



The Planning Inspectorate

---

# **Report to Oxfordshire County Council**

**by Brian Cook BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date 15 June 2017**

---

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy**

The Plan was submitted for examination on 30 December 2015

The examination hearings were held between 20 and 30 September 2016

File Ref: PINS/U3100/429/7

## **Abbreviations used in this report**

C+I	Commercial and industrial
CDE	Construction, demolition and excavation
DCLG	Department for Communities and Local Government
DtC	Duty to Co-operate
IR	Interim Report
LAA	Local Aggregate Assessment
mtpa	Million tonnes per annum
MWDS	Minerals and Waste Development Scheme
MSW	Municipal solid waste
NPPF	National Planning Policy Framework
NPPW	National Planning Policy for Waste
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SEEAWP	South East of England Aggregate Working Party
SEWPAG	South East Waste Planning Advisory Group
SEA	Strategic environmental assessment
SRA	Strategic Resource Area

## Non-Technical Summary

This report concludes that the Oxfordshire Minerals and Waste Local Plan: Part 1 provides an appropriate basis for the planning of minerals and waste development in the County, provided that a number of main modifications [MMs] are made to it. Oxfordshire County Council (the Council) has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over a six-week period. In some cases I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- **MM1 to MM14** make alterations to policies M1 and M2 and their supporting text to quantify the provision of aggregates to be made over the Plan period from recycled and secondary and land-won sources respectively;
- **MM31 to MM46** similarly make alterations to policies W1, W2 and W3 and their supporting text and tables to quantify where proportionate and justified to do so the waste management capacity that needs to be planned for over the Plan period for the principal waste streams;
- **MM15 to MM22** alter policies M3, M4 and M5 and the supporting text to set out the spatial strategy for mineral working, provide specific guidance for the preparation of the Minerals and Waste Local Plan: Part 2 – Site Allocations Document (Plan 2) and the strategic development management approach for mineral working proposals and **MM47 to MM52** make alterations to the equivalent spatial strategy and Plan 2 guidance waste management policies W4 and W5 and their supporting text and table. **MM46** also adds a strategic development management component to policy W3;
- **MM25 to MM28 and MM30** alter policies M8 and M9 and the supporting text to ensure the way minerals resources and infrastructure is safeguarded is consistent with national planning policy. This includes defining Mineral Safeguarding Areas and Mineral Consultation Areas on the policies map which replaces Figure 9: Minerals Key Diagram;
- **MM60 to MM70** introduce alterations to the Core Policies for consistency with national planning policy. **MM70** introduces a new and separate Green Belt policy. There are therefore consequential changes to those other policies that require accordance with all the Core Policies; and
- **MM73** introduces a monitoring framework.

## Introduction

1. This report contains my assessment of the Oxfordshire County Council Minerals and Waste Local Plan: Part 1 – Core Strategy in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan’s preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework (NPPF) (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Oxfordshire County Council Minerals and Waste Local Plan: Part 1 – Core Strategy, submitted on 30 December 2015 is the basis for my examination. It is the same document as was published for consultation in August 2015.
3. During the hearing sessions that began on 20 September 2016 it became clear that the Council would need to undertake a considerable amount of additional work in order for the Plan to be found sound and compliant with the legal requirements. In order to progress the examination in this way a number of matters needed to be resolved to assist the Council in the further work necessary. This was done through the preparation of an Interim Report (IR). This was sent to the Council and published on the examination web site on 12 October 2016. It is included at Appendix A to this report and will be referred to as necessary and appropriate.
4. Throughout this report examination documents are referred to by their number only in ( ) with specific paragraph references as appropriate; paragraphs in the NPPF are shown as # followed by the paragraph number; numbers prefixed by IR are to passages in the Interim Report; and numbers in [ ] are references to other paragraphs in this report.

## Main Modifications

5. In accordance with section 20(7C) of the 2004 Act the Council requested (EX20) that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2**, **MM3** etc, and are set out in full in Appendix B.
6. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them. The MM schedule and associated documents were subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and

sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

## **Policies Map**

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprised Figure 9: Minerals Key Diagram and Figure 12: Waste Key Diagram.
8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan’s policies require further corresponding changes to be made to the Minerals Key Diagram component of the policies map.
9. These further changes to the policies map were published for consultation alongside the MMs as Policies Map – North Oxfordshire and Policies Map – South Oxfordshire.
10. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan’s policies, the Council will need to update the adopted policies map to include all the changes proposed in Policies Map – North Oxfordshire and Policies Map – South Oxfordshire and the further changes published alongside the MMs.

## **Consultation**

11. It is apparent from some of the representations that have been made on the proposed MMs that the purpose, status and conclusions of the IR have been misunderstood.
12. In total nine Matters were identified for discussion during the hearing sessions. Matters 4 and 6 respectively asked whether the minerals and waste strategies were the most appropriate of the alternatives considered. That is the subject of the second main issue below. Matter 7 considered whether the submitted policies would be effective in delivering those strategies; that is considered under the third main issue. Matter 8 dealt with a specific issue (the implementation and monitoring framework) while Matter 9 enabled a helpful discussion of the schedule of proposed modifications as it then stood.
13. The remaining four Matters were critical to the way the examination would proceed (IR2 and IR3). A finding of a failure to comply with the Duty to Co-operate (DtC) would, in effect, have brought the examination to an end. A finding of a legal flaw in the Strategic Environmental Assessment (SEA)/Sustainability Appraisal (SA) would have implications for Matters 4 and 6, as would the outcome of the consideration of Matters 3 and 5 (the provision for aggregates and waste management capacity respectively). All of these were therefore dealt with in the IR. Matters 1 (DtC and SEA/SA) and 2, which dealt with important legal and national policy compliance issues were, in the main, reported and concluded upon in IR5 to IR47. My assessment of and

conclusions on Matters 3 and 5 are set out in IR89 to IR133 and IR52 to IR88 respectively.

14. It is clear therefore that the IR is an integral part of the report on the examination of the Plan rather than being separate from it. Throughout the IR ‘conclusions’ are drawn rather than ‘recommendations’ being made. This is because of the particular usage and meaning given by section 20(7) of the 2004 Act to the word ‘recommendation’ in this context. It is nevertheless clear from IR134 that the Council was required to bring forward main modifications to give effect to those conclusions. Failure to do so would, subject to consideration of any representations made, therefore be likely to lead to their being made in any event once the section 20(7C) request was made. The criticisms of the way the Council dealt with the IR made by some representors is therefore misconceived.
15. IR132 also confirms that ‘...the finding of the LAA is soundly based on the best available evidence at the time and is therefore robust.’ The assertion by one representor that the IR fails to make such a finding is therefore incorrect.

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

16. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan’s preparation.
17. The requirement to comply with the duty to co-operate in relation to this Plan ended in December 2015 upon formal submission for examination. None of the work done subsequent to the hearing sessions could therefore impact upon that compliance. Whether the Council had in fact complied with its obligations under the duty was in dispute. I therefore concluded on this matter in the IR since, had I found that the duty had not be complied with, that fault could not have been remedied and any further work would have been wasted.
18. IR5 to IR14 explain my conclusion on the evidence before me. No new matters or evidence have come to light since then to alter those conclusions. Overall I am therefore satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

## **Assessment of Legal Compliance**

19. IR15 to IR47 address some fundamental concerns raised in respect of the Plan’s compliance with the legal requirements. It concludes that the two plan approach being followed does not raise any legal compliance issue (IR19). Although this matter was pursued in the MM consultation responses, no new evidence was put forward which would require that conclusion to be reviewed.
20. The IR also concludes that the letter, if not the spirit, of the relevant Statement of Community Involvement (SCI) was adhered to (IR30).
21. However, with regard to SEA/SA the Council accepted that the process carried out was flawed (IR33). I agreed and set out what the flaws were and indicated how these may be addressed (IR34 to IR47). I turn now to consider the extent to which the further work undertaken by the Council did so. In

doing so I have taken into account all the further representations made during the MM consultation.

22. SEA/SA is an iterative process and it is for a local planning authority in the first instance to determine which reasonable alternative strategies should be considered. The Council consulted upon a SEA/SA report update<sup>1</sup> and associated appendices alongside the consultation on the MMs. It represents a comprehensive assessment and remedies the ‘paper chase’ concern previously recognised (IR35).
23. Following the publication of the IR there was an exchange with the Council on some aspects of it (EX18). An issue that arose was how reasonable alternatives for the minerals strategy should be developed with particular reference to one that reflected purely the rolling average of 10 years’ sales data.
24. The SEA/SA report deals with this in summary form in Table 5.1. In short, it explains why, since the IR determines that the 2014 Local Aggregates Assessment (LAA) is soundly based and robust, there would be no reasonable alternative to the provision being made through policy M2.
25. The strategy policy (policy M3) is then examined with, first, two spatial alternatives considered and an explanation for the rejection of four others as unreasonable alternatives and, second, four options for achieving the rebalancing of sharp sand and gravel production capacity between western and southern Oxfordshire (as defined). This assessment has as a baseline the delivery of 18.27 million tonnes of sharp sand and gravel over the Plan period. It does not identify any sustainability issues arising from doing so. Having come to that conclusion, there is no need to return to look at what would be a lower figure derived from the rolling average of 10 years’ sales data. Whether or not that conclusion is reasonable is a matter of soundness, not legal compliance and is addressed later [56 to 75].
26. With respect to waste strategy the SEA/SA report considers five options and a number of alternatives which are, for the reasons set out in Table 5.2 considered not to be reasonable alternatives.
27. I have had regard to the MM consultation representations made insofar as they relate to compliance with the legal requirements for SEA/SA. In my judgement, the SEA/SA report update of February 2017 adequately addresses the concerns and issues in this regard identified in the IR.
28. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

<b>LEGAL REQUIREMENTS</b>	
Minerals and Waste Development Scheme	The Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy has been prepared in accordance

<sup>1</sup> Client Project Report CPR2366 February 2017

(MWDS)	with the Council’s MWDS [February 2016].
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in November 2006 and revised in March 2015. Consultation on the Local Plan and the MMs has complied with the requirements of the then current document.
Sustainability Appraisal (SA)	SA has been carried out and taking into account the February 2017 Update is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations AA Screening Report [August 2015] sets out why AA is not necessary at the strategic level. Natural England supports this.
National Policy	The Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy complies with national policy except where indicated and MMs are recommended.
2004 Act (as amended) and 2012 Regulations.	The Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy complies with the Act and the Regulations.

## Assessment of Soundness

### Background

29. Two fundamental issues of soundness were addressed in the IR. Both go to the ‘positively prepared’ test of soundness since both are concerned with what amounts to the objectively assessed need over the Plan period. An argument was made that, for minerals, the Plan should look to and make provision for a further seven years in respect of sand and gravel. No guidance to that effect was identified. It seems to me that this would be addressed through landbank assessments towards the end of the Plan period although, in reality, the Plan is likely to be reviewed well beforehand; the ‘beyond the Plan period’ years therefore never arrive in practice.
30. However, while the IR resolved the quantum that should be included in policies M1, M2 and W1, it remained for the Council to develop the MMs to deliver those changes in policy terms. A number of representations have been made on the approach taken.

### Main Issues

31. The scope of the Plan is quite limited with the identification of specific sites for development deferred to Plan 2. The number of main issues is therefore similarly limited in number.
32. As submitted the Plan seeks to set out the spatial strategies to be followed to deliver the vision and objectives that the Council has developed to guide the required provision for minerals and for waste management capacity over the Plan period. What that provision should be is the first issue.
33. Whether the strategies developed to deliver the vision and the objectives are the most appropriate when considered against the reasonable alternatives and will meet the objectively assessed needs fall within the ‘justified’ and ‘positively prepared’ aspects of soundness respectively. This consideration



forms the second issue; it is distinguishable from considerations of legal compliance in the undertaking of SEA/SA.

34. The Plan then sets out the development management policies to be applied both generally and, in the case of minerals, specifically during the period until Plan 2 is adopted. The third issue is whether the development management policies will deliver the strategy (the ‘effective’ test) and are consistent with national policy (the fourth test in #182).
35. The fourth and final issue concerns the monitoring framework submitted.
36. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings these are the main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors at each stage of the Plan’s progress.

### **Issue 1 – Is provision made for the steady and adequate supply of aggregates and for the waste to be managed over the Plan period?**

#### *Aggregates*

37. As explained above [13] this matter was subject to extensive assessment in the IR. The failure to include the amount of aggregates for which the Plan sought to make provision over the Plan period was found not to be consistent with national policy (IR50). What that amount should be was the subject of IR89 to IR133. The conclusion as to the modification required for soundness (IR132) has been given effect by **MM14** which significantly amends submitted policy M2. **MM9 to MM13** inclusive make important changes to the text supporting policy M2 and are also required for soundness.
38. Although extensive representations have been made at MM consultation stage to the effect that the Plan should be based on the rolling average of 10 years’ sales data and that the IR is flawed in coming to a different conclusion, no new evidence has been put forward at MM consultation stage to support that view. Rather, all the points made were made previously in the original representations and/or in oral evidence at the hearing sessions. They have therefore been considered through the IR.
39. A specific criticism concerns IR126. This was the subject of a post-examination hearings exchange with OXAGE (EX19). What is recorded in IR126 is the oral evidence from the representative of the Mineral Products Association who are members of the South East of England Aggregates Working Party (SEEAWP) and who attended the relevant meeting. The challenge to SEEAWP’s consideration and conclusion is by an organisation that is not a member of SEEAWP and did not attend the meeting. Instead, reliance is placed on the minute of the meeting which I understand not to be a *verbatim* record. In the circumstances it was appropriate to give far greater weight to the oral evidence of the Mineral Products Association.
40. It has been argued that policy M2 should be based upon the latest information rather than the 2014 LAA. This is not correct since the policy sets out the provision required over the Plan period as a whole. The base date from which the provision should be calculated is therefore 2014. **MM12** alters Plan

paragraph 4.20 to explain how the latest LAA will be used to assess the landbank at any point in time and ensure that it is maintained for particular minerals in accordance with policy M2.

41. It has also been argued that it is wrong to take productive capacity into account. This is on the grounds that this can be manipulated by mineral operators to secure planning permissions for additional extraction capacity that is not actually required and that only reserves should be taken into account. This ignores the fact that the ability to deliver aggregate from permitted reserves may be constrained by, for example, conditions imposed on planning permissions for environmental or other planning reasons. To take it to the absurd, the entire requirement for the Plan period could be vested within a single planning permission (reserve) that is subject to an annual production limit of 100,000 tonnes for highway reasons. Not to take that constraint on productive capacity into account would undermine the ability of the Plan to deliver the required minerals. Having said that, the Council will wish to closely examine arguments that productive capacity is constrained by other commercial factors when applying policy.

#### *Waste management*

42. IR52 to IR87 concluded that without the amounts referred to in IR87, policies M1 and W1 in the submitted Plan would not be sound. IR88 noted that the Council would need to consider how policy W3 might be modified to accommodate the determined amounts.
43. Dealing first with the modifications proposed to policy M1 and the further alteration necessary [46 to 48], **MM8** makes the change required for soundness identified in IR87. **MM1 to MM7** set out important changes to the supporting text to the policy; they are also required for soundness. Together, these MMs reaffirm the Council’s position that the supply from recycled and secondary aggregates is to be encouraged as an alternative to land-won minerals and make clear that, subject to normal planning criteria being met through compliance with the other policies in the Plan, the number of facilities that may come forward is not constrained by the 0.926 million tonnes figure (expressed as a minimum in any event) in policy M1.
44. Representations have been made that **MM5** (changes to Plan paragraph 4.8) does not meet the tests of soundness in that the general thrust of the message given is negative rather than encouraging and is not based on the evidence. Alternative wording is proposed. It may be the case that the proposed wording reflects the practice of those companies on behalf of whom the representation is made. However, evidence was given at the hearing sessions that the wash-plant technology referenced is not in wide use. The wording of **MM5** therefore reflects the generality of the circumstances that the Plan has to address.
45. Alternative wording is also proposed for **MM8** (policy M1). Some of the proposed wording would, in my view, give a competitive advantage to the represented companies. It is argued that the policy should be concerned only with supply to place it on the same footing as policy M2. While there is some merit in that, recycled aggregate tends to fall into a grey area between supply of minerals and management of waste. National policy for waste is concerned

with the provision of management capacity. On balance therefore I see no need for the suggested alterations to the MM for soundness. This is also addressed at IR84 and IR85.

46. I do however consider that some change to the policy wording proposed in **MM8** is required to better reflect the spirit of what I understood to be a Document (H10) setting out agreed principles. It is not necessary to repeat IR80 which sets out the context in which Document H10 was offered.
47. Policy M1 is meant to and does identify the provision of facilities for the production and/or supply of recycled and secondary aggregates as something which is beneficial as a matter of principle, subject of course to normal development management criteria. Where the application of those criteria identify adverse effects the absence of a ‘need’ figure to weigh as a material consideration in the s38(6) balance must be replaced by acknowledging the ‘in principle’ benefit. The matter in issue is whether ‘demonstrably outweigh’ reflects the ‘great weight’ in principle 4 of Document H10.
48. Ultimately the scale of any adverse effect or benefit is a matter of planning judgement, as is the balancing of one set against the other. However, adopting the wording used in #14 (significantly and demonstrably) as suggested in the MM consultation representation would more clearly express the agreed principle. This alteration to the Council’s proposed **MM8** is required for the soundness of the Plan since it helps to establish the context for policy W3 in respect of the construction, demolition and excavation (CDE) waste stream. The further change would bring the policy into line with national policy and no further consultation is required.
49. Turning to policies W1 and W3, **MM38** gives effect to IR87 in respect of policy W1 and is required for soundness. Similarly, **MM31 to MM37** inclusive are also required for soundness since they amend the supporting text. Although I have some sympathy with representations that it is inappropriate to include in these MMs any reference to an actual CDE figure, it is absolutely plain from the text included in the MMs that the amount is a minimum figure. No CDE figure is included in policy W1.
50. In the same way, the estimate of the CDE waste that would require management as non-hazardous waste rather than inert waste only serves to inflate the minimum figure for which non-hazardous recycling capacity needs to be identified. I acknowledge that the percentage of the CDE waste stream comprising this element was not subject to examination for the reasons set out in IR68 to IR88. However, there is no practical quantitative implication for policy since modified policy W3 does not place a quantitative cap either on site allocations to be made or on planning permissions coming forward.
51. Policy W3 sets out the waste management capacity and facilities required over the Plan period. Where possible, the minimum requirements are identified which sets the context for Plan 2. The supporting text and tables are thus vital to understand firstly why specific provision is made only for non-hazardous waste recycling facilities and secondly why the capacity required is as set out. The policy as now drafted is therefore consistent with national waste planning policy and, insofar as it can (see IR67 to IR88), meets the other soundness tests.

52. Working through the policy it is clear that permission will be given at suitable sites for waste management proposals at appropriate levels of the waste hierarchy, other than landfill which is subject to a separate policy, subject only to meeting the development management elements of the policy itself and those of the Plan. Granting of planning permission would not be constrained by capacity already available. Concerns raised in this regard through the MM consultation are unfounded in my judgement.
53. Others have suggested that the policy could be more simply worded and I tend to agree. However, the wording in **MM46** is not, save for one matter, unsound and I leave it to the Council to consider the points raised and address them as appropriate by way of Additional Modifications.
54. The one matter is the inclusion of the words ‘significantly and’ before ‘demonstrably’. The reason is that discussed above [46 to 48].
55. Subject to that change **MM46** is required for soundness, as are **MM39 to MM45** inclusive which alter the supporting text and tables.

## **Issue 2 – Are the spatial strategies the most appropriate of the reasonable alternatives considered?**

### *Introduction*

56. The Council has carried out SEA/SA on the Plan and it has asked me to recommend it be modified for soundness. I have concluded that the SEA/SA has met the legal requirements [28].
57. Under this issue the focus is therefore upon the spatial strategies that have been chosen and whether the evidence confirms that they are the most appropriate of the reasonable alternatives investigated by the Council. I shall then consider whether the wording of the policies intended to deliver the spatial strategies for minerals (M3) and waste management (W4) will do so and the likelihood of sites coming forward in accordance with those policies to deliver the required mineral provision and waste management capacity. Both are embraced by the ‘effective’ aspect of soundness. Given the iterative nature of strategy development, there is inevitably some overlap between these two considerations.

### *Minerals*

58. Three elements are set out in the Plan’s vision for minerals planning (1.1, paragraph 3.3). In summary, the first commits to making available sufficient aggregates to meet the development needs of the County and make a contribution to those of a wider area; the second seeks to minimise both what were termed during the examination hearing sessions ‘gravel miles’ and the harmful impacts of mineral extraction on communities and the environment; the third aims to enhance the quality of both the natural environment and the life of the County’s residents when mineral workings are restored.
59. Only the first and second are likely to have a spatial element. These two are developed into a number of minerals planning objectives (1.1, paragraph 3.4). Objectives i to v inclusive relate to the first vision while objectives vii and viii are relevant to the second.

60. The SEA/SA report update concludes that, overall, the proposed vision and objectives were found to be compatible with all of the SA objectives. It does however note that the high level spatial nature of the Plan means that some of the relationships are uncertain since an understanding of the location of future workings and the nature of mitigation measures are required to be confident of the assessment.
61. Submitted Policy M3 sets out the principal locations for working aggregate minerals, identifying a number of what the Council terms strategic resource areas (SRA) within which specific sites will be identified in Plan 2. Submitted policy M4 includes as one of the criteria the rebalancing of sharp sand and gravel production capacity between SRAs in western and southern Oxfordshire. This is the policy response to objectives vii and viii.
62. SEA/SA report update Appendix D.1 gives full details of the assessment of the reasonable alternative options considered in the appraisal of the Plan as proposed to be modified. Section 3 and Table 3.2 sets out the detail with the summary being presented in Section 4. The outcomes are that the inclusion of the Bampton/Clanfield area as an SRA would not be the most sustainable of the two options considered and that the policy response of rebalancing would be best achieved in SEA/SA terms by a 75%:25% distribution of new sharp sand and gravel provision to southern:northern Oxfordshire.
63. However, the SEA/SA report update fairly acknowledges that there is a considerable degree of uncertainty associated with these conclusions. They are influenced by the number and exact locations of sites ultimately coming forward. The main differences between options also derive in the main from considerations of ‘gravel miles’ and the associated effect on air quality and greenhouse gas emission SA objectives.
64. In the representations at MM consultation stage local communities generally objected to the higher level of mineral provision introduced to the Plan through **MM14**. However, the response to **MM15 to MM20** which give policy effect to the SEA/SA report update findings is influenced primarily by where in the County the respondent body or individual is located.
65. The representation submitted on behalf of a number of parishes by OXAGE identifies several concerns with the SEA/SA report update. However, no alternative evidence is put forward; nor is there any objective assessment to show how the SEA/SA outcomes would be different even if those concerns were found to be justified.
66. Having regard to the limitations of the SEA/SA identified I see no reason not to conclude that the minerals strategy being pursued is the most appropriate of the reasonable alternatives considered. As a result of **MM20** policy M3 would give explicit policy expression to the rebalancing that was, in my judgement, missing from submitted policy M4. As a matter of locational strategy it should sit within policy M3 as now proposed rather than policy M4 as submitted. The modified policy wording also defines what is meant by ‘northern’ and ‘southern’ for the purposes of the policy. **MM20** and **MM15 to MM19** inclusive which alter the supporting text to policy M3 are therefore required for soundness.

67. Two other points need to be addressed briefly. First, several of those making representations at MM consultation stage (and previously) have argued that parts of a specific SRA should be excluded at this stage as being undeliverable. That may well prove to be the case on further detailed assessment. However, that is for the Part 2 Plan, not the Plan that I am concerned with.
68. Second, concern has been raised about the meaning of the term ‘SRA’. This was subject of some discussion at the examination hearing session and, as a response, the Council has put forward **MM76**. This would add to the Glossary a definition of the term. The second part of the proposed wording explains how a SRA differs from an Area of Search which is a term defined in Planning Practice Guidance and has a specific meaning in minerals planning.
69. The distinction drawn is a fine one and is of most relevance to the application of policy M5. Nevertheless, **MM76** assists the effectiveness of the Plan and is therefore required for soundness.

#### *Waste management*

70. The vision for waste planning also has three elements within an overarching aim of seeing waste as a resource and maximising its reuse, recycling and composting while recovering value from the material left after those activities. The first vision seeks to transform the management of waste in accordance with the waste hierarchy. The second is for the County to be largely self-sufficient in dealing with the waste that it generates through the provision of a network of facilities. The third sets out the spatial principles that will guide how those facilities will be distributed across the County. In that sense there is a degree of pre-judgement of the spatial strategy to be followed.
71. Of the 10 waste planning objectives numbers iv, v, vi, viii and ix have a spatial element to them.
72. As modified for soundness, the Plan does not constrain the number of waste management facilities that may come forward by the application of any capacity cap [43 and 52]. Policy W4 therefore sets out guidance for the areas which should be looked to when identifying suitable sites in Plan 2 and determining applications for planning permission.
73. The SEA/SA report update considers the reasonable alternatives for the spatial strategy to underpin policy W4 in Appendix D.2. Five options were considered which were, in simple terms, reflective of an ever greater degree of dispersal of facilities. The detailed assessment is set out in Table 3.4 with the summary findings given in paragraphs 4.12 to 4.14.
74. Options 3 and 4 are found generally to perform the best in terms of sustainability because the inclusion of Banbury as a location for a strategic-scale facility and the smaller towns as potential areas for non-strategic-scale development has positive effects with regard to all transport related objectives. The proposed policy wording mitigates the concern identified in respect of both biodiversity and geodiversity and landscape objectives. As with minerals, uncertainty is inherent in the assessment against a number of objectives in the absence of precise locations being known. The possibility of opening up rural areas where there is access to the lorry route network to the development of strategic-scale facilities is also noted as having potential

negative impacts on biodiversity and landscape. It is noted that more dispersal could lead to facilities being located close to the County boundary. In turn, this could attract waste from outside the County thereby reducing self-sufficiency which is a SA objective. However, Plan waste objective i is to be net self-sufficient so this is not necessarily an issue of concern.

75. While it does not emerge strongly as the preferred option, there is no overriding SEA/SA finding to suggest that option 4 should not form the basis of the waste spatial strategy. **MM51** incorporates this into policy W4 and is required for soundness, as are **MM47 to MM50** inclusive which set out the supporting text to the policy.

### **Issue 3 – Are the development management policies effective and consistent with national policy?**

#### *Introduction*

76. The development management policies of the Plan fall into three categories. The first serves the dual function of setting out specific siting guidance to be followed when allocating sites in Plan 2 and setting out the strategic development management approach to be followed pending the adoption of that Plan (submitted policies M1, M4, M5 and W5). The second is the general development management policies that all proposals must meet (submitted policies C1 to C11 inclusive). The third comprises a number of policies that safeguard specific types of facility (submitted policies M6, M8, M9 and W11) or deal with specific minerals and waste issues (submitted policies M7, M10, W6, W7, W8, W9 and W10).
77. I shall consider each category in turn to the extent that issues of soundness have been raised in respect of particular policies.

#### *Siting guidance and strategic development management*

78. The development management aspect of policy M1 has already been addressed above [45 to 48].
79. Policy M3 sets out where the locations for working aggregate minerals are (the SRAs) and that specific sites will be identified in Plan 2 either within the identified SRAs (new and/or extensions to existing quarries) or outside the SRAs (extensions to existing quarries only). In both cases, identified sites must be in accordance with policy M4.
80. Submitted policy M4 lists a number of factors, all of which must be taken into account when applying policy M3 in the preparation of Plan 2. There was a potential internal conflict within submitted policy M4. Criterion (b) required the rebalancing of sharp sand and gravel production capacity. This can only be achieved over time through the bringing on stream of new production capacity in the south of the County either by way of new quarry sites or extensions to existing quarries. However, criterion (c) gave priority to the extension of existing quarries (after consideration of criterion (b)) before working new sites. It was never satisfactorily explained how this would work in practice to deliver the rebalancing desired.

81. The rebalancing criterion has now been moved to policy M3. Together with the addition to the preamble of policy M4 that sites must be allocated in Plan 2 in accordance with policy M3 any ambiguity has been removed. As now worded in **MM21** it is clear that an extension to an existing quarry in the north (as defined) would not have priority over a new quarry in the south (as defined) because that would be contrary to policy M3. However, priority would be given to an extension to an existing quarry in the south over a new quarry in the south. A number of other minor alterations to the wording have been made to address concerns raised by representors, including Historic England. At MM consultation stage some of those have confirmed that **MM21** addresses the concern raised. **MM21** is therefore required for soundness.
82. Policy M5 sets out the sequential approach for the consideration of applications for mineral working typically found in development plans. As submitted the policy was silent on the approach that would be taken to applications for borrow pits; **MM22** remedies that omission.
83. The policy also sets out how planning applications for mineral working will be assessed pending the adoption of Plan 2. OXAGE and others have criticised this policy wording both during the hearing sessions and at MM consultation stage.
84. The argument now made is that this Plan and Plan 2 are somehow one plan comprising two documents. Permitting sites to be identified through the development control process, which pending adoption of Plan 2 policy M5 would do, is therefore at odds with government policy requiring a plan-led system. The underlying premise of this representation is untenable although the outcome suggested (the policies of this Plan providing new sites before adoption of Plan 2) could arise. However, this would be a consequence of the two-Plan approach taken. IR18 to IR20 concluded that there was no legal compliance issue with such an approach.
85. It has also been suggested that the first paragraph of policy M5 as proposed to be modified should be deleted. This would serve no purpose since in the absence of any clearly stated approach, any planning application would be considered against the policies of the development plan in any event. All the first paragraph does is identify which those will be.
86. Finally, it is suggested that ‘the requirement to maintain a steady and adequate supply of aggregate’ should be replaced by ‘required to maintain the county landbank’ in the third paragraph of the policy and that if the first paragraph is not deleted as suggested, the words ‘to maintain landbanks’ should be added. Neither suggested change is necessary. Throughout the policy, accordance with policy M2 is required to be shown; policy M2 sets out both the provision to be made and the individual landbanks to be maintained.
87. Consequently, **MM22** as put forward in the consultation document is required for soundness.
88. Submitted policy W5 is proposed to be simplified considerably. The strategic development management elements of it have been relocated to policy W3 which has been addressed above [51 to 55]. Green Belt matters are now addressed through policy C12. As now proposed to be modified it gives guidance on the siting of waste management facilities and clarifies the



Council’s position with regard to development proposals coming forward on greenfield locations. It therefore gives appropriate guidance for the preparation of Plan 2 and assistance to strategic development management since policy W3 includes reference to it. It correctly reflects national waste planning policy and **MM52** is thus required for soundness.

*General development management policies*

89. The submitted Plan included 11 core policies which all development proposals would need to address and demonstrate compliance with. These were subject to representations at pre-submission stage and a separate examination hearing session. As a result, the Council proposed some changes to the policy wording and the supporting text. A new policy (C12) was also proposed to address development proposals coming forward in the Green Belt surrounding the City of Oxford. The MMs put forward are contained in **MM60 to MM70** inclusive. These are required for soundness subject to the following conclusion in respect of **MM63** arising from the MM consultation responses.
90. As a general point, there is a lack of consistency in the way that the policies assess the harm that may be caused or the impacts that may be experienced. In some the qualification is that the adverse effect must not be unacceptable, in others the harm must not be significant. Nevertheless, however phrased, the outcome is a matter of planning judgement. The alterations to be made to **MM8 and MM46** [46 to 55] ensure that the outcome of that planning judgement is properly weighed against the benefits of the proposal. No further alterations to the ‘C’ policy MMs are therefore required for that purpose.
91. As submitted it appears from the supporting text that policy C6 serves two purposes. The first is to give effect to the development management aspect of #112. Paragraph 6.28 deals with that. The second is to give effect to #143, bullet 8. In the context of planning for the sustainable use of minerals, this requires policies to be put in place to ensure (in summary) that where restoration of mineral working to agriculture is proposed the potential of best and most versatile agricultural land is safeguarded and soil resources are conserved. Paragraphs 6.29 and 6.30 address that and refer only to mineral development.
92. At all consultation stages Natural England commented only in respect of the consistency of this policy and the supporting text with national planning policy as set out in #143. A Statement of Common Ground (M7/8) between Natural England and the Council was prepared and the agreed wording for paragraph 6.30 and policy C6 was included as **MM62 and MM63** respectively. Changes to paragraphs 6.28 and 6.29 were included in the Additional Modifications also consulted upon by the Council.
93. Representations at MM consultation stage from the waste management industry argue, in effect, that the policy should not apply to waste development as the loss of agricultural land and therefore the impact on best and most versatile agricultural land would be small. While that may be true for most built development it would not necessarily be so for landfill proposals to which policy C6 would also apply by virtue of the wording of policy W6.

94. The first paragraph of the policy as proposed to be modified is therefore consistent with #112. The third paragraph is not inconsistent with #143 and must be read with policy M10 which deals with the restoration of mineral workings and, through policy W6, finished landfill sites. However, the second paragraph derives from #112 and is not consistent with it.
95. First, there is no requirement for an overriding need to be shown and no evidence has been put forward to explain why this is required by the particular circumstances in Oxfordshire. Indeed, paragraph 6.28 notes that the County has extensive areas of high quality agricultural land. Second, the requirement to seek to use areas of poorer quality agricultural land only comes into play when significant development of agricultural land is shown to be necessary. While the area to be taken by mineral working and landfill proposals may well be significant, the land-take from built waste development may not be.
96. Two alterations to the proposed modification are therefore necessary for consistency with national planning policy. Subject to these, **MM62 and MM63** as altered are required for soundness.
97. An objection has been raised to the wording of **MM67**. However, that wording was agreed previously with the body making the representation and is the subject of a Statement of Common Ground with the Council (M7/6). **MM67** brings the supporting text to policy C8 into compliance with national policy and is therefore required for soundness.

#### *Other policies*

98. **MM23 to MM30** inclusive make small but nevertheless important changes to submitted policies M6, M7 M8, M9 and M10. The changes address issues raised either through the pre-submission consultation representations or the discussion at the examination hearing sessions. None have proved to be controversial at MM consultation stage and all are required for soundness.
99. In particular **MM27** corrects an important failure to comply with national policy as set out in #143, bullet 3. Mineral Safeguarding Areas and Mineral Consultation Areas will now be shown on the policies map which replaces Figure 9: Minerals Key Diagram (**MM30**).
100. At MM consultation stage representations have been made that **MM53** does not alter submitted policy W6 in the way envisaged in the Statement of Common Ground (H2). However, the way the wording of the policy should be altered was not agreed. The alterations now requested seem to be intended to bring into the scope of the policy developments which are not county matters as defined in statute and therefore outside the remit of the Plan. The policy is confined to the provision of facilities for the permanent disposal of waste to land. The operational development that the representor seeks to bring into the policy would not amount to such a facility. **MM53** as proposed is required for soundness.
101. Suggested alterations to **MM59** (policy W11) are made in order to simplify the policy. However, the policy wording needs to explain both how waste management sites will be safeguarded through Plan 2 and, pending its adoption, how existing waste management sites to be safeguarded will be

identified and the list kept current. **MM59** does so and is required for soundness as is **MM58** which is to the supporting text.

102. **MM56** alters submitted policy W9 to correctly reflect the policy of the Nuclear Decommissioning Authority with regard to the management of radioactive waste across the nuclear estate. Both the relevant representors have indicated their agreement with the wording at MM consultation stage. **MM56** is required for soundness.

103. **MM54, MM55 and MM57** are alterations consequent upon the introduction of new policy C12. They are nevertheless required for effectiveness and thus soundness.

#### **Issue 4 - The monitoring framework**

104. While the submitted Plan section 7 addresses this topic, it does not include a monitoring framework; that is deferred for inclusion in the Minerals and Waste Monitoring Reports. **MM71, MM72 and MM73** introduce supporting text and a Framework into the Plan and are required for soundness.

#### **Other Matters**

105. As discussed with respect to **MM76** [69], **MM74 and MM75** make useful changes for clarity to the Glossary but neither are required for soundness. The Council may nevertheless wish to include the text by way of an Additional Modification.

## **Overall Conclusion and Recommendation**

106. The Plan has a number of deficiencies in respect of soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above with reference to the IR as appropriate.

107. The Council has requested that I recommend MMs to make the Plan sound and legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in Appendix B the Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Brian Cook*

Inspector

This report is accompanied by Appendix A containing the Interim Report to the Council and Appendix B containing the Main Modifications.