

Guidance Note on the Mineral Safeguarding Process for aggregates – Sand & Gravel and Carstone

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Please note that Norfolk County Council has written a separate mineral safeguarding guidance note covering silica sand, which should be referred to for planning applications located within the MSA/MCA for silica sand.



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1. General guidance on prospective non-mineral development on Mineral Safeguarding Areas/Mineral Consultation Areas

1.1 Background

“Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.”

Paragraph 142 of the National Planning Policy Framework (NPPF)

Norfolk County Council is the Mineral Planning Authority for Norfolk. As the Mineral Planning Authority it is responsible for preparing Local Plans for Minerals, including the definition of Mineral Safeguarding Areas (MSAs) and Mineral Consultation Areas (MCAs). The adopted Norfolk Minerals and Waste Development Framework contains defined MSAs/MCAs, and mineral safeguarding policy (Policy CS16). In Norfolk, the boundaries of Mineral Safeguarding Areas and Mineral Consultation Areas are the same. Mineral Safeguarding Areas are those areas where there is an underlying mineral resource which may be of economic interest, which should be protected from unnecessary sterilisation by non-mineral development.

In Minerals Consultation Areas Norfolk County Council in its capacity as the Mineral Planning Authority must be consulted on relevant planning applications by the Local Planning Authority and its response should be taken into account in the LPA’s determination of the planning application.

Sterilisation of mineral resources is the loss of access to those resources due to non-mineral development. This means that when permanent development is constructed over mineral resources, a result of this development is that the minerals underneath and close to the development would be unavailable for future generations to extract and use in order to achieve growth. As construction also consumes aggregate this results in a depletion of resources elsewhere as well as sterilisation on the site of development.

1.2 Mapping and Safeguarding

The defined Mineral Safeguarding Areas in Norfolk, mapped as part of the Minerals and Waste Development Framework, can be seen in the following locations.

The Policies (formerly Proposals) Map contains a map of Norfolk showing the MSAs in a series of 26 insets. This is available for download on the Norfolk County Council website at: <http://www.norfolk.gov.uk/view/ncc126929>

Norfolk County Council also provides an interactive web-based mapping browser showing MSAs at:

<http://norfolk.jdi-consult.net/ldf/mapping2.php?mapid=201>

1.3 National and Local Policy

The National Planning Policy Framework contains policies requiring Local Planning Authorities (LPAs) to have regard to mineral safeguarding. Paragraph 143 states that LPAs should define MSAs. In two-tier authority areas such as Norfolk, the County Council as the Mineral Planning Authority defines MSAs and safeguarding policy. The adopted Norfolk Minerals and Waste Core Strategy forms part of the Development Plan for Norfolk, which all plans prepared by the Norfolk District and Borough Planning Authorities should have regard to in preparing their local plans, and in the Development Management process.

In preparing the Norfolk Minerals and Waste Local Development Framework, Norfolk County Council has defined MSAs for Sand and Gravel, Carstone and Silica Sand. These MSAs are derived primarily from the BGS Mineral resources map (2004) as amended by the DiGMapGB-50 dataset, and with regard to silica sand have also been amended following information from the minerals industry. This is in accordance with the guidance "Mineral safeguarding in England: good practice advice" published by the British Geological Survey and DCLG (available at: www.bgs.ac.uk/downloads/start.cfm?id=2069)

Paragraph 143 of the NPPF requires Local Plans to:

'Set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place'.

Prior extraction is the process by which mineral is won from a site prior to non-mineral development taking place. This can take place at a number of different scales, which would depend on the size of the site, the depth of mineral, the type and quality of the mineral, and the nature of the proposed development. For example, it may take the form of a Materials Management Plan (see section 3.2.1 for further information) or larger scale phased mineral operations.

Whatever form the prior extraction takes, it is recognised that some scales of prior extraction may be incompatible with the proposed development, this would need to be determined on a site by site basis. However, it is considered likely that some form of prior extraction would be feasible on most sites where viable mineral is proved.

The Norfolk Minerals and Waste Core Strategy (adopted Sept 2011) sets out in Policy CS16 – Safeguarding, the areas defined as safeguarded, and the procedure to be followed in order to meet the requirements of this policy. The relevant pages of the M&W Core Strategy have been reproduced in Annex A of this guidance. Appendix C of the M&W Core Strategy is also reproduced as this indicates development on MSAs which is exempt from the requirement to comply with Policy CS16. The full M&W Core Strategy is available to view at: www.norfolk.gov.uk/view/NCC094912

The NPPF contains a policy regarding non-mineral development which would result in sterilisation of mineral resources; paragraph 144 states that:

‘When determining planning applications, local planning authorities should: not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes.’

2. General process to be followed by all non-mineral applications

As mentioned in Section 1.3 above, the M&W Core Strategy contains in Appendix C a list of applications which would be exempt from the requirements of M&W Core Strategy Policy CS16. The list of exempt applications is also reproduced at the end of this document.

If a prospective development does not fall within these exemptions applicants should consult the mapping of MSAs mentioned in Section 1.2. If the redline application area of the prospective development falls wholly or partly within an MSA then the applicant should follow the process outlined in section 3 below.

If an application which is exempt from the requirements of Policy CS16 is submitted to Norfolk County Council, in its capacity as the Mineral Planning Authority, for a mineral safeguarding response, no response will normally be sent to either the LPA or applicant.

3. General process to be followed for non-mineral applications on MSAs

The general process below provides an outline of how prospective developers should address safeguarding issues related to MSAs. This advice is general in nature and may be supplemented or amended by specific advice on individual sites. It is recommended that prospective applicants engage in discussions regarding safeguarding with the Mineral Planning Authority early in the planning process.

If a proposed development is located on a MSA then there are two main issues to be addressed in formulating a safeguarding response:

1. the applicant should carry out investigations to identify whether the resource is viable for mineral extraction, and
2. if the mineral resource is viable, the applicant considers whether it could be extracted economically prior to development taking place.

It is considered that either the Environmental Statement or, in the case of non-EIA applications, the Planning Statement should address relevant mineral safeguarding issues for the proposed development.

It is important that Mineral Safeguarding issues are recognised on a site as early in the planning process as possible. The potential for prior extraction

should be recognised and built into the masterplanning process. A comprehensive design process that recognises where viable mineral resources occur may influence the design of a site, especially in relation to site topography and sustainable drainage system design.

Failure to adequately address mineral safeguarding issues in a planning application on a MSA may result in a statutory objection from Norfolk County Council in its capacity as the Mineral Planning Authority.

The list below summarises the steps to be taken for an applicant in carrying out a mineral assessment, these steps are explained in greater detail in subsequent sections

1. Mineral investigations

Depth and nature of investigations (section 3.1.1.)

Spacing of trial pits/boreholes (section 3.1.2)

2. Assessment

Viability and prior extraction (section 3.2.1)

Site suitability for prior extraction (section 3.2.2)

3.1 Mineral Investigations

The mineral deposits found in Norfolk are highly variable, and the data used to define the MSAs is general in nature. Therefore site investigations are required in order to prove the exact location of any deposits, assess the quality of any mineral and the depth of any overburden present. These factors principally determine the viability of the site.

3.1.1 Depth and nature of investigations

The nature of any potential prior mineral extraction would be likely to be shallow in comparison with dedicated sand and gravel workings, as a result of the intended final use of a site for non-mineral development. There would be differences in the likely depth of extraction depending on a number of factors. These factors may include whether the proposed non-mineral use of the site would be residential or non residential, as well as the topography of the site and whether grading or levelling of the site is required for the proposed non-mineral use.

There may be opportunities for more general mineral extraction in areas proposed for industrial uses, where construction at a lower level would reduce any potential amenity impacts from these buildings, such as reducing any visual intrusion from the scale of the buildings.

Therefore it is considered that mineral investigations, either as boreholes or trial pits to a depth of 2.5m-3.5m, would be appropriate. This range of depths has been used for investigations on other proposed residential developments in Norfolk. The boreholes/trial pits for mineral investigations could be linked to the investigations normally required as part of the geotechnical study to support a Flood Risk Assessment (FRA) which would normally be to a similar depth. The Mineral Investigations would require the addition of Particle Size

Distribution (PSD) tests on batches of any sand and gravel recovered, although this is often carried out for the FRA.

3.1.2 Spacing of trial pits and/or boreholes

The spacing of trial pits and/or boreholes is important to ensure that a thorough assessment of the mineral resource across a site can be made. An initial spacing of approximately 100m-150m centre to centre should be considered, with additional locations if required to determine the extent of deposits on site.

Applicants may find it useful as part of their discussions with the Mineral Planning Authority to provide a draft trial pit/borehole location plan which can be agreed with the Mineral Planning Authority at an early stage. This will ensure that the subsequent investigations and assessment are derived from an appropriate distribution of trial pits/boreholes. This would help in preventing additional work later in the application process as the result of an objection from the Mineral Planning Authority.

3.2 Assessment

3.2.1 Viability and prior extraction

If no viable deposits were found at the depths likely to be considered appropriate there would only need to be a short statement to this effect and the submission of borehole logs and PSD results as evidence.

If mineral investigations were to prove a viable deposit, an assessment would be required to determine the quantities of material which could be recovered this could take the form of Materials Management Plan - Minerals.

The MMP-M would assess areas of construction where materials would be potentially recoverable, such as from groundworks, sustainable drainage systems, landscaping areas etc. The aim of the MMP-M should be, as a minimum, to balance as far as possible the mineral recovered from these operations with site construction activity which would consume aggregate, such as road sub-bases, granular fill, bunding required, and mortar etc.

The MMP-M should consider the extent to which material available on site would meet the specifications required for construction. While there is the potential that significant amounts of material recovered could be used on site, there is likely to be a need for some grades of material from traditional sources. Material recovered from the site which is 'Out of Grade' for onsite use could be sent to the supplier of aggregate as a return run, where it could be processed and used; this has been an approach taken by other developments in Norfolk.

There are benefits in terms of sustainability which could accrue from the use of onsite materials. Additionally, a reduction in the amount of material being

brought to the site may result in cost savings, and export of 'out of grade' materials may generate some revenue.

On some sites where more general extraction takes place, there may be opportunities for a net export of material, this would be encouraged subject to no unacceptable impacts after appropriate mitigation measures are taken into account.

3.2.2 Site Suitability for prior extraction

The use of conditions and mitigation measures form a normal part of development for mineral extraction. As explained above, the extent of any mineral working as part of prior extraction is likely to be less than would normally be the case for a commercial mineral working. It is considered that, in general, conditions and mitigation measures for modern workings could reduce impacts to the levels likely for any other construction project.

The assessment will need to consider whether there are areas of the site where viable mineral resources exist which would not be built on as part of the proposed development and from which mineral could not be extracted. For example areas of mature woodland which would remain as part of the development; also areas in close proximity to existing residential housing which would not form the curtilage of a proposed dwelling.

The National Planning Practice Guidance provides detail on the methodology and mitigation for noise and dust assessments for mineral workings. This would be a matter for the detailed assessment at the planning application stage.

4. Determining authority

Please note that for the majority of non-mineral and non-waste developments the Local Planning Authority will be the district or borough council. This means that the LPA will be the determining authority and any objection made by the Mineral Planning Authority will be a statutory objection. A statutory objection is a material consideration of considerable weight for the determining authority.

It should also be noted that any application on a mineral safeguarding area which has not complied with the requirements of M&W Core Strategy Policy CS16 is contrary to the adopted development plan and should be advertised as a departure application.

Please note that Norfolk County Council has written a separate mineral safeguarding guidance note covering silica sand, which should be referred to for planning applications located within the MSA/MCA for silica sand.

Glossary

Norfolk Minerals and Waste Core Strategy and Development Management DPD:

This document forms part of the statutory planning framework for minerals and waste development in Norfolk. The Core Strategy contains the strategic policies and the Development Management policies are to be used in the determination of planning applications. The Core Strategy forms part of the adopted Development Plan for Norfolk.

Development Management: The process through which the Council determines whether a proposal for development should be granted planning permission, taking into account the development plan and any other material considerations.

Development Plan: This includes adopted Local Plans and neighbourhood plans and is defined in section 38 of the Planning and Compulsory Purchase Act 2004 (as amended) that set out the planning policies and proposals for the development and use of land. Decisions on planning applications must conform to the Development Plan, unless material

Local Planning Authority: An organisation with statutory planning powers, i.e. the relevant County, District, Borough or Unitary Council.

Local Plan: The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004 (as amended). Current core strategies or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act.

Mineral Consultation Area: An area identified in order to ensure consultation between the relevant LPA and the Mineral Planning Authority before certain non-mineral planning applications made within the area are determined

Mineral Safeguarding Area: An area designated by Minerals Planning Authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development.

Mineral Planning Authority: An organisation with statutory planning powers relating to minerals development, in most areas the County or Unitary Council.

Mitigation: Measures to reduce, avoid or remedy any adverse impacts caused by development.

National Planning Policy Framework: This document sets out the Government's planning policies for England and was published on 27 March 2012. The NPPF must be taken into account in the preparation of Local and neighbourhood Plans, and is a material consideration in planning decisions. It states that in order to be considered sound a Local Plan should be consistent with national planning policy.

National Planning Practice Guidance: A web-based resource published by the Department for Communities and Local Government (DCLG) on 6 March

2014 and updated as needed. It is available at:
<http://planningguidance.planningportal.gov.uk/blog/guidance/>

Planning conditions: Conditions attached to a planning permission for the purpose of regulating and controlling the development.

Site Specific Allocations: Also known as Specific Sites - where viable resources are known to exist, landowners are supportive of minerals development and the proposal is likely to be acceptable in planning terms. Such sites may also include essential operations associated with mineral extraction. This is the preferred way to plan for the steady and adequate supply of minerals as it provides the necessary certainty on when and where development may take place.

Annex A

Extract from Adopted Minerals & Waste Core Strategy

Policy CS16-safeguarding and supporting text

Safeguarding minerals and waste sites

6.81 The limited availability of suitable sites for minerals and waste facilities means that it is essential for the stock of existing and proposed sites to be safeguarded. The safeguarding of mineral sites has a number of benefits, both in terms of protecting sources for construction purposes and maintaining a supply of building stone for conservation purposes. The purpose of safeguarding existing and proposed sites is not necessarily to prevent other forms of development from taking place in proximity to existing or potential mineral extraction and associated development or waste management facilities, but to ensure that issues of compatibility across the differing forms of development are taken into account in the planning process.

6.82 Minerals are a finite natural resource and clearly can only be worked where they exist. Mineral working is becoming increasingly constrained by the need to protect the key environmental, heritage and amenity assets of Norfolk, which limits the amount of resource available in practice. The primary evidence base for Mineral Safeguarding Areas (MSAs) for mineral resources is Norfolk Mineral Resources Map 2004 (as amended) prepared by the British Geological Survey. Chalk, clay and peat are either so extensive in Norfolk or demand for them is so low (relatively) that safeguarding such deposits is not considered necessary. Therefore, only sand and gravel, silica sand and carstone resources are safeguarded. Given the national significance of silica sand (see paragraph 3.4), the safeguarding of silica sand resources will be given particular importance. The broad extent of the MSA is shown on the key diagram in the Core Strategy. The boundaries of MSAs will be delineated on the Proposals Map accompanying the Minerals Site Specific Allocations DPD. In the period prior to the adoption of the Mineral Site Specific Allocations DPD the Mineral Consultation Areas from the Minerals Local Plan (2004) will continue to be used and shown on the Proposals Map. The Mineral Consultation Areas from the Minerals Local Plan (2004) will be superseded by the Mineral Safeguarding Areas and Minerals Consultation Areas in the Mineral Site Specific Allocations DPD on its adoption.

6.83 Where proposals for non-minerals or non-waste development might prejudice the implementation of the Core Strategy, consideration should be given to how they could be amended to make them acceptable or, where this is not practicable, to refusing planning permission. As well as minerals extraction and waste developments themselves, it also includes related infrastructure such as concrete batching, the manufacture of coated materials, sites for the handling, processing and distribution of substitute, recycled and secondary aggregate material and the storage, handling and processing facilities at railheads (Trowse and Leziate) and wharves (Great Yarmouth and King's Lynn). The boundaries of safeguarded mineral and waste sites will be delineated on the Proposals Map accompanying the Core Strategy. The

boundaries of safeguarded mineral and waste site specific allocations and areas of search will be delineated on the Proposals Map accompanying the Mineral Site Specific Allocations DPD and the Waste Site Specific Allocations DPD.

6.84 The distance to the boundary of a Consultation Area around key wastewater and sludge treatment facilities may be relaxed, following consultation with Anglian Water, on a case by case basis, depending on the nature of the works and the sensitivity of its location.

6.85 Appendix C sets out advice to the District and Borough planning authorities on the forms of development on which consultation with the County Planning Authority should take place before planning applications are determined. The authorities will be requested to consult the County Planning Authority if the development is within 250 metres of a safeguarded site, with the exception of wastewater treatment facilities where the distance will be 400 metres. Incompatible development will not be supported. Decisions on whether a proposed development would prevent or prejudice the continued use of a safeguarded site and would therefore raise an objection from Norfolk County Council, will be made by on a case by case basis. Each decision would take into account the particular use of the safeguarded site, the nature of the proposed development, their compatibility and, where appropriate, any mitigation which could address any adverse impacts.

6.86 For safeguarding mineral resources, the Minerals Planning Authority has determined that the Minerals Consultation Area (MCA) is the same defined area as the MSA, which requires the District and Borough Councils to consult the County Planning Authority on applications for any form of development received within these areas, which are likely to affect or be affected by mineral working and meet the criteria outlined in Appendix C.

6.87 The inclusion of land in a MSA/MCA does not necessarily mean that planning permission would be granted for mineral extraction and there may be sound planning reasons why proposals would be rejected. Designation of these areas is intended to ensure that mineral interests are taken into account at the appropriate time. For example, circumstances may arise where it may appropriate to undertake mineral extraction in advance of development. MPS1 (paragraph 13) states that planning authorities should encourage the prior extraction of minerals, where practicable, if it is necessary for non-mineral development to take place in MSAs.

Core Strategy Policy CS16 - Safeguarding mineral and waste sites and mineral resources

The County Council will safeguard existing, permitted and allocated mineral extraction and associated development and waste management facilities, within the following categories:

- Waste management facilities with a permitted input of over

- 20,000 tonnes per annum;
- Key wastewater and sludge treatment facilities (listed in the Waste Site Specific Allocations DPD);
 - Waste water pumping stations;
 - All mineral extraction sites that are active, and sites with planning permission and allocated sites; and
 - Infrastructure located at railheads, wharves and quarries which can transport or handle minerals.

Consultation areas will be delineated on the Proposals Map and extend to 250 metres from each safeguarded site, apart from the key wastewater and sludge treatment facilities, for which the consultation distance will be 400 metres.

In addition, any development proposed within 50 metres of a pumping station (as identified through the planning application) will be subject to consultation with the relevant wastewater management company by the planning authority responsible for determining the application.

The County Council will oppose development proposals which would prevent or prejudice the use of safeguarded sites for those purposes unless suitable alternative provision is made.

Mineral Safeguarding Areas and Mineral Consultation Areas

Silica sand

Given that silica sand is a nationally important but scarce resource, Norfolk's silica sand resources will be safeguarding from inappropriate development proposals. The Mineral Planning Authority should be consulted on all development proposals within Mineral Consultation Areas, except for the 12 excluded development types set out in Appendix C. In line with advice in MPG15 (paragraph 2), the Mineral Planning Authority will object to development which would lead to the sterilisation of the mineral resource and it would be for the relevant district council to decide whether there are compelling planning reasons for over-riding this safeguarding.

Carstone and sand & gravel

Carstone and sand & gravel resources are not as nationally important and scarce as silica sand, but MPS1 (paragraph 13) cautions against proven mineral resources being "needlessly" sterilised by non-mineral development. The conservation benefits of carstone will be a consideration in safeguarding resources.

The Mineral Planning Authority should be consulted on all development proposals within Mineral Consultation Areas, except for the 12 excluded development types set out in Appendix C. For other development types within Mineral Consultation Areas (i.e. non-minor development outside settlement boundaries), the Mineral Planning Authority will expect to see appropriate investigations carried out to assess whether any mineral resource there is of economic value, and if so, whether the material could be economically extracted prior to the development taking place.

APPENDIX C: SAFEGUARDING CONSULTATION PROCEDURE

C.1 In accordance with Core Strategy Policy CS16 the district and borough councils are requested to consult the County Planning Authority on planning applications that may prejudice the future use of the Mineral Safeguarding Areas and the existing or proposed minerals and waste facilities shown on the Proposals Map. In order to minimise the number of consultations, it is proposed to restrict the type of developments requiring consultation to those with significant potential for affecting the future use of areas and sites referred to above.

C.2 The following developments will be excluded from the consultation process:-

1.	Infilling in towns and villages.
2.	Householder applications.
3.	Advertisement applications.
4.	Reserved matters applications.
5.	Applications for new or improved accesses.
6.	Applications for listed building consent.
7.	'Minor' extensions/alterations to existing uses/buildings.
8.	'Temporary' development (for up to five years).
9.	Agricultural buildings adjacent to existing farmsteads.
10.	'Minor' works such as fences and bus shelters.
11.	Amendments to current permissions.
12.	Extensions to existing settlements of no greater than 1 hectare