

OUTLINE OF PROCEDURAL AND LEGAL COMPLIANCE

1. Has the Plan been prepared in accordance with the Planning and Compulsory Purchase Act 2004 (as amended)?

Yes. In particular, the requirement of section 19 (1) has been met by the Single Issue Silica Sand Review being prepared in accordance with the Minerals and Waste Development Scheme (document F05) (June 2013) and the revised Scheme (document A15) June 2016.

The requirements of section 19 (2) have been met by taking into account national policies contained within the National Planning Policy Framework (NPPF) and the adopted Core Strategy and Minerals and Waste Development Management Policies DPD (F10).

Sustainability Appraisal has been carried out on the Single Issue Silica Sand Review (documents A45 and A50) as detailed in response to question 6 below. In preparing the Single Issue Silica Sand Review the requirements of the Statement of Community Involvement (A20) have been complied with as detailed in response to question 4 below.

The Legal Compliance Toolkit (A155) details specific evidence for compliance with relevant parts of the Act.

2. Has the Plan been prepared in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended) and the 2012 Regulations?

Yes. The relevant parts of the Regulations have been following throughout the process of the preparation of the Single Issue Silica Sand Review. The Initial Consultation, a 'call for sites' and the Preferred Options Consultation were all undertaken in 2015 (Regulation 18 stage) and Pre-Submission publication and Pre-Submission Addendum: Modifications (Regulation 19) were undertaken in 2016. The submission of documentation and information follows the requirements of Regulation 22.

The Legal Compliance Toolkit (A155) and Soundness Self-Assessment Toolkit (A150) include more specific evidence of compliance with the relevant parts of the Regulations.

3. Has the Plan been prepared in accordance with the Minerals and Waste Development Scheme of the Council?

The Development Scheme (June 2013) (F05) only included one consultation stage on the Silica Sand Review; however it was considered appropriate to undertake both an 'Initial Consultation' on the approach and methodology to be used, in addition to the 'Preferred Options' consultation. The 'Initial Consultation' was undertaken in accordance with the timetable in the Development Scheme. However, including a second Regulation 18 consultation, on 'Preferred Options', delayed the Pre-Submission representations stage. A further contributing factor was that insufficient sites were proposed by landowners/mineral operators in response to a 'Call for sites' in June 2015, necessitating the definition and assessment of 'Areas of Search'. The reasons for the revision of the Scheme (adopted 1 June 2016), are detailed in section 2.1 of the 2014/15 Monitoring Report (F30).

The Pre-Submission representations stage was undertaken in accordance with the Scheme dated June 2016 (A15). Due to representations highlighting the potential for impacts to the Norfolk Coast AONB the decision was made to publish the Pre-Submission Addendum: Modifications (A105), primarily to no longer allocate area of search AOS A, which was the closest Area of Search to the AONB. The Modifications document was published from 14 September to 27 October 2016, which delayed the submission of the Silica Sand Review by three months, until December 2016. As this was an additional representations period which

had not been foreseen when the Scheme dated June 2016 (A15) was adopted, the subsequent submission of the Silica Sand Review is not in accordance with the adopted timetable and a further revision to the Scheme will be required.

4. Has the Council adopted a statement of community involvement, and, if so, has consultation been compliant with the requirements therein?

Yes. The Statement of Community Involvement was adopted in September 2012 (A20). Details of the consultation activities undertaken are detailed in the Statement of Consultation (A90), Statement of Consultation Part 2 (A92). Consultation has been compliant with the SCI requirements and the relevant regulations.

Any minor modifications to the Pre-Submission document (A100) have not been subject to consultation. The modifications are factual and made in response to representations received at the Pre-Submission stage and Norfolk County Council considers that all changes are minor in nature and therefore do not require public consultation.

5. Does the Plan have regard to national policies and advice contained in guidance issued by the Secretary of State including the National Planning Policy Framework (NPPF) and Planning Practice Guidance?

Yes. The plan and supporting documents do have regard to national policies and guidance, including the NPPF and the PPG, and guidance from organisations including Natural England, Historic England, the Environment Agency and the British Geological Survey. The Single Issue Silica Sand Review of the Minerals Site Specific Allocations DPD (A35, A100 & A105) was a requirement contained within the adopted Mineral Site Specific Allocations DPD (A25). The two policies in the Silica Sand Review (Specific site Allocation Policy SIL01 and the Areas of Search Policy) refer back to policy requirements in the adopted Minerals and Waste Core Strategy and Development Management Policies DPD (A30) which have been tested at examination. The assessment of the specific site allocation and the areas of search have had regard to national policy and guidance and the assessment methodology used in the adopted Mineral Site Specific Allocations DPD. For example, in assessing the historic environment regard has been had to section 12 of the NPPF, Section 18a of the PPG, adopted Mineral and Waste Core Strategy and Development Management Policies CS14, DM8, and DM9, and the guidance published by Historic England.

The Planning Inspectorate's 'model' NPPF policy on the presumption in favour of sustainable development is included in the adopted Minerals Site Specific Allocations DPD.

1. Building a strong, competitive economy

The Core Strategy's vision emphasises the important role of minerals extraction in helping to meet Norfolk's economic needs, which are both direct and indirect. Silica sand from Norfolk is used in producing a significant proportion of the glass made in England. Therefore, in addition to the economic benefits of mineral extraction locally, there are additional nationwide economic benefits related to industries which use glass containers, and the construction industry as the majority of window glass made in England is produced from silica sand originating in Norfolk.

The purpose of the Single Issue Silica Sand Review (A35, A100, A105) is to identify sufficient land to meet the objectively assessed needs for silica sand, set out in adopted Core Strategy Policy CS1 (F10), which contains a figure of 750,000 tonnes of silica sand extraction per annum which should be planned for up to the end of 2026.

2. Ensuring the vitality of town centres

This part of the NPPF is not applicable to the Single Issue Silica Sand Review.

3. Supporting a prosperous rural economy

By their nature, silica sand extraction sites are almost always in rural areas and they create or safeguard rural jobs in mineral extraction and processing. While individual extraction areas are temporary development, silica sand processing plants are for all intents permanent (as envisaged in paragraph 28); the plant at Leziate has been on the same site for 160 years and is a significant piece of economic infrastructure, including a dedicated railhead. Minerals development in rural areas can lead to ancillary economic activities, as well as contributing a significant amount of business rates. The importance of silica sand as a nationally-important industrial mineral and its wider national economic and sustainability benefits, are acknowledged.

Tourism forms an important part of the rural economy in Norfolk and concerns have been raised, by representatives, about the potential for adverse impacts on tourism from silica sand extraction. The policies within the Silica Sand Review and the adopted Core Strategy contain requirements to ensure that future planning permissions for silica sand extraction will incorporate mitigation measures. Mineral extraction would be controlled by planning conditions where required. It is considered that these measures would ensure that no unacceptable adverse impacts would occur that would be likely to compromise the attractiveness of the area for tourism. These policies also contain requirements to ensure appropriate restoration schemes are put in place and encourage the enhancement of public access in such schemes. There are a number of mineral extraction sites in Norfolk which have been restored to provide a positive benefit to tourism, such as Pensthorpe Natural Park.

4. Promoting sustainable transport

The adopted Minerals and Waste Core Strategy (F10) contains two policies on sustainable transport, CS15 and DM10, which encourage the appropriate siting of proposals and the use of non-car travel where practicable. With regards to silica sand, the main transport impacts are in relation to the transportation of the mineral, not the transport used by employees to travel to work. Taking into account that minerals can only be worked (i.e. extracted) where they naturally occur, the Silica Sand Review (A35, A100, A105) has only considered those areas where a mineral resource occurs which is most likely to produce silica sand of an appropriate quality to be processed at the existing processing plant. In addition to adopted policies CS15 and DM10, the Specific Site Allocation Policy and the Areas of Search Policy contain requirements that will ensure that any transport issues will be appropriately considered in the determination of any future planning application for silica sand extraction in these areas. The silica sand extracted will need to be transported to the existing processing plant at Leziate. For some Areas of Search road transport is likely to be the only feasible means of doing this. However, for the areas and sites closest to the processing plant non road transport alternatives, including conveyors and pipelines could provide a more sustainable method of transportation. After processing silica sand is transported greater distances to the north of England for glass manufacture and the majority of silica sand transportation out of Norfolk takes place by rail, which is more sustainable than road transport.

5. Supporting high quality communications infrastructure

This part of the NPPF is not applicable to the Single Issue Silica Sand Review.

6. Delivering a wide choice of high quality homes

This part of the NPPF is not applicable to the Single Issue Silica Sand Review.

7. Requiring good design

Policy DM11 of the adopted Core Strategy (F10) requires good design and layout to BREEAM “Very good” or “Excellent” standard (or similar where no BREEAM standard exists). However, as the Silica Sand Review is identifying potential extraction areas to provide feedstock for the existing processing plant it is unlikely that there would be significant development in terms of buildings on these sites. An extraction site would be

likely to only have a weighbridge and an office/welfare building which are relatively small scale and usually temporary structures.

8. Promoting healthy communities

Apart from paragraph 75 of the NPPF (which deals with enhancing rights-of-way networks) the rest of the section of the NPPF is not relevant to the Silica Sand Review. Adopted Core Strategy policy DM14 (F10) requires that restoration proposals must give due consideration to opportunities to improve public access, particularly the County Council's Rights of Way Improvement Plan. The temporary diversion of footpaths, and opportunities for extension of the footpath network on restoration are always key issues for minerals planning applications.

9. Protecting Green Belt land

This part of the NPPF is not applicable as there is no Green Belt land in Norfolk.

10. Meeting the challenge of climate change, flooding and coastal change

Adopted Minerals and Waste Core Strategy Policy CS13 (F10) encourages mineral sites to explore the potential for the generation of renewable energy on site to maximise the potential for reducing carbon emissions. Silica sand extraction does not require significant amounts of plant and machinery; typically an excavator and a number of HGVs to move the extracted material to the processing plant. The processing of silica sand for glass making does use significant amounts of energy but this would be the same regardless of the extraction locations set out in the Silica Sand Review (A35, A100, A105). There are sustainability benefits relating to the extraction of high quality silica sand for glass making. Firstly the use of recycled glass for the making of containers is dependent on the quality of the feedstock. As recycled glass (known as cullet) contains too high a level of contaminants to produce container glass on its own, the cullet has to be mixed with high purity silica sand, such as that found in Norfolk, in order to produce acceptable products. The use of cullet for this purpose reduces the amount of primary mineral that needs to be extracted, and the use of recycled glass as part of the feedstock reduces the energy needed to produce a product compared with a 100% sand feedstock.

The extraction of silica sand is classed as water compatible development in relation to flood risk. Flood risk has been assessed in the plan-making process through use of the sequential test (A70). The Modification (A105) to remove Area of Search A (AOS A) means that there are no allocated Areas of Search within the Tidal Hazard Zone for the Ouse and the Wash.

11. Conserving and enhancing the natural environment

The potential impacts on, and opportunities to improve, biodiversity, geodiversity and landscape are naturally significant elements in the Specific Site Allocation Policy and Areas of Search Policy in the Silica Sand Review (A35, A100, A105). The assessments for site SIL01 and the areas of search identify the principal environmental designations. As well as specific requirements within these policies all applications for silica sand extraction will need to comply with the policies in the adopted Minerals and Waste Core Strategy and Development Management Policies DPD (F10). Adopted Core Strategy Policy CS14 is an over-arching policy on environmental protection. It has specific mentions of biodiversity and geodiversity and also the quality and character of landscape and townscape (including the Norfolk Coast AONB). Adopted policy DM1 (Nature Conservation) covers locally-designated conservation and geodiversity sites in more detail. Policy DM2 addresses Core River Valleys (a Norfolk-specific landscape designation), however, the allocated specific site and areas of search are not within a Core River Valley. Policy DM8 covers design, local landscape character and townscape character. Policy DM14 (Progressive working, restoration and after-use) also emphasises the potential of restoration schemes to enhance biodiversity geodiversity and the landscape. One aspect of the methodology used to define areas of search was to exclude Grade 1 and Grade 2 agricultural land from the areas of search. If a planning application is submitted for silica sand extraction on grade 3a agricultural land, then adopted policy CS16 would apply.

12. Conserving and enhancing the historic environment

The potential impacts on the historic environment and mitigation measures are naturally significant elements in the Specific Site Allocation Policy and Areas of Search Policy in the Silica Sand Review (A35, A100, A105). The assessments for the site specific allocation and the areas of search identify the principal historic environment designations. As well as specific requirements within these policies all applications for silica sand extraction will need to comply with the policies in the adopted Minerals and Waste Core Strategy and Development Management Policies DPD (F10). Adopted Core Strategy Policy CS14 is an over-arching policy on environmental protection. It has specific mentions of heritage assets and their setting, and cultural assets. Policy DM8 covers design, local landscape character and townscape character including consideration of historic character, and specific protection for designated heritage assets. Policy DM9 contains requirements for applicants to assess the potential for impacts on archaeological features both known and unknown, and the significance of heritage assets and their settings, and propose appropriate mitigation.

13. Facilitating the sustainable use of minerals

The Silica Sand Review (A35, A100, A105) allocates one specific site and five areas of search for future silica sand extraction to meet the target for silica sand extraction set out in the adopted Core Strategy Policy CS1 (F10). It is considered that the allocation of a specific site and five areas of search will allow for the submission of suitable planning applications to meet the current shortfall in permitted reserves for silica sand extraction. Whilst this is reliant on suitable planning applications being submitted, it is considered that in producing the Silica Sand Review Norfolk County Council, as the Mineral Planning Authority, will have taken every step available to provide a steady and adequate supply of silica sand as set out in Paragraph 146 of the NPPF. The policy requirements contained in the Silica Sand Review together with the adopted Minerals and Waste Core Strategy and Development Management Policies will ensure that any potential future application for silica sand extraction appropriately addresses issues relating to sustainability.

14. Plan-making

The process for the preparation of the Silica Sand Review (A35, A100 & A105) has taken account of the legislation and guidance relating to plan-making. The Silica Sand Review has been subject to a number of public consultation and representation periods (F50, F150, A35 & A105). The consultation responses have shaped the submission version of the Silica Sand Review (F200, F205, A95, A97). The iterative use of Sustainability Appraisal (F45, F155, F160, A45, A50, A55) has formed an integral part of the plan-making process, including the consideration of reasonable alternatives. The plan making process has had regard to the Habitats Directive, and Appropriate Assessment has been carried out at each stage (A60, A65). Flood risk has been assessed in the plan-making process through use of the sequential test (A70). Norfolk County Council in its capacity as the Mineral planning Authority has actively engaged with other prescribed bodies in a constructive, and ongoing manner during the plan-making process (A75).

6. Has the Council carried out an appraisal of the sustainability of the Plan and prepared a report on the findings of the appraisal? Is there clear evidence to indicate why, having considered reasonable alternatives, the strategy in the Plan is the most appropriate response? Is the Council satisfied that the Sustainability Appraisal adequately gives reasons, or summarises and repeats the reasons that were previously given, for rejecting any reasonable alternatives, and that those reasons are still valid?

Yes. The Sustainability Appraisal process commenced in 2015; with the identification of relevant plans, policies and programmes, baseline information and scoping of the SA objectives. The SA Scoping Report (F40) was consulted on in March and April 2015.

The Initial Sustainability Appraisal Report was consulted on in November and December 2015 (F160). The Sustainability Appraisal Report was updated and published at the Pre-Submission stage and included details of the iterative SA process. In particular p71-73, section 4.2 of the SA Report (A50) details the assessment of options to be used to define the areas of search.

The proposed specific site allocation and each proposed area of search have been assessed in the Sustainability Appraisal (in pages 82-142, section 5 of the SA Report). The Council is satisfied that the Sustainability appraisal gives reasons for rejecting any reasonable alternatives and that those reasons are still valid. The summary of the reasons for rejecting alternatives is contained within chapter 6 (page 147) of the SA Report (A50) and updated on pages 26-27 of the Pre-Submission Addendum: Modifications document (A105).

7. Has Appropriate Assessment been undertaken under the Habitats Directive? If not, has a scoping exercise shown that there is no need for such an assessment?

Yes. The allocated site and all of the allocated areas of search have been assessed at the Task 1 'Test of Likely Significance' stage (A60). The Task 1 Assessment concluded that silica sand extraction within AOS A could potentially result in likely significant effects on The Wash (SPA, SAC and Ramsar site). The boundary of AOS A was amended to be moved 1km inland from The Wash designated sites and a Task 2 Appropriate Assessment (A65) was carried out on AOS A.

The Task 2 Appropriate Assessment concluded (section 3.4) that no adverse effects are expected on the integrity of The Wash (SPA, SAC and Ramsar site) from silica sand extraction within AOS A.

Natural England's representation (91110) stated that they concur with the conclusions of the appropriate assessment. However, the 'Pre-Submission Addendum: Modifications' (A105) subsequently proposed to not allocate AOS A.

8. In so far as the Plan contains policies that are intended to supercede other policies, is that fact stated in the Plan and are the superceded policies identified?

The Single Issue Silica Sand Review does not supercede any of the policies contained within the adopted Minerals Site Specific Allocations DPD.

9. Has the Council carried out the duty to co-operate in the preparation of the Plan (Planning and Compulsory Purchase Act 2004 (As amended), Section 33A)? How has this duty been fulfilled (NPPF Paras 178-181)?

Yes. The Council has been inclusive throughout the plan making process, engaging and co-operating with the bodies specified in section 110 of the Localism Act 2011 and subsequent legislation, in undertaking a series of public consultations and working closely with key stakeholders. The council considers this process of engagement to be on-going. The following documents explain the extent to which the Council has co-operated with all stakeholders during plan preparation:

- Initial Consultation Feedback Report (June 2105) (F200)
- Preferred Options Consultation Feedback Report (Jan 2016) (F205)
- Pre-Submission Representations Feedback Report (Aug 2016) (A95)
- Pre-Submission Statement of Consultation (Feb 2016) (A90)
- Pre-Submission Statement of Consultation Part 2 (Nov 2016) (A92)
- Duty to Cooperate Statement (Sept 2016) (A75)

10. Has the Plan been positively prepared (NPPF Para 182)? How has this requirement been met?

Yes. The key purpose of the Silica Sand Review is to address a predicted shortfall in the quantity of silica sand extraction sites allocated in the adopted Minerals Site Specific Allocations DPD, to meet the requirements identified in the adopted Core Strategy (F10) Policy CS1. The forecast average annual production of 750,000 tonnes of silica sand was tested during the examination of the Core Strategy in May 2011 and found to be sound. The quantity of silica sand to be planned for in Policy CS1 of the Core Strategy is in accordance with paragraph 146 of the NPPF.

In the Core Strategy the annual average production figure was used to plan over the 17 year period of the Core Strategy from 2010 to the end of 2026. The Minerals Site Specific Allocations DPD took into account the permitted reserves at 31 December 2011 (A25 paragraph 2.7). There is now data available on the annual production and the remaining permitted reserves of silica sand at 31 December 2015, detailed in the Local Aggregate Assessment and Silica Sand Assessment 2015 (F345). The Silica Sand Review (A35) takes into account the position at 31 December 2015, in a modification to paragraph 2.7 of the Minerals Site Specific Allocations DPD, to plan for the remaining 11 years of the Plan period.

The calculations used to assess the silica sand need are in the Silica Sand Review (A35) (paragraph 1.4). The total quantity of additional silica sand required over the remaining Plan period (2016 to 2026) is 8.25 million tonnes, minus the existing permitted reserve of 2.64 million tonnes. The Minerals Site Specific Allocations DPD (A25) allocated one site (MIN40) with an estimated resource of 3 million tonnes. The Silica Sand Review (A35) allocates one site (SIL01) with an estimated resource of 1.2 million tonnes. Together the two allocated specific sites will not meet the assessed need of 5.6 million tonnes and therefore the Silica Sand Review also allocates five areas of search (AOS D, AOS E, AOS F, AOS I and AOS J) to enable the remaining shortfall of 1.4 million tonnes to be met. The size of all of the allocated areas of search is 1,032 hectares. It is estimated that only approximately 20 hectares of land from within the areas of search will need to be developed for silica sand extraction within the Plan period to meet the assessed need. Therefore the plan has been positively prepared.