

**ETD delegated decision report – Minerals Site Specific Allocations
DPD - Single Issue Silica Sand Review - Pre-Submission Addendum:
Modifications**

1. Background

- 1.1. Norfolk County Council, as the Minerals Planning Authority, must plan for a steady and adequate supply of industrial minerals, in accordance with National Planning Policy. The Authority has a statutory duty to produce and maintain an up-to-date Minerals Plan which forms the basis for determining any planning applications for mineral extraction that are lodged with the Authority.
- 1.2. The Minerals Site Specific Allocations Plan (Minerals SSA Plan), which was adopted in October 2013, contains a requirement imposed by the Secretary of State for a Silica Sand Review of the Plan to be completed by 2016. The purpose of the Silica Sand Review is to address the predicted shortfall, of 2.6 million tonnes, in the quantity of silica sand extraction sites allocated in the Plan, by designating a specific site and areas of search which would be suitable to meet this shortfall. It is expected that no more than two additional sites will be needed over the plan period (to 2026) to meet the shortfall. The Silica Sand Review will help ensure that attention is focused on suitable extraction areas within the silica sand resource.
- 1.3. On 11 April 2016 full Council agreed to the publication of the Pre-Submission version of the Silica Sand Review for a six week representations period, in accordance with Regulation 20 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 1.4. The Pre-Submission document allocates one specific site and six areas of search for silica sand extraction. The Pre-Submission document contains policies detailing the requirements that a planning application for silica sand extraction within the specific site or an area of search will need to address. Areas of search are defined in the National Planning Practice Guidance (PPG) as “areas where knowledge of mineral resources may be less certain, but within which planning permission may be granted, particularly if there is a potential shortfall of supply”. Therefore the areas of search are large areas within which planning permission for silica sand extraction may be granted on a smaller area of land. The specific site and the defined areas of search cover a much larger area (1,405 hectares) than is required for silica sand extraction over the plan period to 2026 (approximately 40 hectares). This situation is to be expected due to the purpose and definition of areas of search.
- 1.5. The Pre-Submission representations period took place for six weeks from 16 May to 27 June 2016. The number of responses received is detailed in paragraph 5.2 of this report. The majority of representations received were objections to area of search AOS A. The main issues raised in the representations are detailed in the appendix to this report. Having reviewed the representations received, it is proposed to make four main modifications to the Pre-Submission document, by publishing an Addendum to the Pre-Submission document. The modifications proposed are detailed in section 2 of this report.

- 1.6. Due to the current shortfall in allocated silica sand extraction sites, without the Silica Sand Review there would be uncertainty over the location of future silica sand extraction for both the minerals industry and local communities which could lead to pressure to grant planning permission for extraction at less suitable sites due to the national importance of silica sand.
- 1.7. Developers wanting to extract mineral from specific sites or land within an area of search allocated in the Minerals Site Specific Allocations Plan will still need to apply for and be granted planning permission before mineral extraction can take place. Planning permissions are often granted subject to conditions to mitigate potential adverse impacts from site operations and mineral extraction sites are monitored on a regular basis.

2. **Decision and reasons why the decision is being made**

- 2.1. The recommended decision is to publish the 'Pre-Submission Addendum: Modifications' provided with this report for a six week representations period. The four main modifications are:
 - **Amending the southern boundary of AOS D** to bring it within the existing woodland and amending the site assessment and the supporting documents to reflect this modification.
 - **Not allocating AOS A as an area of search**, by deleting the AOS A assessment, deleting references to AOS A from the Areas of Search Policy and supporting text in the Silica Sand Review, amending the supporting documents to remove references to AOS A being an allocated area of search.
 - **Amend the Areas of Search Policy** to take into account representations made by Historic England within the requirements for a Landscape and Visual Impact Assessment and a Heritage Statement at the planning application stage.
 - **Amend Policy SIL01** to take into account representations made by Historic England within the requirements for a Landscape and Visual Impact Assessment at the planning application stage.
- 2.2. The supporting documents have been reviewed to take into account the implications of the proposed Modifications. The documents that have been reviewed are: Sustainability Appraisal Report, Habitats Regulations Assessment (Task 1 and Task 2), Flood Risk Sequential Test, Equalities Impact Assessment and the Revised Policies Map. The amendments required to these documents, due to the proposed modifications, will be published as part of the "Single Issue Silica Sand Review Pre-submission Addendum: Modifications".
- 2.3. The modification to amend the southern boundary of AOS D, to bring it within the plantation woodland, is due to a representation from Historic England. Historic England requested this change to the plan to prevent potential harm to the setting of the Remains of Pentney Priory (which is a Scheduled Monument and contains two Listed Buildings). This modification would move the southern boundary of AOS D over 460 metres further north, into the existing woodland. The southern edge would therefore be just less than 900 metres from the Remains of Pentney Priory. It also excludes a County Wildlife Site (CWS 429) from the area of search and reduces that proportion of AOS D in Flood Zone 2. The size of Area of Search D would reduce from 109 hectares to 85 hectares. Changes are required to the site assessment to reflect the modification to the southern boundary.

- 2.4. The modification to not allocate AOS A as an area of search in the Silica Sand Review is due to representations received from the Norfolk Coast Partnership and the Borough Council of King's Lynn and West Norfolk. The Norfolk Coast Partnership objected to AOS A and one of their reasons for objecting was "the very open, isolated and rural character of the landscape which would make it very difficult to manage landscape impacts, including on the setting of the nearby Norfolk Coast AONB". The Borough Council of King's Lynn and West Norfolk raised concerns about impacts from silica sand extraction within AOS A on the landscape character and its relationship to the AONB, including "The drained and open coastal marshes around the Snettisham area in the north of the Borough, whilst not all in the AONB, is a significant asset to the Borough. Any diminution of the character type diminishes the wider value".
- 2.5. The northern boundary of AOS A is 180 metres from the AONB to the north and the southern boundary of AOS A is 370 metres from the AONB to the south west, at the closest point. Based on the above representations and due to its proximity to the Norfolk Coast AONB and the potential for views of AOS A from within the AONB, it is considered that there is the potential for silica sand extraction within AOS A to affect the setting of the AONB and the landscape character of the area.
- 2.6. The Pre-Submission document contains a specific site and six areas of search totalling 1,405 hectares, to meet a forecast need of approximately 40 hectares over the plan period, to 2026. Therefore, it is recommended that AOS A is not allocated in the Silica Sand Review because the potential for effects on the setting of the AONB mean that it is considered to be the least preferable area of search for silica sand extraction.
- 2.7. Not allocating AOS A and amending the southern boundary of AOS D, removes 352 hectares of land from the areas of search, leaving 1,032 hectares within five areas of search and 21 hectares in specific site SIL01. There is also one silica sand site allocated in the adopted Minerals Site Specific Allocations DPD in Policy MIN40. It is considered that, together, this is sufficient land within which a planning application could come forward for a suitable site or sites for future silica sand extraction to meet the forecast need, during the plan period, to 2026.
- 2.8. The modifications to the Areas of Search Policy and Policy SIL01 to take into account representations made by Historic England. Historic England requested that one requirement within Policy SIL01 is amended (additional text is underlined) to state "The Landscape and Visual Impact Assessment will include Scheduled Monuments, Listed Buildings, archaeological assets and non-designated assets as affected and their settings, together with suitable mitigation measures to address the impacts and conserve the significance of those assets."
- 2.9. Historic England requested that two requirements of the Areas of Search Policy are amended, and our proposed modifications are shown below (additional text is underlined). This policy will also be amended to remove reference to the Norfolk Coast AONB, because with AOS A not allocated there are no areas of search near to the Norfolk Coast AONB.

"The Landscape and Visual Impact Assessment will include ~~the Norfolk Coast AONB~~, Core River Valleys, Scheduled Monuments and non-designated heritage assets of archaeological interest, Listed Buildings and Conservation Areas and their settings where appropriate, together with sustainable mitigation measures to address the impacts and manage change in ways that will best sustain heritage values."

"A Heritage Statement to identify heritage assets and their settings, assess the potential for impacts and identify appropriate mitigation to sustain heritage values if

required..... The completed statement will comply with the requirements of policies CS14, DM8, ~~and DM9~~ and DM15.”

3. **Alternative options considered**

- 3.1. The alternative option is to submit the Silica Sand Review to the Planning Inspector without making any modifications. This option would enable the Silica Sand Review to be submitted for examination at the beginning of September 2016, as originally planned. The Planning Inspector would determine, through the examination process, whether the Pre-Submission document is sound and legally compliant, or whether any modifications are required, taking into account the representations received during the Pre-Submission representations period.

4. **Risks and implications**

- 4.1. The financial implications of publishing the “Single Issue Silica Sand Review Pre-Submission Addendum: Modifications” for a six week representations period is expected to be £2,500 for publication of documents, public notices and postage, excluding the costs of officer time. These costs will be managed by the service. Consultation is carried out via the internet and email wherever possible as this maximises savings in both time and cost, however there is still a need for some hard copies of the Modifications document to be produced and for some correspondence by letter to ensure that the representations process is accessible to all.
- 4.2. The Silica Sand Review process must be carried out in accordance with the relevant planning legislation. The legal compliance of the plan will form part of the examination carried out by an independent Planning Inspector in 2016/2017.
- 4.3. The environmental implications of the Modifications to the Silica Sand Review have been formally assessed as part of the review process, through the Sustainability Appraisal and the Habitats Regulations Assessment which must be carried out in accordance with the relevant legislation and include formal consultation stages.
- 4.4. No inequalities in outcomes have been identified as a result of the Modifications to the Silica Sand Review.
- 4.5. Following the close of the representations period on the Modifications document, if no fundamental issues are raised the Pre-Submission document, Modifications and relevant background/supporting documents, together with all representations received during both the original Pre-Submission representations period and the Modifications representations period, will be submitted to the Secretary of State.
- 4.6. It is possible that objections will be made to the modification to not allocate AOS A from in Pre-Submission document, for example, by Sibelco and the Mineral Products Association. It is also possible that some landowners of land within AOS A may object to the decision not to allocate AOS A in the Pre-Submission document. If objections to the modifications are received, the Planning Inspector will consider them as part of the examination of the Silica Sand Review and will consider whether the document is sound and legally compliant as modified by the Pre-Submission Addendum.
- 4.7. Publishing the Modifications for a six week representations period during September and October 2016 is expected to delay the planned submission of the Silica Sand Review by three months. The Minerals and Waste Development Scheme (approved by EDT Committee in May 2016) contains the dates of the forthcoming stages of the Silica Sand Review. The Development Scheme states that the Silica Sand Review will be submitted in September 2016, with examination hearings commencement in November 2016. The Inspector’s Report was expected to be received in January

2017 and the Silica Sand Review adopted by Norfolk County Council in April 2017. A six week representations period on the Modifications is expected to delay this timetable as follows: Submission early December 2016, examination hearings commencement February 2017, Inspector's Report expected to be received April 2017 and adoption June 2017. As part of the examination of the Silica Sand Review, the Planning Inspector will assess the legal compliance of the Silica Sand Review, including its compliance with the adopted Minerals and Waste Development Scheme. Therefore the Minerals and Waste Development Scheme may need to be revised in order for the Silica Sand Review to be legally compliant.

- 4.8. Recent advice (March 2016) from the government appointed Local Plans Expert Group is that local plans that pre-date the publication of the National Planning Policy framework (NPPF) should be considered out of date after March 2018. While the advice was prepared with the delivery of new housing in mind it has potential implications for minerals and waste planning authorities. In the case of Norfolk both the Minerals and Waste Site Specific Allocations DPDs post-date the publication of the NPPF; however the Core Strategy and Development Management Policies DPD, which was adopted in September 2011, does not. The current adopted timescale for a full replacement of the Minerals and Waste Local Plan is October 2019. This timescale will be affected by the representations period on the Modifications to the Silica Sand Review.

5. Consultations

- 5.1. An Initial Consultation on the Silica Sand Review took place from 9 March to 20 April 2015. Responses were received from 27 organisations and 1 individual. The Preferred Options Consultation took place from 6 November to 21 December 2015. Responses were received from 26 organisations and 11 individuals. The comments received were taken into account by officers in producing the Pre-Submission document, including revising the boundaries of the areas of search.
- 5.2. The Silica Sand Review Pre-Submission representations period took place from 16 May to 27 June 2016. The table below details the number of responses received to each part of the document and each AOS.

Document section	Respondents	Objectors	Support	Object	Comment	Total representations
Modification to para 2.7	2	2	0	2	0	2
New paragraphs after 3.5	3	2	0	2	1	3
Modification to Para 3.18	1	0	0	0	1	1
Modification to Para 40.1	1	0	0	0	1	1
Whole document	13	4	1	4	8	13
Policy SIL01	3	0	1	0	2	3
AOS A	878	876	0	953	2	955
AOS D	3	2	0	2	2	4
AOS E	4	0	1	0	4	5
AOS F	2	0	0	0	2	2
AOS I	2	1	0	1	1	2
AOS J	2	1	0	1	1	2
Areas of search policy	6	3	0	4	5	9
Glossary	1	0	0	0	1	1
TOTAL	900	887	3	976	34	1010

- 5.3. The majority of respondents to the Silica Sand Review were individuals objecting to AOS A. Of the 953 representations received objecting to AOS A, 349 of these representations were standard letters and a further 420 were reasons given for signing an online petition about the Silica Sand Review. A petition, objecting to AOS A, was also received with 2,572 signatures.
- 5.4. The main issues raised in the representations from organisations and individuals, on each section of the Pre-Submission document, along with the Planning Officer response is provided as an appendix to this report.
- 5.5. The following specific consultation bodies responded to the representations period:
- Borough Council of King's Lynn and West Norfolk (see appendix for issues raised)
 - North Norfolk District Council (no comment)
 - Suffolk County Council (no comment)
 - Broads Authority (no comment)
 - Central Bedfordshire Council (considers the plan legally compliant and sound and raises no objection)
 - South Downs National Park Authority (see appendix for issues raised)
 - Norfolk County Council as Local Highway Authority (no comment)
 - Environment Agency (considers the plan legally compliant and sound and has no comment)
 - Historic England (see appendix for issues raised)
 - Natural England (commented on Sustainability Appraisal and Habitats Regulations Assessment – see appendix)
 - Snettisham Parish Council (objected to AOS A – see appendix)
 - Ingoldisthorpe Parish Council (objected to AOS A – see appendix)
 - Dersingham Parish Council (objected to AOS A – see appendix)
 - Heacham Parish Council (objected to AOS A – see appendix)
 - Sedgeford Parish Council (objected to AOS A – see appendix)
 - Holme-next-the-Sea Parish Council (objected to AOS A – see appendix)
 - Middleton Parish Council (no comment)
 - Anglian Water (commented on location of public water main within AOS F and AOS E – see appendix)
- 5.6. The following general consultation bodies responded to the representations period:
- Norfolk Coast Partnership (objected to AOS A – see appendix)
 - Middle Level Commissioners (IDB) (no comment)
 - Woodland Trust (welcomed the exclusion of land within 250 metres of ancient woodland)
 - RSPB (commented on Areas of Search Policy – see appendix)
 - Mineral Products Association (see appendix for issues raised)
 - Sibelco UK (see appendix for issues raised)
 - Tharros Ltd (own approx. 250 hectares of land within AOS E and are supportive of the proposals to extraction silica sand within AOS E)
- 5.7. The 'Pre-Submission Addendum: Modifications' document must be published for at least a six week period to enable representations to be made on whether or not the document is legally compliant and 'sound' in accordance with paragraph 182 of the National Planning Policy Framework. The responses received during this representations period, along with all responses received during the original representations period on the Pre-Submission document (16 May to 17 June 2016) will be provided to the Planning Inspector when the Silica Sand Review is submitted for examination.

- 5.8. There are a number of organisations which Norfolk County Council is legally required to invite representations from, as part of the Local Plan process in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. There are also a number of organisations which Norfolk County Council has a duty to cooperate with in the plan making process, in accordance with the Planning and Compulsory Purchase Act 2004 (as amended by Localism Act 2011). In accordance with the adopted Statement of Community Involvement, the 'Pre-Submission Addendum: Modifications' document will be available to view on the Norfolk County Council website and available for inspection at the main offices of Norfolk's local planning authorities and public libraries.

6. Recommendation on decision to be taken

- 6.1.
1. Agree the publication of the "Silica Sand Review Pre-Submission Addendum: Modifications" document for representations to be made, over a six week period during September and October 2016, in accordance with Regulation 20 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
 2. Authorise the Executive Director of CES, in consultation with the Chair and Vice Chair of EDT Committee, to review the Pre-Submission Addendum representations made. If no fundamental weaknesses are identified, submit the Silica Sand Review (and supporting/background information) for independent examination in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Background papers/further information

Draft Minerals Site Specific Allocations DPD - Single Issue Silica Sand Review – Pre-Submission Addendum: Modifications

Officer Contact

Name	Telephone Number	Email address
Caroline Jeffery	01603 222193	Caroline.jeffery@norfolk.gov.uk

I/we confirm approval of the recommendation detailed above:-

Name	<u>Tom McCabe</u>	Signature	<u>Via email</u>
Date	<u>10/08/2016</u>	Position/title	<u>Executive Director of CES</u>

Name	<u>Martin Wilby</u>	Signature	<u>Via email</u>
Date	<u>10/08/2016</u>	Position/title	<u>Chair of EDT Committee</u>

Name	<u>Jonathon Childs</u>	Signature	<u>Via email</u>
Date	<u>10/08/2016</u>	Position/title	<u>Vice Chair of EDT Committee</u>