	
Background Document/Evidence:	<ul style="list-style-type: none">Minerals Plan Modifications Tracked Changes VersionWCC Minerals Plan Sustainability Appraisal Note Main Modifications V3 Oct 2021WCC Minerals Plan Sustainability Appraisal Note NPPF Modifications V2Further Site Assessment Note - Results of Revised Sustainability Appraisal v2PSD09 SIAM Background Info Paper 090920.pdfPSD09 SIAM Background Info Paper Appendices.pdf

	<ul style="list-style-type: none"> • PSD26 Site 4 Landscape Visual Appraisal • PSD27 Assessment of sites against Mineral Plan Objectives Scoring Framework • PSD28 Final Site Identification Assessment Methodology Oct 2021 • PSD29 Final Site Identification Assessment Methodology Results Oct 2021
Relevant Section of Background Document (e.g., Chapter or Section):	Please see included supporting representation statement for details.

4. Do you consider the identified Proposed Main Modification to be:

Legally compliant?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

Please tick as appropriate.

5. Please give details of why you consider the identified Proposed Main Modification is not legally compliant or is unsound. Please be as precise as possible.

(Continue on a separate sheet/expand box if necessary)

The supporting statement identifies that the evidence base used to underpin the development strategy within the emerging Local Plan is fundamentally flawed in a number of areas, throughout a number of documents. The plan fails all tests of soundness identified in paragraph 35 of the NPPF and is not legally compliant.

Please see included supporting representation statement for details.

6. Please give details of why you consider the identified Proposed Main Modification is not adequately informed by the relevant consultation background document/evidence.

(Continue on a separate sheet/expand box if necessary)

Please see included supporting representation statement for details.

7. Please set out what change(s) you consider necessary to make the identified Proposed Main Modification legally compliant or sound, in respect of any of the matters you have identified above. 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.

(Continue on a separate sheet/expand box if necessary)

The Plan Main Modifications do not promote a legally compliant or sound plan.
Please see included supporting representation statement for full details.

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested changes. You should not assume that you will have a further opportunity to make submissions.

wardell-armstrong.com

ENERGY AND CLIMATE CHANGE
ENVIRONMENT AND SUSTAINABILITY
INFRASTRUCTURE AND UTILITIES
LAND AND PROPERTY
MINING AND MINERAL PROCESSING
MINERAL ESTATES
WASTE RESOURCE MANAGEMENT



WARDELL ARMSTRONG LLP

WARWICKSHIRE MINERALS PLAN EXAMINATION

MAIN MODIFICATIONS CONSULTATION

JANUARY 2022

CONTENTS

EXECUTIVE SUMMARY	1
1 KEY POINTS OF CONSIDERATION	2
1.1 National Policy Principles	2
1.2 Principal Evidence Documents of Relevance	2
1.3 Inspectors Previous Findings	3
2 LEGAL COMPLIANCE.....	4
2.1 Key Principles	4
3 LOCAL PLAN SOUNDNESS	6
3.1 Introduction.....	6
3.2 Positive Preparation	6
3.3 Plan Justification.....	7
3.4 Justification Summary	20
3.5 Effective Delivery.....	20
3.6 Consistency with National Policy	21
4 CONCLUSIONS	24
4.1 Submission Summary	24

APPENDICES

- Appendix 1 JAM Review of Sustainability Appraisal and Site Assessments
- Appendix 2 Assessment of PSD 26: Landscape & Visual Appraisal of Site 4 Wasperton

EXECUTIVE SUMMARY

This consultation response is prepared by Wardell Armstrong on behalf of the Barford Residents Association in connection with the Main Modifications Consultation being undertaken by Warwickshire County Council (WCC) between the 5th November 2021 and the 7th January 2022.

This response follows previous submissions made at various stages during the preparation of the emerging Local Plan (eLP) (submitted in April and September 2020). It seeks to further assess whether the issues previously noted have been adequately addressed, and whether the eLP can now be considered sound in the context of the tests identified at paragraph 35 of the National Planning Policy Framework (NPPF/Framework) and legally compliant.

We would note that the volume of information and new evidence produced since the previous consultation by WCC on face value appears significant and extensive, with some 29 new documents provided seeking to justify the emerging Local Plan. Whilst this representation seeks to comment on the eLP in the round where possible, it has been necessary to focus primarily toward the context of the acceptability of Site 4 – Wasperton (Policy S4), and relevant evidence base documents associated. It is not considered reasonable for a local resident's group to be expected to resource a full critique of an effective re-write of the eLP evidence base within an 8-week consultation window.

Summary of Submission:

- Warwickshire Minerals Plan Main Modifications Representation Statement;
- Appendix 1: JAM Review of Sustainability Appraisal and Site Assessments; and
- Appendix 2: Assessment of PSD 26: Landscape & Visual Appraisal of Site 4 Wasperton.

1 KEY POINTS OF CONSIDERATION

1.1 National Policy Principles

- 1.1.1 In order for a plan to be considered sound for the purposes of examination, the eLP must demonstrate that it has satisfied the facets of paragraph 35 parts 'a' through 'd' in both the plan itself and the supporting evidence base documents. Beyond the immediate confines of paragraph 35, Section 3 of the Framework provides broader criteria which must be satisfied in order to ensure a Local Plan is able to meet identified development need. This must be achieved through the preparation and reliance on sound up to date evidence (paragraph 31), prepared with the objective of contributing to the achievement of sustainable development (paragraph 16).
- 1.1.2 Previously, representations submitted on behalf of the Barford Residents Association demonstrated that the emerging Local Plan failed to meet the tests of paragraph 35 and wider Section 3 in the round through the use of lacking, dated figures, and inadequately evidenced assumptions to justify the chosen plan approach, in particular the site selection process pertaining to Site 4. There are still a number of fundamental flaws in this process which go to the heart of the plan and directly affect its 'soundness' for the purposes of paragraph 35. We will highlight and discuss these matters within this submission.

1.2 Principal Evidence Documents of Relevance

- 1.2.1 As discussed within the executive summary, the quantum of new information presented as part of this consultation is significant and extensive. As such in order to provide as detailed a response as practicable, it has been necessary to focus specifically on key documents which are of core relevance to the site selection process. Whilst this is undertaken in specific relation to site 4, the principles and issues discussed are fundamental to the selection process as a whole, and can therefore be applied more broadly.
- 1.2.2 The documents identified as being of specific relevance to this submission are as follows:
- Minerals Plan Modifications Tracked Changes Version;
 - WCC Minerals Plan Sustainability Appraisal Note Main Modifications V3 Oct 2021;
 - WCC Minerals Plan Sustainability Appraisal Note NPPF Modifications V2;
 - Further Site Assessment Note - Results of Revised Sustainability Appraisal v2;

- PSD09 SIAM Background Info Paper 090920.pdf;
- PSD09 SIAM Background Info Paper Appendices.pdf;
- PSD26 Site 4 Landscape Visual Appraisal;
- PSD27 Assessment of sites against Mineral Plan Objectives Scoring Framework;
- PSD28 Final Site Identification Assessment Methodology Oct 2021; and
- PSD29 Final Site Identification Assessment Methodology Results Oct 2021.

1.2.3 We would however emphasise that this list does not preclude consideration of the remaining evidence base documents, which have been reviewed as appropriate in the context of this submission.

1.3 Inspectors Previous Findings

- 1.3.1 Previous representations submitted on behalf of both the Barford Residents Association, and from wider parties highlighted a number of significant issues in relation the Local Plan and supporting evidence. Following the initial rounds of examination, the Inspector produced a Post Hearing Note¹ which agreed with a number of comments produced, noting that there is the need for a '*considerable number of main modifications*'.
- 1.3.2 No specific main modifications are identified in the note, rather the production of a comprehensive table is requested for review. It is however clear that the site selection process and evidence base is of key concern, with the SIAM and SA being named specifically as areas for attention.

¹ PSD18 Inspectors Post Hearing Note

2 LEGAL COMPLIANCE

2.1 Key Principles

- 2.1.1 As part of representations previously submitted in April 2020, we identified that there were significant flaws in the eLP which jeopardised the Plan's ability to be considered legally compliant. As a starting point we consider that there are matters in the eLP which remain outstanding for the purposes of ensuring legal compliance.
- 2.1.2 Of key note in this regard is the wholly inadequate consideration given to the matter of biodiversity throughout the site selection process and how this has led to a fundamentally flawed SA for the purposes of paragraph 32 of the framework. This issue is prominent in a number of key evidence base documents, including the Sustainability Appraisal (SA) and SIAM documents, and Assessment Against Mineral Plan Objectives Scoring Framework, all of which go to the heart of the plan by virtue of being the primary evidence base to justify both site selection and overall growth strategy.
- 2.1.3 We make this observation in principle reference to Site 4 – Wasperton. However, it is clear that this is an issue that affects the wider plan and development strategy. For example, the very limited ecology consideration within the documents noted is considered wholly inadequate, however that in itself is a matter of soundness rather than legal compliance. The fundamental concern over Legal Compliance is that nowhere in any of the evidence base documents assessing potential mineral extraction sites does the matter of biodiversity net gain feature as a prominent consideration, which is now the subject of legislation.
- 2.1.4 We would suggest this is particularly problematic following the Environment Act 2021 which has introduced a mandatory requirement for a minimum 10% net gain in biodiversity as part of development proposals. There are a number of preliminary ecological impacts already highlighted as being a potential issue within the SA in the context of site 4 – notably the need for the need for mitigation identified for Sherbourne Meadows SSSI and River Avon LWS.
- 2.1.5 Despite this, the only notable mention of net gain is within the draft eLP itself under Policy DM1, which simply identifies the need to address it. It does not identify how this is to be achieved, and certainly does not discuss individual site allocations. There is also a notable absence of the issue within Policy S4 which is specific to Site 4.

- 2.1.6 Bullet point 4 of the Council's representation form details the tests of legal compliance and identifies that a Plan can only be found compliant if it '*has regard to national planning policy*' and '*has been subject to Sustainability Appraisal [SA] and the SA is adequate*'. The complete lack of any consideration and assessment in relation to 'net gain' within the evidence base documents, particularly in the context of the Environment Act 2021 means that the SA cannot possibly be considered a sound base against which to assess the appropriacy of extraction sites or wider plan strategy. Net gain is a highly significant objective now built into the legal framework, having formed part of the Environment Act 2021 and therefore a key element of national policy. Not considering this matter as part of the evidence base is a fundamental flaw that cannot be adequately addressed at this late stage in the plan making process. For this principal reason, the plan cannot be considered legally compliant and the whole site selection process fundamentally flawed.

3 LOCAL PLAN SOUNDNESS

3.1 Introduction

3.1.1 Paragraph 35 of the NPPF (2021) identifies the 4 principal tests that a Local Plan must meet in order to be considered 'sound' for the purposes of national policy. Previous representations submitted clearly demonstrated that the plan could not be considered sound on the basis of the evidence present and the strategy it informed. Having reviewed the main modifications we consider that the concerns noted previously not only remain, but in a number of areas have increased in severity, particularly the site selection process and supporting evidence base.

3.2 Positive Preparation

3.2.1 The first test identified at part 'a' of paragraph 35 requires that plans provide a strategy which seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

3.2.2 The key element within this test we would draw attention to is the requirement to consider unmet need from neighbouring areas, which should be undertaken in accordance with the duty to cooperate (also a test of lawfulness). Reviewing the evidence base, it not obvious or apparent that any substantial consideration has been given to meeting any neighbouring unmet need for mineral, with only minor passing commentary afforded to the duty to cooperate at paragraph 1.1 of the 'Minerals Plan Proposed Modifications – Tracked Changes Version 2021'.

3.2.3 There is a clear and definitive requirement under paragraph 24 and 35 part 'a' of the NPPF, which requires that planning authorities (including County Councils) cooperate with one another on strategic matters that cross administrative boundaries. This includes assessing, and where possible accommodating unmet neighbouring development need of all types. The need to plan for and cooperate on mineral provision across multiple authorities is identified specifically at paragraph 214(a) of the NPPF, which again the eLP fails to address. We would further note that this requirement goes beyond the immediate confines of the NPPF, being a 'statutory

duty' as defined in the PPG² and is therefore a test of lawfulness for the purposes of plan making.

3.2.4 It is particularly perplexing that the duty to cooperate plays no notable part in the preparation of the eLP when it is evident that broader demand beyond the immediate authority boundary exists. In this regard we would draw attention to background document PSD19³, specifically paragraph 5.9 which identifies that 'the most recent LAA shows that 31% of total sand and gravel extracted was destined for markets outside Warwickshire'. This is a highly significant figure and clearly demonstrates a wider need for the mineral beyond Warwickshire itself. It is therefore evident that the failure to appropriately assess, or accommodate neighbouring unmet need as part of the Duty to Cooperate within the eLP, is a significant shortcoming in the plans preparation which jeopardises its soundness for the purposes of paragraph 35(a), in addition the whether it is considered legally compliant.

3.2.5 The lack of effective Duty to Cooperate on the matter of need with partnering Unitary Authorities, Coventry, and Solihull, is a fundamental flaw which goes to the heart of the plan.

3.3 Plan Justification

3.3.1 The second test at part 'b' of paragraph 35 requires that plans are justified. This is to be achieved through being supported by an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence. Previous representations submitted highlighted a significant number of flaws in the Plan's preparation and evidence base, with the Inspector concluding as such within initial rounds of examination. Following review of the main modifications documents, particularly in the context of the site selection process pertaining to site 4, it is clear that the plan still fails to justify its approach.

Sustainability Appraisal

3.3.2 The Sustainability Appraisal (SA) should form the foundation of a Development Plan, informing the Council's capacity for development, allocations, appropriate quantum, and overall strategy for meeting identified need. As a starting point, we do not condone the obvious approach that has been adopted by WCC throughout this examination process in relation to their evidence base, and in particular the SA. The

² Paragraph: 009 Reference ID: 61-009-20190315

³ Spatial Options Background Paper

approach has descended into an exercise of retrofitting the evidence base to fit a predetermined list of identified development sites and strategy. This approach is fundamentally incorrect for the purposes of the NPPF, with specific reference made at paragraph 32 noting: *“Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements”*. This approach creates further conflict with the PPG⁴ which clearly requires the SA inform the formation of Local Plans, not be modified at the latter stages to suit.

3.3.3 It has already been identified that we do not consider the SA to meet the fundamental legal requirements, but it is also clear that it is inadequate for the purposes of informing the eLP, which in any event has not applied its findings appropriately. In this regard we would draw attention to the ‘Sustainability Objectives’ noted within the main modifications iteration of the SA⁵ which provides an updated scoring methodology for the draft allocations in order to justify selection. As a starting point it is highly significant to note that the SA scores Site 4 as having a greater environmental impact than identified under the previous SA (Table 2-1 Summary of previous (2019) and revised (2021) site assessments), with the following topic areas being increased from a ‘minor adverse’ impact to ‘moderate adverse’:

- Biodiversity;
- Water Quality;
- Flood Risk;
- Health;
- Landscape;
- Soil Resources; and
- Open Space/PROW.

3.3.4 With this increase in severity, Site 4 now has the most significant combined environmental impacts of the draft allocations assessed as part of the eLP, yet for the purposes of the SIAM (to be discussed later) the overall site findings remain the same. This approach is inconsistent, flawed and fails to correctly utilise the evidence available for the purposes of paragraph 35(b). We would also note the inconsistency

⁴ Paragraph: 034 Reference ID: 61-034-20190315

⁵ Warwickshire Minerals Plan SA - Further Site Assessments Note

in the identification of mitigation requirements within the SA, with certain topics noted as requiring mitigation (although not specified what), while others which have an equally severe impact are not considered in the same, consistent way. Of particular note in this context is biodiversity, which as previously discussed is not tested against the requirement to provide a 'net gain', Flood Risk, where Site 4 is noted as being partially in zones 2 and 3, however no mitigation is specified and no commentary on climate change offered. We would suggest that the topic of Flood Risk is of notable concern in the context of national policy, particularly policy 160 of the Framework which identifies, *'Strategic policies should be informed by a strategic flood risk assessments'*. Site 4 falls under draft policy S4, however no detailed SFRA has been undertaken, with the only assessment of Site 4 being a basic table on page 12 of document PSD06. This is not considered a robust assessment for the purposes of paragraph 160 of the NPPF.

- 3.3.5 In a similar vein there are residential properties within close proximity to the site, notably within 40m which would necessitate an appropriate offset. Any potential offset is a key consideration as it directly impacts on a site's viability, influencing mineral delivery in the plan as a whole. It is identified in policy S4 that a *'minimum stand-off of 100m'* will be required. It is however unclear how this figure has been arrived at, with S4 further identifying that a Health Impact Assessment will be required to ensure there are no impacts on community health. It is clear that there is significant evidence missing from the SA and wider eLP to demonstrate that Site 4 can be developed acceptably, while remaining viable.
- 3.3.6 It is acknowledged within the SA that there is the potential for significant landscape effects, however again no mitigation measures are identified within the SA to influence the scoring methodology. It is pertinent to consider the listed building to the north of the site, approximately 40m from the boundary. The SA identifies a 'moderate adverse' impact on the structure, but again fails to note any mitigation that may be required. Paragraph 200 of the NPPF specifically notes that *'any harm to, or loss of, the significance of a designated heritage asset'* including from development in its setting, requires clear and convincing justification. This has not been correctly assessed nor provided as part of the evidencing of site 4 through the SA.
- 3.3.7 We would also draw attention to the inadequate assessment underpinning the deemed impact as part of objective SO7 (Soil Resources), where the SA fails to fully identify the quantum of Grade 2 and 3a land (BMV) comprising the site, simply stating

that ‘some of the site will fall under a classification of Best and Most Versatile Land’⁶. Given the amount of BMV is not identified in the SA, it is therefore unclear how an accurate impact score can be assigned to its potential loss. Further, the potential impacts on food production are not assessed. This is particularly relevant in the context of a recent appeal decision at Blackberry Lane, Pembrokeshire, SA72 4SJ (reference: CAS-138974-Y9J7), where the Inspector discussed concerns relating to the restoration of BMV and how it should be approached as part of development. Within the decision the Inspector identifies at paragraph 169 that:

‘With regard to restoration, and whilst I note the applicant’s comments in relation to the temporary nature of the development, I am mindful of guidance which advises that restoring land to BMV quality is seldom practicable’

3.3.8 The Inspector goes on to note:

‘I am not persuaded that given the nature and scale of the disturbance, that the land can be effectively restored to BMV quality and it won’t be lost for future arable food production’

3.3.9 It is key to note that these observations were made in relation to an appeal against the refusal of a 22MW solar generation park, a development which by nature would be significantly less intrusive and extensive than mineral extraction. The impact of Site 4 and subsequent challenge of restoring the land to BMV would be exponentially greater.

3.3.10 In addition to the flawed assessment that has been undertaken in support of Site 4, there are a number of core assessments that should be undertaken as part of an SA which have been omitted. There is no assessment of energy use or carbon generation to inform the selection process (SO9), and no cumulative impact identified. This is a significant oversight as it is a fundamental comparison through which to compare a site’s overall environmental impact. It is a similar case through the lack of any assessment of Natural Resources (SO10), Safeguarding Mineral Reserves (SO12), Restoration (SO13), and Impact on Communities (SO15) within the SA, which again should also all be considered cumulatively and assessed comparatively between sites under consideration.

⁶ Further Site Assessment Note - Results of Revised Sustainability Appraisal v2

3.3.11 The apparent reasoning for this omission is identified on page 9 of a separate SA⁷ document which notes they *'have not been considered in the site options assessments as they are considered not to be differentiators between sites i.e. sites are expected to adhere to these objectives in an equal fashion'*. This in itself is fundamentally incorrect as there are a number of factors which would differ from site to site, potentially increasing/decreasing the severity of an individual sites overall impact.

3.3.12 Overall, it is evident that the SA's assessment of Site 4 is profoundly lacking, incomplete, and inaccurate. There are a number of objectives which have not been correctly considered, mitigation measures which have not been considered adequately, and cumulative impacts not properly assessed. It is highly significant to note that Site 4 is now the lowest scoring site of all draft allocations, with the 8 moderate negative impacts, which are described as – *'mitigation measures problematic'* within the SA.

SA Assessment Summary

3.3.13 The publication of the Main Modifications Minerals Local Plan and supporting information, specifically the revised SA and Site Assessments has failed to demonstrate that the appropriate 'rigour' has now been applied. The SA remains flawed, specifically with regard to the following issues:

- The SA framework still does not use all 16 Sustainability Objectives (as raised in previous representations). The SA report provides contradictory information regarding the SA framework stating that the SA framework remains unchanged (SA 2021 page 5) and also that it has been updated (SA 2021 page 9).
- The additional Site assessments are scattered amongst numerous additional reports, which are not considered within the SA report. The SA should draw all this information together and show how it has informed the plan in a transparent manner.
- It is not clear why PSD27 Assessment of Sites against Mineral Plan objectives (to be discussed later) has been prepared as a separate report, which provides no introduction or explanation. The reasoning set out in this report should have been used to inform the SA. Instead, this report adds confusion by introducing another assessment method of sites, which is not referred to in any of the other

⁷ Warwickshire Minerals Plan 2018 Submission Version (November 2019) – Proposed Modifications Sustainability Appraisal Note

documents. Mitigation measures are set out in this report, which are not included within the SA.

- The reasons for the selection and rejection of sites have still not been outlined within the SA report contrary to the Regulations and Guidance. The scores for Site 4 have got worse since the last assessment and the site is now the worst performing site with 8 significant moderate impacts identified. The conclusion, however, is that the site performs *‘relatively well’*.
- Para 4.2.1, page 35 of the SA 2021 explains the change in the results as follows:
“The deterioration in assessment is a result of a more transparent, impartial and robust assessment framework.” Given that the SA framework is the same as the one used in previous iterations, the conclusions for this statement cannot be upheld.
- It is clear from the information available that sufficient evidence still does not exist in order to make an informed decision, for example: the capacity of the road network; the extent of road improvements required; the number of trips anticipated; the size of lorry required; and the proposed routes of the vehicles. Information provided in the SOCG with Highways England regarding trips and network capacity conflicts with the information given in the assessments.
- The key findings of the consultations and how they have been taken into consideration, particularly the Statutory Consultees, have not been included within the SA report. Several consultation responses have not been included or referred to in the reports. It is not evident how the results of the consultation were taken into account when decisions were made.

“Article 2 b) ‘environmental assessment’ shall mean the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision making and the provision of information on the decision in accordance with Articles 4 to 9”
SEA Directive 2201/42/EC

- 7.1 The SEA Guidance on the Directive states in relation to Article 2 b) above:
“This definition clearly states that consultation is an inseparable part of the assessment. Further, the results of the consultation have to be taken into account when the decision is being made. If either element is missing, there is, by definition,

no environmental assessment in conformity with the Directive. This underlines the importance that is attached to consultation in the assessment.”

- The cumulative impacts have not been suitably addressed within the SA.
- The viability and deliverability of the proposals have not been assessed contrary to the NPPF.
- The SA has not demonstrated that the Plan is an appropriate strategy.
- The failures in the SA process do not demonstrate a justified, robust or effective process, which means that the Plan cannot be found sound.

3.3.14 The SA is the fundamental base against which Local Plan strategy should be developed, and the significant flaws within the submitted document mean that all documents relying on it are flawed, and the overall strategy not justified for the purposes of paragraph 35.

Site Identification and Assessment Methodology

3.3.15 The Site Identification and Assessment Methodology (SIAM) should take the findings of the SA and use it as a basis to appropriately assess potential mineral extraction sites for inclusion within the eLP. It is therefore reasonable to consider that the findings of the SA should be reflected in the assessment outcomes within the SIAM. As a starting point, we would note and voice considerable concern that the outcomes in respect of Site 4 within the SIAM remain the same in the 2021 iteration⁸, as they did within the October 2018 iteration⁹. This is of significance as the revised 2021 SA clearly re-considers the potential impacts of Site 4, and in a number of key areas finds them more severe. The 2018 SIAM was closely informed by the 2018 SA which considered Site 4 to have a lesser impact than the current evidence, therefore it follows that given the increased severity of impact in the 2021 SA, the 2021 SIAM would reflect this in its assessment.

3.3.16 However, this is not the case, with the 2021 SIAM being effectively identical in its conclusions to the document produced in 2018, despite the underlying evidence suggesting impacts being more severe. This approach is clearly inaccurate and incorrect for the purposes of correctly informing a justified Development Plan

⁸ PSD29 Final Site Identification Assessment Methodology Results Oct 2021

⁹ SUB17 Site Identification and Assessment Methodology for Allocating Sand

strategy. This matter is made all the more poignant when it is noted that the findings of the SA (as discussed) are fundamentally flawed and incomplete.

3.3.17 There are also a number of severe inconsistencies throughout the SIAM, SA and Minerals Plan document in relation to Site 4 when discussing its size. Page 22 of the SIAM results identify the site as covering an area of 91.5 hectares, whereas the formal assessment on page 41 identifies it as both 90.5ha and 85ha within the same table, albeit this latter figure identifying that the boundary has been amended since original submission. It is our understanding that the site has never exceeded 85ha previously, indeed the SA document¹⁰ identifies on page 19 that *Allocated Site 4 'Wasperton' has increased from 85ha to 91.5ha from the Councils Schedule of Modifications*, however there is no explanation of the change. Similarly, the Minerals Plan Consultation Version track changes the site from 85ha to 91.5ha, although noting at paragraph 7.142 that no more than 70ha will be worked. It is therefore both confusing and unclear as to the true extent of the site, and raises significant questions regarding the area the site assessment within the SA and SIAM has been undertaken over. This is a substantial difference and would be key in accurately assessing the overall impact of developing the site.

3.3.18 As part of the previous representations, we raised significant concerns in relation to various environmental factors which the Council has sought to respond to in the SIAM as part of its assessment of Site 4. It is deeply concerning that under a number of key impact areas the Council have simply stated that mitigation can be applied to reduce impacts, or that they have received confirmation from consultee bodies that the proposals are acceptable in theory. There is a notable lack of any specific mitigation measures considered either within the SIAM or the SA when forming the site assessment, and it therefore cannot be considered that the measures have been properly considered as part of the site selection process. Further, there is a seeming lack of evidence/ correspondence available to support the observation that consultees (notably Historic England and Natural England) have confirmed mitigation could be applied which would make the scheme acceptable. In relation to Natural England in particular, we note the SoCG signed in October 2020¹¹ which at no point agrees that mitigation can be successfully applied to the site to make it acceptable, rather

¹⁰ WCC Minerals Plan Sustainability Appraisal Note Main Modifications V3 Oct 2021

¹¹ PSD15 Warwickshire NE EA SOCG

providing a very broad overview of the methodology which should be applied within the HRA and later an EIA.

3.3.19 A principle recurring issue throughout the preparation of the eLP is that of ecological assessment, which again in the context of the SIAM fails to note the requirement for a 10% net gain in biodiversity. Instead, it is simply noted that a PEA will be required at the application stage and appropriate mitigation and enhancement required. The requirement for a 10% net gain is completely overlooked and carries the significant risk of rendering the site unviable in its entirety, therefore jeopardising the eLP as a whole. We would further note that the SIAM does not appear to consider the impact of Site 4 on nearby Local Wildlife Sites (Sherbourne Meadows SSSI and River Avon LWS) which are identified in the SA. This would again seem a failure to carry through assessment from the SA into the SIAM, resulting in a disjointed and incomplete site selection process which should not be considered robust or justified.

3.3.20 Heritage implications are a further significant consideration affecting Site 4 which again we do not consider have been correctly addressed by the SIAM. The document¹² states that the Council has undertaken a heritage assessment which states that:

“there is likely to be no harm to the significance of the asset because it is no longer a farmhouse and has been subject to change, the presence of intervening features, temporary working in that location, restoration to previous agricultural use and the provision of a minimum 100m stand-off from the property”.

3.3.21 At the outset we would note that the fact the building is ‘no longer a farmhouse’ is irrelevant for the purposes of considering potential impacts in the context of the NPPF¹³. Paragraph 200 details how harm to heritage assets should be considered during development, stating that ‘any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification’. It is not identified anywhere within national policy or guidance that a heritage asset must be occupied or utilised in its original function for harm to its significance to occur. The SIAM also notes that because the Council considers the Site to constitute ‘temporary’ works, there will again be ‘no harm’ to the asset. We would again dispute this consideration as although it is accepted that mineral development is technically considered a

¹² PSD28 Final Site Identification Assessment Methodology Oct 2021

¹³ Chapter 16 Conserving and enhancing the historic environment

temporary land use, there is no national policy or guidance which precludes it from having an impact on heritage assets, rather we would draw attention to paragraph 211 part 'a' of the NPPF which expressly identifies that minerals development should take account of heritage assets when considering proposals. Part 'b' then goes on to identify that when considering minerals development Councils should *'ensure that there are no unacceptable adverse impacts on the natural and historic environment'*.

- 3.3.22 The SA scoring itself is in conflict with the view of heritage impact in the SIAM. Were the SA to adopt the SIAM's incorrect approach to considering harm to heritage, it would not have identified a 'moderate negative' impact.
- 3.3.23 Transport implications are also a primary consideration which seem to bear little mention within the SIAM. The SA identifies that the site does not benefit from close proximity to sustainable transport routes (such as rail networks), therefore it is reasonable to suggest that the majority of mineral from the site will be transported via road. It would therefore be appropriate as part of the site selection methodology to identify whether a suitable vehicular access can be accommodated and whether the impact on the wider highways network will be acceptable. The SIAM does not address these matters in any detail, rather simply suggesting that Highways Authorities do not object to the scheme *'subject to a number of requirements to deal with any individual and cumulative impacts on the SRN and MRN set out in the signed SOCG'*. This is a flawed approach.
- 3.3.24 In the first instance we would note that the SoCG is now somewhat dated (September 2020) and whilst it is accepted that the SoCG¹⁴ identifies potential mitigation measures, they are of such significance in undertaking that they may jeopardise the viability of the quarry. In particular we note the requirement for a new junction to be created onto the A429, involving a possible roundabout and lighting. It is also noted in the SOCG that there are existing capacity constraints at Junction 15 on the M40 which will be further exacerbated by planned housing and commercial development. It is therefore identified that a comprehensive Transport Assessment (TA) will be needed to demonstrate Site 4 could be successfully accommodated without a severe detrimental impact. At present there is no evidence to suggest that this can be achieved, nor the junction required successfully delivered. Further, comments received from the Highways Authority regarding the capacity of the A429 to

¹⁴ PSD08 Warwickshire HE SOCG
WARWICKSHIRE MINERALS PLAN
MAIN MODIFICATIONS
REPRESENTATION
JANUARY 2022

accommodate a higher volume of traffic and HGVs with links onto the Strategic Road network (A46 and M40), are dated 2014/15 (PSD09 Appendices) and were based on 40 trips per day (not 80 + 60 waste imports) (PSD04 Highways England SOCG 2020, Table 3, No. of vehicle movements). This is a highly significant increase in vehicle movements which has not been appropriately assessed for overall impact or acceptability.

3.3.25 In light of the significant shortcoming identified above, we do not consider the eLP compliant with the facets of paragraph 104 or 105 of the NPPF.

3.3.26 Overall, it is clear that the SIAM remains both flawed and inconsistent with wider evidence base documents within the Development Plan, particularly for the purpose of the assessment of Site 4. It cannot therefore be considered that the site selection process undertaken in the SIAM is justified for the purposes of the NPPF.

Assessment of Sites Against Minerals Plan Objectives

3.3.27 As part of the revised evidence base prepared in support of the main modifications, WCC has introduced a new document to supplement the SA and the SIAM. Planning Practice Guidance (PPG) sets out in the SA process flowchart (paragraph 13) that the first task of Stage B of the SA process should be to test the Local Plan objectives against the SA Framework. An assessment of the Mineral Local Plan (MLP) objectives was undertaken in 2015 and set out in the SA 2016. It is therefore unclear as to why a new Assessment of Sites Against Minerals Plan Objectives (PSD27) has been prepared at this point in the assessment (Stage D of the SA). The assessments are not directly comparable as different methodologies have been used.

3.3.28 The Site Assessment for Site 4 – Wasperton Hill Farm is provided at pages 37-45 (PDF page). The assessment, however, is structured in a different way to the methodology at the beginning of the report and instead includes Assessment Criteria (1-12); Site and surroundings Characteristics/features; Technical input and Mitigating Factors; and a Score (1-5). The assessment does not include the MLP objectives or the SA objectives.

3.3.29 This confusion arising from PSD27 is only furthered later in the document when no explanation is given as to how the scoring has been implemented in shaping the Local Plan, and while there is a summary Table on page 11, there is no additional explanation provided anywhere in the document. As such it is difficult to attribute any merit to this document as part of the Local Plan preparation process, and only

serves to further demonstrate how disjointed and inconsistent it is, and a principle of backfilling employed.

- 3.3.30 Examining the document in closer detail yields more concerns in the form of inconsistency, with the document noting the site size as being 85ha having been reduced from 110ha¹⁵, rather than the larger 91.5 discussed elsewhere for the purposes of assessment. This issue remains particularly problematic as it is identified by the eLP and evidence base that were the site to be developed, significant mitigation on site mitigation would be required. The SIAM itself notes that only 70ha is considered developable, which leaves between 15 and 21.5ha available for mitigation, depending on the site's size. Clearly a greater amount of mitigation will be achievable in 91.5ha as opposed to 85ha, but given the confusion over site area, it is not possible to tell through the evidence base what level of mitigation can be achieved.
- 3.3.31 This confusion feeds through to the Minerals Plan Main Mods document itself, with paragraph 8.49 stating that a 250m buffer will be required for sand and gravel sites for safeguarding purposes, but Policy S4 pertaining specifically to site 4 states that only a 100m stand off from property is necessary. Clearly this is inconsistent and particularly problematic given the presence of dwelling heritage assets within 40m of the site boundary. There is also no justification for a reduction in buffer distance.
- 3.3.32 PSD27 adds further confusion to the Local Plan Process where it seemingly applies mitigation measures to potential impacts in connection with development options. The majority of these measures feature nowhere else within the eLP or supporting evidence base, and it is therefore confusing how they have been applied for the purposes of the SA and SIAM which are the core documents supporting site selection. Given these documents do not assess the measures identified in PSD27, it clearly cannot be concluded that the overall scoring methodology used to determine site selection is in any way reliable.
- 3.3.33 As with other documents produced in support of the Main Modifications, PSD27 seems to be a perfunctory backfilling exercise seeking to justify a predetermined set of outcomes. This is evident on page 39 – row 5 which seeks to justify the selection of Site 4 from a landscape perspective through the production of a Landscape and Visual Impact Assessment. The outcome of this LVIA is not discussed in any evidence base document, nor reasoning given as to why it was undertaken in the first instance. It can

¹⁵ PSD27 – Page 37 Row 2 – Ecology and Biodiversity Mitigation

only be assumed that it was undertaken following criticism levelled during previously submitted representations in relation to landscape matters pertaining to Site 4. Having reviewed the LVIA, we reaffirm the view that the evidence produced is inadequate to demonstrate the site can be developed successfully from a landscape perspective (full critique is provided at Appendix 2). We would suggest that WCC to some extent share this view through the revised SA increasing the impact severity from minor to moderate adverse.

3.3.34 The conservation and enhancement of the historic environment is a recurring unresolved issue throughout the eLP and PSD27 is no exception. As within the SIAM, PSD27 makes a number of inaccurate observations and considerations relating to the weight and harm to be attributed to the nearby listed farmhouse based on the consideration that it is no longer occupied, and the works are temporary. As previously discussed, this is not a view supported by Chapter 16 or Chapter 17 of the NPPF. We would further note internal conflict within the eLP evidence base in this regard, where both the SIAM and PSD27 suggest either little or no harm to heritage assets, whereas the SA notes ‘moderate adverse impacts’ which are ‘likely to be problematic’. Similarly inconsistent, the SIAM has reached this view based on a largely flawed understanding of national policy, while PSD27 has also incorporated mitigation measures in the form of stand offs (100m), but arrived at the same conclusion. This further demonstrates the issue of consistency and plausibility of the eLP evidence base.

3.3.35 A further topic of significant note within PSD27 and the wider eLP as a whole is that of transport. PSD27 and the SIAM note that there has been no objection from Highways England or the Local Highways authority in relation to Site 4 and that a SoCG (as previously critiqued) exists. PSD27 goes on to state:

“The Highway Authority have indicated that the A429 should be able to accommodate a high volume of traffic and larger vehicles (HGVs) and that it provides an excellent link onto the Strategic Road network (A46 and M40)”. – PSD27 page 41/42 – Row 8.

3.3.36 We would raise significant concern over the validity and indeed accuracy of this statement, particularly when noting that the comments date from 2014/2015 and were based on 40 trips per day, not the current estimate of 80 + 60. This concern is reflected to a certain extent within the Warwickshire Highways SoCG¹⁶ which clearly identifies current and future capacity concerns and outlines a number of mitigation

¹⁶ PSD08 – Warwickshire HE SOCG redacted

requirements. This again seems to demonstrate the underlying inconsistency of the local plan, and the flawed basis used to justify the overall strategy. Further, as touched on in the SA and SIAM critique, there is again no discussion of carbon emissions as a result of transport within PSD27.

3.3.37 As a final observation in the context of PSD27, the SA, and SIAM, there is very little consideration given to the role that recycled aggregates is able to play in meeting need. The eLP document notes a clear objective to achieve this under Policy MCS1, however the evidence base gives no consideration as to how this will be achieved in conjunction with new mineral sites. This is a fundamental failure of the Plan in the context of NPPF paragraph 210(a).

3.3.38 Further, during previous examination it was found that the chosen spatial strategy (Option 3a) was not sufficiently evidenced. In light of the above it is clear that this remains the case and that Option 3a remains inadequately evidenced and therefore unjustified.

3.4 Justification Summary

3.4.1 Overall, it is clear that there remain significant and fundamental flaws and inconsistencies in the preparation of the evidence base used to justify the eLP strategy. The site selection process is wholly inadequate and cannot be relied on to shape the most appropriate development locations, jeopardising compliance with fundamental sustainability principles outlined in paragraph 11 of the NPPF, various environmental impact policies and crucially, the test outlined at part 'b' of paragraph 35. In its current form, there is a significant risk that the plan will be rendered undeliverable, leaving pressing mineral need unaddressed.

3.5 Effective Delivery

3.5.1 Part 'c' of paragraph 35 requires that in order for development plans to be considered sound, they must be demonstrably deliverable over the plan period, and take into account cross boundary considerations at a strategic level. For the avoidance of repetition, we would note that the principal issues already identified under the tests of 'positive preparation' and 'justification' also go the heart of the test of effectiveness, particularly when considering the evidencing and deliverability of site allocations.

3.5.2 It is clear that the eLP fails on a number of accounts in relation to the test of 'effectiveness', failing in its entirety to account for or indeed consider any

neighbouring unmet mineral demand, despite it being openly acknowledged within the eLP evidence base¹⁷ that approximately 31% of all aggregate produced is consumed beyond Warwickshire. The complete failure on behalf of the plan to consider cross boundary matters creates direct conflict with the objectives of both paragraph 24 and 35(c) of the NPPF.

- 3.5.3 The issues and failures of the evidence base in relation to the matter of site selection have been discussed at length and given the issues outlined, particularly in relation to environmental matters and inconsistent evidence affecting the assessment of Site 4, there is no proper assessment of risk in relation to site deliverability owing to environmental impact, or the mitigation required to compensate for it. The topics of key concern include but are not limited to: Ecology, Heritage, Flood, Flood Risk, Health/Community Impacts, Landscape, BMV, Transportation, PROW, and energy and carbon considerations. All of these items are assessed as being of ‘moderate adverse’ impact in the SA which are considered potentially ‘problematic’ or are indeed not considered at all. We have already demonstrated that the assessment undertaken in relation to these items is significantly flawed and inconsistent throughout the evidence base, creating further concern as to the true viability and deliverability of the Site, and therefore the wider Plan. The NPPF is clear at Paragraph 16 that plans should be prepared in a way which is ‘aspirational but deliverable’, while the test of 35(c) goes further and identifies it should be ‘deliverable over the plan period’. In its current form and based on the inaccurate, flawed and evidently backfilled evidence base, we would suggest that the eLP cannot be considered an ‘effective’ vehicle properly for meeting mineral development need within Warwickshire.

3.6 Consistency with National Policy

- 3.6.1 Part ‘d’ of paragraph 35 requires that in order to be found sound, Local Plan’s must deliver sustainable development in accordance with national policy. We have already demonstrated throughout this submission the significant and substantial conflict with national policy arising from the eLP. A full summary of the policy conflict arising between the eLP and NPPF is as follows:

- Paragraph 8;
- Paragraph 11;

¹⁷ LAA 2018

- Paragraph 16;
- Paragraphs 20(d), 22, 24, 26;
- Paragraphs 31, 32, 35;
- Paragraph 81;
- Paragraphs 104, 105;
- Paragraphs 152, 153, 159;
- Paragraphs 160, 161;
- Paragraphs 174, 175, 179;
- Paragraphs 189, 190, 194, 195, 199, 200, 201; and
- Paragraph 209, 210, 213, 214(a).

3.6.2 In addition to the extensive conflict identified in relation to the NPPF, we would draw attention to specific areas of further conflict identified in relation to guidance provided in the PPG:

- Paragraph: 001 Reference ID: 61-001-20190315;
- Paragraph: 009 Reference ID: 61-009-20190315;
- Paragraph: 010 Reference ID: 61-010-20190315;
- Paragraph: 012 Reference ID: 61-012-20190315;
- Paragraph: 014 Reference ID: 61-014-20190315;
- Paragraph: 031 Reference ID: 61-031-20190315;
- Paragraph: 032 Reference ID: 61-032-20190315;
- Paragraph: 034 Reference ID: 61-034-20190315;
- Paragraph: 036 Reference ID: 61-036-20190723;
- Paragraph: 037 Reference ID: 61-037-20190315;
- Paragraph: 043 Reference ID: 61-043-20190315;
- Paragraph: 044 Reference ID: 61-044-20190315;
- Paragraph: 045 Reference ID: 61-045-20190315; and
- Paragraph: 048 Reference ID: 61-048-20190315.

- 3.6.3 It is clear that the scale and significance of the conflict affecting the emerging Local Plan and its underpinning evidence base mean that it is clear there are fundamental unresolved issues with National Planning Policy. It cannot therefore be considered that the plan meets the caveats of paragraph 35 part 'd' of the framework.

4 CONCLUSIONS

4.1 Submission Summary

- 4.1.1 This submission has sought to clearly and as concisely as possible demonstrate that the Main Modifications undertaken in support of the emerging Warwickshire Minerals Plan have not resolved the fundamental problems which go to the heart of both the evidence base, and strategy that it has informed.
- 4.1.2 As a point of principle, we would note that the sheer quantum of additional documentation provided at a very late stage in the Plan preparation process is highly unusual, and it is not considered reasonable to expect all consultees, particularly residents' groups to then resource a full critique of every document produced. We have therefore focused assessment on the underpinning evidence document informing the site selection process and allocation strategy.
- 4.1.3 It is apparent that the main modifications process is largely an exercise in backfilling the evidence base to justify the predetermined set of outcomes. This is particularly notable in the site selection evidence documents such as the SA, SIAM, and PSD27 which are totally inconsistent with one another, flawed in their assessments, but arrive at the same overall outcomes with regard to allocations.
- 4.1.4 The SA is particularly problematic as it should form the heart of the eLP, with PPG guidance being very clear that an SA should inform the Local Plan from the outset¹⁸. It is not a document that should be subject to major alteration and redrafting at the main modifications stage. Despite this, significant alterations have been undertaken to the SA, most notably the scoring methodology employed in determining the site selection process. As part of this process Site 4 has increased in impact severity in 8 key areas, resulting the site now having the most severe impact of any proposed allocation. This alteration has not however affected the findings of the SIAM, which remains largely identical in outcome to the previous 2018 SIAM, despite Site 4 being demonstrably considered to have a greater detrimental impact, and little consideration given to mitigation in the document.
- 4.1.5 PSD27 seems to have been introduced to identify possible mitigation to various environmental impacts, however the assessment methodology cannot then be directly compared to either the SIAM or SA. It cannot therefore be accurately used to

¹⁸ Paragraph: 034 Reference ID: 61-034-20190315

supplement either document or indeed robustly evidence the wider Local Plan strategy.

- 4.1.6 Overall, this submission has sought to demonstrate that the emerging Local Plan is poorly evidenced to the point of risking being fundamentally undeliverable, and offers no justification for the chosen development strategy (Option 3a). The SA is flawed to the point of not being considered legally compliant, as is the complete lack for any proper cross-boundary considerations under the Duty to Cooperate for assessing unmet need. The Plan clearly fails all tests identified in paragraph 35 of the NPPF and in a number of cases relies on evidence that is now out of date for the purposes of paragraph 31. Further, the Plan has now been under preparation for almost 7 years, meaning that if adoption were to be assumed in 2022, it would only have a functional lifespan of some 10 years, 5 short of the requirement identified under paragraph 22 of the NPPF. This clearly prompts the need for a 'new Plan', which is properly justified.
- 4.1.7 It is clear that neither the Plan nor supporting evidence base is fit to deliver a robust strategy for ensuring that mineral need is met within Warwickshire. There is widespread conflict with National Policy, and the Council have failed to address previous concerns raised and worsened the inconsistencies rife throughout the Plan. Given the late stage of preparation and ingrained fundamental issues, we can only recommend that in the very least Site 4 be removed from the Plan as its totally unjustified, and an appropriate, correctly evidenced new Plan created.

APPENDIX 1

JAM REVIEW OF SUSTAINABILITY APPRAISAL AND SITE ASSESSMENTS



APPENDIX 1

Warwickshire County Council

Minerals Local Plan Main Modifications

Review of Sustainability Appraisal and Site Assessments

on behalf of Barford Residents Association

January 2022

Contents

	Introduction	1
A1	Comparison of Sustainability Appraisals	2
A2	Comparison of SIAM Sand and Gravel Sites Assessments	4
A3	Comparison of Assessments of Mineral Plan Objectives	6
A4	Cumulative Impact Assessment	14

Introduction

This report has been prepared by **Jam consult ltd** on behalf of **Barford Residents Association** in support of the representations prepared by **Wardell Armstrong** regarding the proposed Main Modifications to the Minerals Local Plan. As part of the modifications, revisions have been made to the Sustainability Appraisal and Site Assessments which have been used to inform the changes to the Plan.

A large number of additional evidence documents have been prepared to support the Plan. The documents of particular relevance to this report include as follows:

- Sustainability Appraisal Note, October 2021 (V3 211021)
- Sustainability Appraisal Note, September 2021 (V2 061021)
- Further Site Assessments Note 25 August 2021 (030921)
- PSD09 Topic Paper – Background information Used in the SIAM and Site Assessments, September 2020
- PSD09 Topic Paper – Background information Used in the SIAM and Site Assessments APPENDICES, September 2020
- PSD22A Implications of NPPF changes, 8 August 2021
- PSD25 Background Paper – Cumulative Impacts at Sites 1&2 and Site 9, September 2021
- PSD26 Landscape & Visual Appraisal for Site 4 – Wasperton, September 2021
- PSD27 Assessment of Sites Against Mineral Plan Objectives, September 2021
- PSD28 Site Identification and Assessment Methodology for allocating sand and gravel sites, October 2021
- PSD29 Site Identification and Assessment Methodology for allocating sand and gravel sites – Results Report, October 2021.

The documents have been reviewed with particular reference to the site assessments both in the SA and the additional supporting site assessments (SIAM) of the sand and gravel sites and, in particular the assessment of **Site 4 Wasperton Hill Farm**.

The revised SA sets out that the Sand and Gravel Site Options have been reassessed, which are documented in the 'Further Site Assessment Note –

Results of Revised SA v2.0' (August 2021). The SA also provides the following explanation for the changes to the assessment:

*"The updated SA is now tied more closely to **a revised and updated SA Framework**, benefiting from the latest and additional environmental datasets and quantitative measures in deriving significance of effect. It therefore provides for a more transparent, impartial, and robust assessment that is void of external planning considerations which have been inadvertently added to the SA Framework over time in response to previous consultation exercises. These external planning considerations are now part of a parallel separate assessment stage carried out by the Council against the Objectives of the Minerals Plan in the revised SIAM methodology and assessments (see separate document – Post Submission Document: Site Identification and Assessment Methodology for allocating sand and gravel sites 2021)." [SA (V3 211021) Section 4.2 page 9]*

The above statement contradicts **Section 3 of the SA, page 5**, which states:

*"The SA Framework is a key component in completing the SA and comprises a bespoke series of objectives. The purpose of the SA Framework is to provide a set of criteria against which the performance of the Minerals Plan can be predicted and evaluated. The SA framework of 16 objectives and associated decision-making criteria that have been used in the review is shown in Table 3-1 below. **This is the same framework that was used in previous iterations** of assessment of the Minerals Plan."*

Tables have been prepared to aid comparison of the documents that were originally submitted and the proposed changes as a result of the modifications. Commentary has been provided by Jam where there are concerns or inconsistencies with the information provided. Reference should be made to the previous representations on the SA and site assessments, which still stand.

A1 Comparison of Sustainability Appraisals

The following site assessments have been prepared in support of the Warwickshire Minerals Local Plan Main Modifications Consultation 2021. A comparison of the results is provided below for **Site 4 Wasperton Hill Farm**

SUSTAINABILITY OBJECTIVES (21 OCTOBER 2021)		Sustainability Appraisal – Submission Site Assessments against SAF	Sustainability Appraisal – Further Site Assessments against SAF – Main Mods.	JAM COMMENTS
		[SUB03 NOV 2019]	[3 SEPTEMBER 2021]	
SO1	Biodiversity *	minor adverse	moderate adverse	Site is described as ‘of limited biodiversity value’ The need for mitigation is however identified for Sherbourne Meadows SSSI and River Avon LWS. No mention of need to achieve BNG.
SO2	Water Quality *	minor adverse	moderate adverse	Owing to the site’s intersection by a watercourse and hydrological connection to the River Avon, moderate negative effects are anticipated. No mitigation is identified
SO3	Flood Risk *	minor adverse	moderate adverse	Parts of site are in Flood Zones 2 and 3. No mitigation is identified. No comments on the impacts of climate change or the areas of surface water flood risk as identified in Main Mods.
SO4	Health *	minor adverse	moderate adverse	Residential properties identified within 40m of site. No information provided on offsets required.
SO5	Landscape *	minor adverse	moderate adverse	The proximity to Barford and Wasperton are noted and the potential for significant indirect effects. Mitigation measures are not identified.
SO6	Heritage	moderate adverse	moderate adverse	Listed building 40m from site identified but adjacent conservation areas not mentioned. No mitigation specified. Cumulative Impacts should be



				considered
--	--	--	--	------------

SUSTAINABILITY OBJECTIVES (21 OCTOBER 2021)		Sustainability Appraisal – Submission Site Assessments against SAF	Sustainability Appraisal – Further Site Assessments against SAF – Main Mods.	JAM COMMENTS
		(SUB03 Nov 2019)	(3 September 2021)	
SO7	Soil Resources *	minor adverse	moderate adverse	The quantum of Grade 2 and 3a land (BMV) has not been identified or the potential impacts on food production
SO8	Geology	neutral/no effect	neutral/no effect	Neutral/no effect has been assigned to each site but the issue has remained in the SAF despite the uniform results. Cumulative Impacts should be considered
SO9	Energy + Carbon *	not assessed	not assessed	Energy + Carbon should be considered in the SA. No evidence has been provided to show all sites perform the same. Cumulative impacts have not been considered.
SO10	Natural Resources *	not assessed	not assessed	Natural Resources should be considered in the SA. No evidence has been provided to show all sites perform the same. Cumulative impacts have not been considered.
SO11	Transport *	minor adverse	minor adverse	<i>“No suitable sustainable transport routes in the form of canal or railway networks are available that could be used to transport the minerals to local markets and therefore the site would make little contribution to this objective.”</i> The absence of sustainable transport options requires a discussion on whether the site is suitable as a consequence; and should result in a greater adverse effect rather than ‘little contribution’. Consideration has not been given to climate change and carbon emissions. No information is provided on the likely number of trips that will be generated or the ability of the Highways network to cope with the increase in traffic/access to the site or necessary mitigation.

SUSTAINABILITY OBJECTIVES (21 OCTOBER 2021)		Sustainability Appraisal – Submission Site Assessments against SAF	Sustainability Appraisal – Further Site Assessments against SAF – Main Mods.	JAM COMMENTS
		(SUB03 Nov 2019)	(3 September 2021)	
SO12	Safeguard Reserves	not assessed	not assessed	Safeguarding of Reserves should be considered in the SA. No evidence has been provided to show all sites perform the same. Cumulative Impacts should be considered
SO13	Minerals Restoration	not assessed	not assessed	Minerals Restoration should be considered in the SA. No evidence has been provided to show all sites perform the same. Cumulative Impacts should be considered
SO14	Open Space/PROW *	minor adverse	moderate adverse	No mitigation measures are identified for the impact upon PROW
SO15	Community	not assessed	not assessed	Community impacts should be considered in the SA. No evidence has been provided to show all sites perform the same. Cumulative Impacts should be considered
SO16	Economy *	major positive	moderate positive	No details of the likely employment provision are given or the loss of employment to agricultural businesses

* Denotes possibility of cumulative effects (TABLE 3-1 SA Framework – Proposed Modifications SA Note, October 2021). It is not clear why some objectives have been selected and others have not. No explanation is provided.

SUMMARY

- Cumulative impact assessment in relation to site 4 and the other allocations has not been carried out.
- SO9, SO10, SO12, SO13, SO15 – ‘SA objectives have not been considered in the site options assessments as they are considered not to be differentiators between sites i.e. sites are expected to adhere to these objectives in an equal fashion’ (SA (V3) p9, 21 October 2021). No evidence has been provided to justify the conclusion that all sites perform the same with regard to the identified objectives.

- Site 4 is described as performing '**relatively well**', even though it is the worst performing site of those proposed for allocation and scores **8 moderate negative impacts** described as - '*mitigation measures problematic*'. [Appendix A – further Site Assessment Note, 25 August 2021]
- Mitigation measures have not been considered adequately. Cumulative impacts have not been considered.

A2 Comparison of SIAM Sand and Gravel Sites Assessments

SITE DETAILS		SIAM Sand and Gravel Sites Assessment - Submission		SIAM Sand and Gravel Sites Assessment – Main Mods.	
		[SUB17 October 2018]		[PSD29 October 2021]	
Site Area (Ha)	85 Ha site boundary (total land available 90.5 Ha)		85 Ha site boundary (total land available 90.5 Ha) (Page 22 states site is 91.5 ha)		
Potential Tonnage	1.8 million tonnes		1.8 million tonnes		
Mode of Transport	Road		Road		
Proposed site after-uses	Agriculture and nature conservation		Agriculture and nature conservation		
Restoration proposals	Infilling with inert wastes		Infilling with inert wastes		
STEP 2 ASSESSMENT					
Site Availability	YES	Landowner support		YES	Landowner support
Proven Mineral Resource	YES	Borehole information supplied		YES	Borehole information supplied
Adequate Potential Tonnage	YES	Large site with adequate tonnage		YES	Large site with adequate tonnage
Access & Routing	YES	Safe access available. Good links to highway network		YES	Safe access available. Good links to highway network
HS2 Safeguarding Zone	NO	Outside zone		NO	Outside zone
Biodiversity Value	NO	No physical overlapping with international or national designations		NO	No physical overlapping with international or national designations
Geological Value	NO	No physical overlapping with geological SSSIs		NO	No physical overlapping with geological SSSIs
Heritage Assets	NO	No substantial harm to a nationally designated asset or its setting		NO	No substantial harm to a nationally designated asset or its setting
Airport Safeguarding Zones	NO	Outside any safeguarding zone		NO	Outside any safeguarding zone
Coal Referral Areas	NO	Outside any area		NO	Outside any area

SITE DETAILS	SIAM Sand and Gravel Sites Assessment - Submission		SIAM Sand and Gravel Sites Assessment – Main Mods.	
STEP 3 ASSESSMENT	[SUB17 October 2018]		[PSD29 October 2021]	
SEE SA REPORT RESULTS		TAKE FORWARD TO STEP 4		TAKE FORWARD TO STEP 4
STEP 4 ASSESSMENT	[SUB17 October 2018]		[PSD29 October 2021]	
Insurmountable Constraints	NO	Constraints identified but mitigation possible	NO	Constraints identified but mitigation possible
Spatial Alignment	YES	Site aligns with spatial approach of Plan	YES	Site aligns with spatial approach of Plan
Deliverability	YES	Site is deliverable	YES	Site is deliverable

SUMMARY

- Results are the same for 2018 and 2021
- **Site Size** – several different figures have been given for the site size
- **Access /Routing** – it is not clear at this stage whether suitable access is available or the impact on the highway network
- **Biodiversity** – the assessment does not take into account the local wildlife sites affected by the proposals including the River Avon or other designations in close proximity
- **Heritage assets** – the site is in close proximity to 2 conservation areas and several listed buildings, which could be affected by the proposals

A3 Comparison of Assessments of Mineral Plan Objectives

Planning Practice Guidance (PPG) sets out in the SA process flowchart (para 13) that the first task of **Stage B** in the SA process should be to test the Local Plan objectives against the SA Framework. An assessment of the Mineral Local Plan (MLP) objectives was undertaken in 2015 and set out in the SA 2016.

A further assessment has been undertaken as part of the Main Modifications against a separate Mineral Plan Objectives Scoring Framework [PSD27]. It is not clear why this assessment has been prepared at this point in the assessment (**Stage D of the SA**). The assessments are not directly comparable as different methodologies have been used.

An explanation of why the document has been prepared or how the assessment methodology was derived is not provided. It is not known why this information is not included within the SA or has been issued retrospectively. It would appear to be providing post justification for the decisions taken in the development of the MLP.

PSD27 - PDF Pages 1-9 of the report set out 12 Assessment Criteria against:

- Relevant Plan Objectives
- Relevant SA objectives
- Scoring and Assessment Comments
- Evidence Base
- Scoring Criteria for sites from between 1 and 5 (with 1 being the least favourable result).

The Site Assessment for **Site 4 – Wasperton Hill Farm** is provided at **pages 37-45 (PDF page)**. The document has no page numbers. The assessment, however, is structured in a different way to the methodology at the beginning of the report. The assessment instead includes:

- Assessment Criteria (1-12)
- Site and surroundings Characteristics/features
- Technical input and Mitigating Factors
- Score (1-5).

The assessment does not include the MLP objectives or the SA objectives.

There is no explanation of how the scoring has been used in the development of the Local Plan. There is an overall scoring Table at page 11 before the detailed site assessments with no further explanation.

In order to try and understand the results the MLP Objectives and SA Objectives have been added to the table of results below in relation to the results for **Site 4 - Wasperton Hill Farm**.

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications 2021

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
1	Potential tonnage availability to meet plan sand and gravel requirement	i. To secure a steady and adequate supply of aggregates and other minerals required to support sustainable economic growth at the national, sub-regional and local level	12. To adequately safeguard reserves of minerals for future generations	Confirmation of ability to supply aggregates from the site provided. Supply likely 1MT or more and tonnage available.	5
2	Potential to protect, conserve and enhance biodiversity, and the ability to avoid, reduce, or mitigate potential adverse effects on it during minerals operations	iv. To protect, conserve and enhance the natural (including controlled water defined in the Water Resources Act 1991) and historic environment and avoid, reduce, or mitigate potential adverse effects associated with mineral developments.	1. Conserve and enhance biodiversity	<p>Site is intersected by a watercourse which is part of the River Avon and tributaries LWS.</p> <p>Mitigation:</p> <ul style="list-style-type: none"> Impacts on water courses can be reduced through standoffs, and existing distances may be sufficient. Standoffs will be defined at the planning application stage through site specific geomorphological assessment On site water management systems (drainage, storage, and treatment systems) are available to operators to address quality and quantity. Technical specialists and consultees have not indicated that adverse impacts cannot be mitigated at the planning applications stage. <p>Measures incorporated through LP process:</p> <ul style="list-style-type: none"> Reduction of site area – The site has reduced from 110ha to 85ha since the WCC Ecology team's assessment and Natural England made its recommendations. The need for a hydrological and water quality study and providing safeguards to alleviate any pollution risk to the River Leam Phased working and restoration to agriculture and nature conservation through the operational phase Advanced tree and hedgerow planting Safeguarding hedgerows and hedgerow trees (in policy background text) Survey of protected species (in policy background text), which would also provide more up to date information than recorded species information provided as part of the Council's Ecology 	2

				Team's assessments.	
--	--	--	--	---------------------	--

Site 4 – Wasperton Hill Farm Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications					
Summary of Results [PSD27 September 2021]					
	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
3	Potential to protect, conserve and enhance geological value, and the ability to avoid, reduce, or mitigate potential adverse effects on it during minerals operations	iv. To protect, conserve and enhance the natural (including controlled water defined in the Water Resources Act 1991) and historic environment and avoid, reduce, or mitigate potential adverse effects associated with mineral developments.	8. To preserve and protect geological features and promote geological conservation	No Geodiversity features on the site or in the vicinity	5
4	Potential to protect, conserve and enhance the water environment (water resources and water quality), and the ability to avoid, reduce, or mitigate potential adverse effects on it during minerals operations	iv. To protect, conserve and enhance the natural (including controlled water defined in the Water Resources Act 1991) and historic environment and avoid, reduce, or mitigate potential adverse effects associated with mineral developments.	2. Protect and improve water quality and resources	<p>Site does not overlap protected water resources although there are water bodies within the site. Adverse effects will be mitigated.</p> <ul style="list-style-type: none"> Impacts on watercourses can be reduced through standoffs, and existing distances may be sufficient. This will be confirmed at the planning application stage as agreed with the EA. On site water management systems (drainage, storage, and treatment systems) are available to operators to address water quality and quantity that would run off the site, with the potential for off-site effects. Technical specialists and consultees have not indicated that adverse impacts cannot be mitigated at the planning applications stage. The EA has confirmed that issues can be addressed at the planning application stage indicating that these can be addressed through mitigation, if needed. <p>In principle potential adverse impacts could be addressed through appropriate surveys and assessments required at the planning/EIA application stage and mitigation measures.</p> <p>The Drinking Water Protected Area relates specifically to pesticides from agriculture rather than</p>	4

				directly from mineral operations.	
--	--	--	--	-----------------------------------	--

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
5	Potential to protect, conserve and enhance landscape character and visual impacts and the ability to avoid, reduce, or mitigate potential adverse effects on it during minerals operations	iv. To protect, conserve and enhance the natural (including controlled water defined in the Water Resources Act 1991) and historic environment and avoid, reduce, or mitigate potential adverse effects associated with mineral developments.	5. To conserve and enhance the quality of the landscapes and townscapes	<p>A full LVIA has been prepared.</p> <p>Conservation Areas of Barford village is approx. 560m to the north of the Site and Wasperton village is approx. 80m east of the site.</p> <p>Within the western part of the site there is a continuation of a Local Wildlife Site (LWS) that connects with the River Avon, which natural bankside vegetation.</p> <p>5 listed buildings in the immediate area; Forge Cottage; Wasperton Farm House; Wasperton Hill House; Wasperton House and Seven Elms.</p> <p>Hedgerows, including roadside hedgerows, are becoming increasingly dented.</p> <ul style="list-style-type: none"> • Impacts have been substantially reduced by reducing the site area to increase stand-off distances from sensitive receptors. • Phased working and restoration to agriculture and nature conservation through the operational phase • Advanced tree and hedgerow planting • Safeguarding hedgerows and hedgerow trees (in policy background text) • Site could be restored through inert fill (identified in policy background text). <p>The Plan requirements could be reinforced by addressing the retention and safeguarding of hedgerows and identifying the opportunity to recreate of areas of heathland, consistent with the Warwickshire Landscape Guidelines.</p> <p>When considering potential mitigation measures and opportunities available, moderate temporary adverse effects are likely and there is moderate potential to deliver long term landscape restoration benefits.</p>	3

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
6	Potential to protect, conserve and enhance the historic environment and the ability to avoid, reduce, or mitigate potential adverse effects on it during minerals operations	iv. To protect, conserve and enhance the natural (including controlled water defined in the Water Resources Act 1991) and historic environment and avoid, reduce, or mitigate potential adverse effects associated with mineral developments.	6. To preserve or enhance buildings, sites, areas of special architectural or historic interest or archaeological interest and their settings	<p>Since, there is no visibility between Wasperton House and the site, no association with the site and the intervening distance make this asset less likely to be affected. There is also no visibility and association between Forge Cottage and the site and views are limited by the topography, making this asset less likely to be affected too. Therefore, only three listed buildings need to be considered further and they are Seven Elms, Wasperton Farmhouse and Wasperton Hill House.</p> <p>Seven Elms is a Grade II listed building and lies at its nearest point 55m from the southern boundary of Site 4. There is likely to be no harm to the significance of the setting of this designated heritage asset because it is no longer a farmhouse and has been subject to change. Working in this location would be temporary and subject to other mitigation measures and the site would be restored to its existing agricultural use. In addition, a suitable standoff (100m minimum) from the asset to maintain its setting would be required. The exact extent of the standoff would need to be determined during the planning application stage. According to the SA mitigation may be problematic.</p> <p>Wasperton Farmhouse is a Grade II listed building and lies at its nearest point 70m from the northern boundary of Site 4. There is likely to be no harm to the significance of the setting of this designated heritage asset because of the lack of working proposed to the north and west of the asset. Working in this location would be temporary and subject to other mitigation measures and the site would be restored to its existing agricultural use. In addition, a suitable standoff (100m minimum) from the asset would be required</p> <p>The WCC Heritage assessment shows that there is likely to be minor less than substantial no harm to the settings of the listed buildings properties due to a number of factors including potential mitigation measures. Impacts have been substantially reduced by reducing the site area to increase stand-off distances from sensitive receptors.</p> <p>Scoring Summary – Minor “less than substantial harm” to setting of listed buildings outweighed by the great public benefits of aggregate supply and future benefits to historic setting through landscape enhancements to an intensively farmed landscape.</p>	4

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
7	Potential to protect local communities from unacceptable adverse impacts, including human health and amenity, during minerals operations	v. To have full regard for the concerns and interests of local communities and protect them from unacceptable adverse impacts including human health from mineral developments.	4. To safeguard environmental quality in order to minimise potential impacts on community health 15. To enfranchise the community in improving the local environment	Environmental Management Plan requirement to address amenity including dust mitigation requirements. In principle potential adverse impacts could be addressed through appropriate assessments required at the planning/EIA application stage and mitigation measures, including air quality assessment. It is anticipated that potential adverse effects on local communities can be mitigated through good site management, mitigation measures and due to distances involved. (settlements between 250 and 500m from site)	3
8	Potential to minimise the impact of the movement of bulk materials by road on local communities and utilise alternative modes of transport	vi. To minimise the impact of the movement of bulk materials by road on local communities and where possible encourage the use of alternative modes of transport.	4. To safeguard environmental quality in order to minimise potential impacts on community health 11. To encourage the sustainable transportation of minerals	There have been no objections from the Local Highways Authority nor Highways England regarding this site. Highway Authorities (Highways England and Warwickshire County Council Transport Planning Group) signed a SoCG dealing with all highway matters. No objection subject to a number of requirements to deal with any individual and cumulative impacts on the SRN and MRN. The Highway Authority have indicated that the A429 should be able to accommodate a high volume of traffic and larger vehicles (HGVs) and that it provides an excellent link onto the Strategic Road network (A46 and M40). In principle potential adverse impacts could be addressed through appropriate assessments required at the planning/EIA application stage and mitigation measures. Scoring summary: There would be an acceptable impact on local communities	3

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
9	Potential for beneficial end uses with consideration of promoters proposed after use	<p>vii. To ensure mineral sites are restored to a high standard once extraction has ceased, ensure that each site is restored to the most beneficial use(s) and provides restoration benefits including green infrastructure and biodiversity.</p> <p>ix. To reduce the effect of mineral development on the causes of climate change and facilitate adaptation to the effects of climate change.</p>	<p>3. To avoid reduce and manage flood risk</p> <p>13. To ensure minerals restoration makes the best possible use of former mineral operations</p>	<p>Potential benefits that could be accrued:</p> <p>BNG - There is an expectation, in Policy DM1, that proposals will be supported where net gain can be achieved. Proposed after use includes some nature conservation that would enable net gains to be delivered on site. There is potential to enhance the area hedgerows, create species-rich grassland and additional ponds in the area.</p> <p>Visual & Amenity enhancement - Restoration proposals could offer longer term opportunities to reinforce existing gappy hedgerows and link new and existing hedges and wooded streamlines to strengthen the sense of scale, connectivity and enclosure and provide a sense of unity in the landscape post restoration. The Landscape Team also recognises that the type of development proposed would be of a low profile and conducted in phases. As the workings would be phased, receptors would not be able to view the whole Site area at any given time owing to the presence of primary hedgelines and wooded streamlines. The potential adverse impact would be lessened provided that these landscape features are given adequate buffer zones and are gapped up where appropriate to do so in terms of providing additional screening while not damaging nature conservation value. Mitigation planting could help to provide a heightened degree of visual containment and integration, to the extent that the proposals can be successfully assimilated into this context without significant, long term, adverse effect.</p> <p>BMVA Land - As outlined in PSD09, a five-year study published in 2000 by MAFF: (CSG15) Evaluation of Mineral Sites Restored to Agriculture concluded that out of 34 sites that started off as BMVA land, approximately half had maintained or improved their pre-working grade when sampled at the start of the aftercare period. Techniques are likely to have improved over the 20 years since the study.</p> <p>52.2ha (58%) of the site area is in Grade 2 and 3a BMV land and ARE NOT BMVA land.</p>	4

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
9	Potential for beneficial end uses with consideration of promoters proposed after use. (Continued..)			Flood alleviation - Whilst wetlands can provide opportunities to create flood attenuation measures that would assist in adaption to climate change, the scope for that is limited as there is no stream or river running through or directly adjacent to the site, the site is within Flood Zone 1 (low probability of river flooding) and there are only limited areas susceptible to low risk surface water flooding. There is an opportunity to link new wetlands directly to main rivers and larger tributaries; flood alleviation benefits are possible. Scoring Summary: Potential to deliver three identified restoration benefits.	
10	Potential to reduce transportation distances	viii. To promote the use of locally extracted materials to encourage local distinctiveness and reduce transportation distances. ix. To reduce the effect of mineral development on the causes of climate change and facilitate adaptation to the effects of climate change.	9. To promote the delivery of energy efficiency and carbon reduction targets 11. To encourage the sustainable transportation of minerals	Scoring summary: Site within 10km of a main growth area AND within 15km of three or more main growth areas AND within 10km of one or more existing minerals infrastructure sites.	5

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
11	Potential to reduce the effect on the causes of climate change and facilitate adaptation to the effects of climate change during minerals operations	ix. To reduce the effect of mineral development on the causes of climate change and facilitate adaptation to the effects of climate change.	3. To avoid reduce and manage flood risk 9: To promote the delivery of energy efficiency and carbon reduction targets 10. To reduce consumption of natural resources	<p>It is considered likely that site development proposals will further reduce the effect of mineral development on the causes of climate change by minimising and/or offsetting greenhouse gas emissions. This is due to the Government's commitment to achieving net zero greenhouse gas (GHG) emissions, which has been reinforced by setting the world's most ambitious climate change target into law to reduce emissions by 78% by 2035 compared to 1990 levels, as announced on 20 April 2021. Given that the plan period will end in 2032 minerals will incrementally need to address these issues more as we move towards these targets. It is likely that technological innovations will become more available over time.</p> <p>Measures could include the use of alternatives to fossil fuels for onsite plant and machinery, use of renewable sources to power the facility and adapting processes, procedure, and plant to make them more carbon efficient.</p> <p>A Site-Specific Flood Risk Assessment will be required at the planning application stage.</p>	4

Site 4 – Wasperton Hill Farm

Assessment Against Mineral Plan Objectives Scoring Framework – Main Modifications

Summary of Results [PSD27 September 2021]

	Assessment Criteria	Relevant Plan Objectives	Relevant SA Objective	Technical Input/Mitigating Factors	Score (1-5)
12	Potential to protect or restore the best and most versatile agricultural land	x. To ensure the best and most versatile agricultural land is protected or restored to a condition and quality that retains its longer term capability as a high quality resource	7. To protect soil resources	<p>The original site area based on 89.5 ha comprised the following amounts of BMV land. This amounts to 52.2ha (58%) of the site in BMV land.</p> <p>Grade 2 (11.5 ha) Grade 3a (40.7 ha) Grade 3b (33.4 ha) Grade 3c (3.1 ha) Other (0.8 ha)</p> <p>The BMV land can be restored by infilling with inert wastes and lowering the land where feasible, based on Natural England's advice relating to the overall conclusions of a study of the 41 sites (34 BMV) that where restoration had been carefully planned following good practice and this was actually carried out, then restoration can maintain or improve pre working BMV grades.</p> <p>Operators will need to address impacts on soils as part of an EIA. Standard planning conditions would require soil handing to be undertaken in accordance with best practice guidance.</p> <p>Non BMV land may be used for nature conservation uses or to provide soils for restoration of the BMV land.</p> <p>More than 20ha of BMV land on the site and it is anticipated that this land can either be protected or restored to BMV land.</p>	3

MLP Objectives not included		Rationale for not developing assessment criteria	JAM Comments
	ii. To help deliver sustainable mineral development by promoting the prudent use and safeguarding of Warwickshire's mineral resources and help prevent sterilisation of land from non-mineral development	<p>Site allocations allow minerals resources to be managed more sustainably that will result from the site selection process are limited to meet the plan tonnage requirement for sand and gravel. This ensures that all selected sites enable the prudent use of resources with due consideration of future minerals needs.</p> <p>All sites will be safeguarded to prevent sterilisation of land from non-mineral development through minerals safeguarding policies.</p> <p>Links to SA Objective:12. To adequately safeguard reserves of minerals for future generations</p>	The rationale for exclusion is not clear.
	iii. To promote the use of recycled and/or secondary materials and promote waste minimisation to reduce the overall demand for primary mineral extraction for construction aggregates.	<p>Allocations relate to sand and gravel extraction, rather than the production of recycled aggregates. This is covered by other policies.</p> <p>Allocation of a site would help to provide for higher quality application aggregate markets that recycled aggregates cannot meet, or where throughputs cannot be increased to meet total aggregate demand. Providing for primary aggregate production would also allow for scenarios where sufficient quantities of material for recycling or capacity would not be available. Thus, providing a steady and adequate supply of aggregates.</p> <p>Links to SA Objective:10: To reduce consumption of natural resources</p>	Has not considered the role of recycled/ secondary materials in reducing demand for sand and gravel.

SUMMARY

Ecology/Landscape (2+5)

- The consultation responses from the ecology team and Natural England on reducing the size of the site have not been published and are therefore not understood. The size of the site varies from document to document with no explanation.
- The Ecology Assessments referred to in Appendix A of PSD09 do not discuss the site size or show what buffer is being considered
- There are no comments on the outcome of the LVIA undertaken for Site 4 or why it was not undertaken for other sites.
- Evidence to support the conclusion that impacts have been substantially reduced by reducing the site area to increase stand-off distances from sensitive receptors is not referenced.
- There is no reference to the need for a minimum requirement of 10% Biodiversity Net Gain
- There is no reference to impacts upon green infrastructure in relation to ecology or landscape provision.

Water (4)

- The ***'availability to operators'*** of on-site water management systems to address water quality and quantity does not ensure their use in mitigating effects.
- The justification for score 4, that the significant adverse impacts can be mitigated, has not been provided.

Heritage (6)

- The conclusion that there is likely to be no harm to the significance of the setting of the designated heritage asset because it is ***'no longer a farmhouse and has been subject to change'*** is unfounded. The works are likely to affect the setting of the heritage asset regardless of its current use.
- It is not clear how the 100m buffer has been determined or whether it will be suitable in this location. It is noted that ***'According to the SA mitigation may be problematic'*** but no further comment on how to resolve this matter is provided.
- Impacts have been substantially reduced by ***'reducing the site area'*** to increase stand-off distances from sensitive receptors. As stated above, the site size varies between the documents. The conclusion that impacts have been substantially reduced cannot be verified.
- The score of 4 does not appear to be justified from the information available.

Transport (8)

- The comments from the Highways Authority regarding the capacity of the A429 to accommodate a high volume of traffic and larger vehicles (HGVs) and that links onto the Strategic Road network (A46 and M40) are dated 2014/15 [PSD09 Appendices] and were based on 40 trips per day (not 80 + 60 waste imports) [PSD04 Highways England SOCG 2020, Table 3, No. of vehicle movements]. The Main Modifications also show a different figure of 60 trips per day [PMM 22, page 23]
- The increase in traffic on the roads between 2010 and 2018 has also not been taken into account, which shows an increase in traffic flows on the A429 of 40% between 2010 and 2018 and an increase in HGV traffic of 70% [PSD04 – Appendix 4 WCC Transport Planning Representation 2018]
- There is no discussion of sustainable transport or carbon emissions.
- Evidence to support the assessment comments [page 7 of the PDF] has not been found *‘Potential adverse impacts on local communities have been considered, for example HGV routing through local communities (villages and larger settlements) and unsafe highway access. The likelihood of mitigation has also been assessed, as well as the ability to use sustainable transport modes consistent with the Plan Objective.’*
- The conclusion that there would be *‘an acceptable impact on local communities’* and a score of 3 does not reflect the latest evidence.

Restoration benefits (9)

- There is an expectation, in Policy DM1, that proposals will be supported where net gain can be achieved, however evidence to support the statement that BNG can be achieved has not been provided. The report states that *‘Proposed after use includes some nature conservation that would enable net gains to be delivered on site.’* It is not clear what level of nature conservation would be required.
- *‘The potential adverse impact would be lessened provided that these landscape features are given adequate buffer zones and are gapped up where appropriate to do so in terms of providing additional screening while not damaging nature conservation value.’* Evidence on what is considered an adequate buffer zone has not been given.
- The BMVA information used is from a study dated 2000. The report states that *‘Techniques are likely to have improved over the 20 years since the study.’* Evidence to support this statement is not provided.
- The report states that 52.2ha (58%) of the site area is in Grade 2 and 3a BMV land, *‘which are not BMVA land’*. This statement is incorrect, Grade 1-3a are considered BMVA.
- The comments on flood alleviation contradict each other, on the one hand it states that scope for flood attenuation measures *‘are limited’* but *‘that flood alleviation benefits are possible’*.
- The Scoring Summary states that there is the potential to deliver **three** identified restoration benefits but **four** have been listed.

Transportation Distances (10)

- No information has been provided in the technical input/mitigating factors box
- There is no discussion of energy efficiency or carbon reduction targets; the effect upon climate change; or the sustainable transportation of minerals.
- The scoring only addresses the distances to growth areas and existing minerals infrastructure.

Climate Change (11)

- The report considers that the site development proposals will further reduce the effect of mineral development on the causes of climate change by minimising and/or offsetting greenhouse gas emissions because of the Government's commitment to achieving net zero greenhouse gas (GHG) emissions.
- The assessment does not consider the likely impact of the operations upon climate change or how they will be managed. The Government target does not ensure that impacts will be minimised.

Agricultural Land (12)

- The report refers to a site area of 89.5ha rather than 91.5ha as given in the main mods or 85ha given previously
- The evidence provided on agricultural land is dated 1988 [**PSD09 Appendices**].

A4 PSD25 September 2021 – Cumulative Impacts of Sites 1 & 2 and Site 9

It is not clear why the cumulative impacts of the other allocated sites have not been considered, including Site 4 Wasperton Hill Farm.

NPPF 2021 [para 210 (f)] sets out that planning policies in respect of minerals should:

‘set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality.’

The cumulative impacts have also not been adequately addressed in the SA as set out in previous representations.

APPENDIX 2

ASSESSMENT OF PSD 26: LANDSCAPE & VISUAL APPRAISAL OF SITE 4 WASPERTON

Warwickshire Minerals Local Plan – PSD 26: Landscape & Visual Appraisal of Site 4 Wasperton Assessment

The above has been undertaken out of context with the whole Plan, clearly as a retrospective means of seeking to rebut Landscape evidence related to the above site entered in to and discussed at the Plan Examination. No proper context is provided other than it becoming ‘additional evidence papers’.

The LVA has ‘identified potential constraints and opportunities related to landscape and visual matters. In turn this has informed the landscape mitigation strategy to help reduce or remedy adverse effects’. Importantly, it has assessed a site based on a notional 1.5km radius, utilising a notional minimum 100m buffer, and has not assessed a form of proposed development – so is not able to properly assess effects upon or rigorously identify sensitive receptors.

The ‘suggested mitigation’ identifies landscape buffers, a native tree belt, reinstatement of hedgerows, further field trees, additional hedge trees and the planting of small copses. The explanation is that ‘this planting would provide some screening as it matures’. A report dealing with matters in this way undermines its credibility as an evidence base, because there is no certainty that these measures would be implemented. Assessments must address the certainty that mitigation will be delivered and this LVA cannot under the current circumstances and therefore does not.

This Report is out of context and inconsistent with the SA, SIAM and other Plan assessment; it merely offers a very loose attempt at justifying Site 4 as a mineral allocation site.

Paragraph 1.5 states, ‘*No details are available on siting, layout or other characteristics other than a minimum 100m buffer would be provided between the proposed development and existing dwellings and that any workings would be phased, and on completion, restored to agricultural use.*’ Whilst this lack of information is not the responsibility of the authors of the LVA, it has a strong influence upon the reliability of findings of the LVA.

In paragraph 4.3 the statement is made that, ‘*It is anticipated that the land would be restored to ground levels similar to the original. Therefore, the landscape feature is of **medium** sensitivity.*’ The plan allocation is for mineral extraction and not for importation of waste. There is no certainty that landfilling would take place after mineral extraction or what the effect of that might be. Therefore, any LVA conclusions on the likely effect on landscape character, based on the assumption backfilling would take place, can have no weight given to them. In any event the sensitivity of the *existing* landform bares no relationship to an assumed restoration landform, whether it is different or not. Conclusions about the effect on landscape character cannot be substantiated if the current sensitivity is not correctly interpreted.

New mineral operations will include key components of above ground storage of top and sub soils in bunds. The visual effects (positive or negative) of these are not addressed. Neither has consideration been given to the visual effect of a processing plant or the direction of working, therefore the potential overall visual effects cannot be sufficiently understood.

Progressive restoration is assumed in para graph 5.4 and, while this is good practice, it might not be achievable, so levels of potential effect cannot be decided upon assuming this approach to be in place. The LVA should adopt a worst-case approach in these circumstances.

Overall no reliance can be taken from an LVA carried out with no information on site design and operation. An LVA based on the above assumptions is likely to be at best simplistic and at worst misleading and cannot sensibly have any influence the decision-making process.

STOKE-ON-TRENT

Sir Henry Doulton House
Forge Lane
Etruria
Stoke-on-Trent
ST1 5BD
Tel: +44 (0)1782 276 700

BIRMINGHAM

Two Devon Way
Longbridge Technology Park
Longbridge
Birmingham
B31 2TS
Tel: +44 (0)121 580 0909

BOLTON

41-50 Futura Park
Aspinall Way
Middlebrook
Bolton
BL6 6SU
Tel: +44 (0)1204 227 227

BRISTOL

Desk Lodge
2 Redcliffe Way
Bristol
BS1 6NL

BURY ST EDMUNDS

9 Lamdin Road
Bury St Edmunds
Suffolk
IP32 6NU
Tel: +44 (0)1284 765 210

CARDIFF

Tudor House
16 Cathedral Road
Cardiff
CF11 9LJ
Tel: +44 (0)292 072 9191

CARLISLE

Marconi Road
Burgh Road Industrial Estate
Carlisle
Cumbria
CA2 7NA
Tel: +44 (0)1228 550 575

EDINBURGH

Great Michael House
14 Links Place
Edinburgh
EH6 7EZ
Tel: +44 (0)131 555 3311

GLASGOW

24 St Vincent Place
Glasgow
G1 2EU
Tel: +44 (0)141 428 4499

LEEDS

36 Park Row
Leeds
LS1 5JL
Tel: +44 (0)113 831 5533

LONDON

Third Floor
46 Chancery Lane
London
WC2A 1JE
Tel: +44 (0)207 242 3243

NEWCASTLE UPON TYNE

City Quadrant
11 Waterloo Square
Newcastle upon Tyne
NE1 4DP
Tel: +44 (0)191 232 0943

TRURO

Baldhu House
Wheal Jane Earth Science Park
Baldhu
Truro
TR3 6EH
Tel: +44 (0)187 256 0738

International offices:

ALMATY

29/6 Satpaev Avenue
Hyatt Regency Hotel
Office Tower
Almaty
Kazakhstan
050040
Tel: +7(727) 334 1310

MOSCOW

21/5 Kuznetskiy Most St.
Moscow
Russia
Tel: +7(495) 626 07 67