

# **NORFOLK MINERALS SITE ALLOCATIONS DPD: SINGLE ISSUE SILICA SAND REVIEW MATTERS AND ISSUES**

## **MATTER 1 – Legal requirements and the Duty to Co-operate Issues**

1. The Council must demonstrate: how it has prepared the Plan in accordance with the Minerals and Waste (Local) Development Scheme (MWDS); how the Plan complies with the Statement of Community Involvement (SCI); how the consultation that has taken place has been carried out consistent with the SCI; that the Plan has been subject to a Sustainability Appraisal (SA) and a final report of the findings of the SA prepared; that any requirements for Appropriate Assessment under the Habitats Regulations were met before publication of the Plan; and that the Plan complies with all of the requirements of the 2004 Act and the 2012 Regulations (both as amended). Further, the Council must also be able to demonstrate that the requirements of the Duty to Co-operate have been met at the date of submission of the Plan. Has the Council suitably demonstrated in the evidence that all of these legal tests have been met? Would it be reasonable for me to conclude that the Council has met all of the legal tests, including the Duty to Co-operate?

### **Sibelco Response**

The legal compliance of the document is unclear as there is no supporting evidence to confirm that Norfolk County Council has shared the proposed amendments with other Mineral Planning Authorities which have known, proven or likely silica sand reserves and resources. The legal requirements of duty to co-operate may therefore not be consistent with National Policy.

## **MATTER 2 – Whether appropriate provision is made for the steady and adequate supply of silica sand. Issues**

3. Is the Plan effective and justified, with regard to the number and overall coverage of the five identified AoS, when compared to the identified need? Further to this, would the Plan lead to large areas of land being unnecessarily safeguarded?

### **Sibelco Response**

The removal of AOS A and the amendments to Policy SIL01 are not justified. These matters were considered through the sustainability appraisal with the evidence base indicating that the former positions were appropriate.

Silica sand is a scarce resource and Mineral Planning Authorities are required to safeguard deposits and relevant geological horizons. The Areas of Search would need to be safeguarded in any event. Indeed, even wider areas covering the whole geological horizon need to be safeguarded in compliance with national policy.

## **MATTER 3 – Whether the allocated site and areas of search are acceptable in environmental terms and in all other regards.**

### **Issues**

1. Is the area of search selection process, including its methodology and criteria justified, effective and consistent with national policy?

#### **Sibelco Response**

The site selection process for defining the Areas of Search was set out in the Preferred Options consultation (October 2015). Nine criteria were identified, which we consider to be too restrictive and beyond the policy requirements of NPPF.

Sibelco made representations on these matters during the Silica Sand review initial consultation during 2015.

Due to the recognised limited availability of silica sand the former Mineral Planning Guidance Note for the Provision of Silica Sand in England (MPG15) recognised that “it may be necessary to consider working such resources even where they occur beneath areas of the best and most versatile agricultural land”. Exclusion of ALC Grades 1 and 2 land from Areas of Search criteria will likely have overly restricted an already scarce nationally important mineral. It is recognised that in the Area of Search Policy it states that *“If the application area contains Grade 3 agricultural land then a detailed agricultural land survey will be required to identify subgrades. Land identified as being within the Best and Most Versatile classification (grades 1, 2, 3a) will require a working scheme which incorporates a soil management and handling strategy which is compliant with Policy DM16”*. However, land potentially containing suitable silica sand resources may already have been excluded by virtue of the Area of Search site selection process undertaken.

3. Is reference within Policy SIL01 for the requirement for a project level Habitats Regulation Assessment to be undertaken at the planning application stage, necessary for it to comply with the Habitats Directive, the Conservation of Habitats and Species Regulations 2010 and national policy?

#### **Sibelco Response**

We are unclear as to why Natural England has requested that any future planning application within SIL01 would need to be accompanied by a project level HRA (see Pre-Submission Representations Feedback Report August 2016 page 51 (Examination Library document A95) and Statement of Consultation (Part 2) November 2016 page 31 - Examination Library document A92. We see no need for such a requirement due to the distant location of site SIL01 from any relevant designated areas.

4. Do Policy SIL01 and the AoS Policy comply with national policy, in terms of Heritage Assets and should a historic landscape characterisation and archaeological study be required as part of any future planning applications within such areas?

**Sibelco Response**

We are unclear why Heritage England requires an amendment to Policy SIL01 to amend:

*“A Landscape and Visual Impact assessment to identify potential landscape impacts. The LVIA will include Scheduled Monuments and Listed Buildings and archaeological assets and their settings, together with suitable mitigation measures to address the impacts. The completed assessment will comply with the requirements of policies CS14, DM2 and DM8”*

to

*“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”.*

Since this is referring to a component of a Landscape and Visual Impact assessment we assume this will refer to assets outside the site but we ask for clarification on this matter. There is more than one meaning of the word “conserve”. If the word conserve is taken to mean to “protect”, then how can a Landscape and Visual Impact assessment seek to achieve this?

In addition, we cannot see how through a landscape and visual assessment, a prospective developer can seek to “conserve” an asset upon which it is having no direct impact. We believe the former bullet point was satisfactory and there is no need for the amendment.

In addition, within the Pre-Submission Representations Feedback Report (August 2016) on page 11 (Examination Library document A95) Norfolk County Council states that *“We do not consider it necessary to change the wording of the supporting text .....”*

In our view, Core Strategy Policies DM8 and DM9 deal satisfactorily with these matters.

5. Is Policy SIL01 and the AoS Policy effective in being able to control any potential noise impacts?

**Sibelco Response**

We are of the view that seeking to control potential noise impact through Development Plan policy is unnecessary. There is significant National Planning Policy providing policy and guidance on the control of noise at mineral workings. These matters can be adequately addressed via planning conditions.

6. Is the AoS Policy proportionate and effective in being able to control any potential impacts of proposals coming forward within such areas, including any cumulative affects?

**Sibelco Response**

We are of the view that the Development Management process should be utilised to control potential impacts of proposals and not for planning policy.