

1 Response Paper – Appendix Two: Profiles for Existing and Proposed Transshipment Sites (Proposed to be deleted from future MLP)

Purpose of Appendix Two

- 1.1 This Appendix contains a complete set of individual Profiles for each of the transshipment sites subject to Policy S9.

Summary of Position Prior to March 2021 Regulation 18 (Reg 18) Consultation

- It is proposed to remove this Appendix and instead report on the status of transshipment sites through the AMR and Policy Map, which can be more regularly updated than the MLP.

Impact of Revisions to NPPF 2021

- 1.2 None of the amendments made to the NPPF in July 2021 had an effect on Appendix Two.

Addressing Issues Arising Out of March 2021 Reg 18 Consultation

- 1.3 There were no issues raised through the consultation in relation to this Appendix and therefore it continues to be intended to remove this appendix.

Conclusion

- 1.4 There were no issues raised through the consultation in relation to this Appendix and therefore it continues to be intended to remove this appendix.

ORGANISATION	ON BEHALF OF	APPENDIX TWO	APPENDIX TWO	ECC RESPONSE
Name of Organisation	Are you responding on behalf of another individual or organisation? - If Yes, Who?	1. Do you agree with the rationale to remove this section from the MLP and instead report on it periodically through the Authority Monitoring Report? (see Rationale Report)	Please provide any comments below:	
Runwell Parish Council (631132323)	Runwell Parish Council	Agree	N/a	N/A
W H Collier Limited (769297167/ 942768790)		Agree		N/A
Blackwater Aggregates (623162177)		Agree		N/A
CEMEX (982058282)		Agree		N/A
Gent Fairhead Aggregates (871678397)		Agree		N/A
Resident		Agree		N/A

(850344129)				
Barton Willmore (1040328186)	L&Q, Cirrus Land and G120 Land	Disagree (please clarify)	<p>This consultation response has been prepared on behalf of L&Q, Cirrus Land and G120 Land. All of these developers are promoting non-mineral development sites across Essex which are either wholly or in part affected by a series of measures outlined within the Essex County Council Minerals Local Plan Draft Proposed Amendments (referred to from here as the “draft plan”).</p> <p>Given the nature of our client’s land interest, the following comments relate to how the issues of safeguarding mineral resources and avoiding their sterilisation is addressed within the draft plan.</p> <p>In relation to specific policies, our comments relate to the drafting of the following specific policies and appendices:</p> <ul style="list-style-type: none"> • Safeguarding Mineral Resources and Avoiding Their Sterilisation text (Paras 3.113 to 3.148); • Policy S8 – Safeguarding 	<p>Please note that whilst this representation was made against MLP Appendix Two as part of the Regulation 18 Consultation 2021, it raises issues that are the domain of MLP Appendix Five, which due to the intention to delete Appendices Two, Three and Four, would have become a new MLP 2014 Appendix Two.</p> <p>For convenience, the issues raised are addressed here although commentary with respect to the main report, and amendments proposed, can be found in the Appendix Five Topic Paper</p> <p>The mineral safeguarding approach set out in the adopted MLP is considered to be compliant with the NPPF by virtue of its adoption, and any revisions to the MLP as set out in this Appendix seek to prescribe in more detail how the safeguarding approach already adopted can be better facilitated.</p>

			<p>Mineral Resources;</p> <ul style="list-style-type: none"> • Appendix Two - Implementation of Mineral Resource and Infrastructure Safeguarding Policy; and • Proposals Map. <p>Broadly the draft plan is too restrictive, and unreasonable in its requirements for prior extraction to be undertaken.</p> <p>The scale of mineral resource that would ever likely to be lost over the longer term to non-mineral development is low compared to the overall resource size (particularly for sand and gravel).</p> <p>Mineral safeguarding has the potential to restrict housing growth, obstructing development in what would otherwise be sustainable locations. The draft plan should be amended to clearly recognise that in these</p>	<p>It is noted that matters of abundance, local or otherwise, are not set out in the NPPF or PPG and therefore they are not considered to be material to the application of safeguarding policy.</p> <p>Paragraph 209 of the NPPF states that 'It is essential that there is a sufficient supply of minerals' and that 'best use needs to be made of them to secure their long-term conservation.' Mineral safeguarding is not used to 'prevent development'. In accordance with NPPF Paragraph 210d, the MLP approach is to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place.' Proposed revisions to the safeguarding approach seek to set out more clearly how the demonstration of whether prior extraction is practical and environmentally feasible can be assessed. Further, NPPF Paragraph 210c requires that</p>
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			<p>circumstances, where sustainable development can be achieved, in most cases mineral safeguarding should not be used to prevent development. It is in this context that the implementation of the safeguarding policy by the Mineral Planning Authority (MPA) needs to be proportionate.</p>	<p>'known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked). Again, revisions to the MLP approach are to ensure that minerals are not sterilised where this can be avoided. Nowhere in the policy or its supporting text does it state that prior extraction is required as a matter of course. It is therefore suggested that the safeguarding approach is NPPF compliant and proportionate. It is questioned as to whether development could be considered to be sustainable if it acts to sterilise finite resources which could have been prior extracted.</p>
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			<p>The evidence base user for a number of its assumptions is significantly out of date (in the case of the threshold for Minerals Resources Assessment (MRA) to be undertaken and the BGS and industry data) or are based on broad unsupported and unevidenced assumptions (e.g., 100m standoff from existing minerals operations).</p>	<p>With regards to BGS data being out of date, a project was commissioned with BGS in 2021 to re-designate MSAs for a future revised Policy Map. The new spatial extent of MSAs is based on the latest Digital Mineral Resource Data held by the BGS. The MSAs indicate where there is resource potential based on existing geology, and their extent is also in part based on historic Mineral Assessment Reports carried out by the Industrial Minerals Assessment Unit using the criteria set out in bullet points a-d under MLP Paragraph 3.119. Whilst it is recognised that these criteria have been modified in some other counties following BGS-led industry interviews, the role of MSAs is to safeguard land for future mineral potential, and the criteria used were confirmed by the Mineral Products</p>
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				<p>Association in 2019 as still being widely used by aggregate industry geologists for land search and Mineral Planning Authorities in establishing their mineral supply and safeguarding policies, and therefore the stated criteria for determining whether a deposit is potentially viable is still therefore relevant and consequently a fair indicator of where a more detailed site-level investigation should take place ahead of non-mineral development potentially sterilising mineral.</p> <p>With regard to the suggestion that the approach contains 'broad unsupported and unevidenced assumptions', it is noted that the adopted MLP states at Paragraph 5.20 that 'A minimum of a 100m 'buffer zone' from the extraction face to the wall of a residential property would normally be required to minimise the impact of working on local amenity.' It is emphasised that the phrase is caveated with the word 'normally'. The 250m distance for MCAs is also already an adopted approach, common in other</p>
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			The approach to prior extraction	<p>authorities and set out in Mineral Products Association/ Planning Officer Society Guidance.</p> <p>In relation to the 100m buffer, it is important to note that this is not to say that extraction is not permissible less than 100m from the façade of a dwelling (ie the mineral is sterilised) if impacts are demonstrably mitigatable. It is also noted that mineral could potentially be sterilised when sensitive development is located more than 100m from the boundary of an MSA. However, there is a requirement for the MPA to adopt a pragmatic approach, allowing for applications to be assessed on a case-by-case basis, but also allowing for transparent parameters upon which desk-based assessment can take place. Parameter setting in this way is considered to be a positive in terms of imbuing the process with proportionality, echoes the approaches adopted elsewhere, and is already part of the development plan.</p>
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			<p>is unrealistic, unjustified and one sided, there is no recognition of the cost associated with undertaking it.</p> <p>In summary, the following letter outlines a series of matters that we object to in the draft plan. On the basis of the points raised, the draft plan as it is currently drafted, is considered unsound and unjustified.</p> <p>Appendix Two - Implementation of Mineral Resource and Infrastructure Safeguarding Policy:</p> <p>The comments in this section primarily relate to Tables 8 and 9 of appendix two of the draft plan.</p> <p>Outside of the comments provided in relation to the tables, we would like to make a general point about the stage at which further intrusive site drilling is required to accompany an MRA. Geotechnical drilling is a significant cost, it makes sense that this is only undertaken when a desk based</p>	<p>It is also not agreed that the approach to prior extraction is unrealistic, unjustified and one sided. In accordance with NPPF Paragraph 210c, there is no presumption that prior extraction will take place. The practicality and feasibility of prior extraction is to be assessed through a Minerals Resource Assessment. It is also incorrect to state that there is no recognition of the cost associated with undertaking prior extraction. In Table 9, which sets out a schedule of requirements for MRA, it is stated that one consideration to be made in the MRA is the 'Effect on viability of non-minerals development including through delays and changes to landform and character' whilst the conclusion should consider 'Whether prior extraction is practical at the site in the context of the non-mineral development, taking into account the estimated value of the mineral, restoration and the</p>
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			<p>assessment has been unable to reach an agreed conclusion with the Mineral Planning Authority (MPA).</p> <p>It is likely that several sites that need to have a MRA undertaken can be suitably assessed using available desk-based data or from undertaking a site visit. In these cases, the findings of the desk-based assessment can be shared with the MPA before a decision is made to required further intrusive site investigation and incurring the costs associated with doing so.</p>	<p>viability of the proposed development’.</p> <p>It is agreed that there may be circumstances under which intrusive ground investigation is not required. In supporting text to Table 9, it is stated that ‘The scope of the MRA, including a schedule of proposed borehole locations, should be agreed with the MPA before commencement’. It is further stated that ‘It is acceptable to utilise existing borehole information where this exists but this may be required to be supplemented by additional borehole logs to provide the required level of site-specific detail.’ It is further stated that ‘The scope and level of detail of a Minerals Resource Assessment will be influenced by the specific characteristics of the site’s location and its geology, as well as the nature of the development being applied for. For clarity, an amendment is proposed to make clear that bespoke borehole information may also not be required if it can be demonstrated that prior extraction is not practical and/ or environmentally</p>
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			<p>TABLE 8: The table as it is currently drafted still requires planning applications to complete an MRA and potentially undertake prior extraction even if the site has been allocated in a local plan. This is caveated that this must be undertaken unless the matter of mineral safeguarding has been adequately addressed in the relevant local plan document.</p> <p>For all local plans produced in Essex, ECC will be a major consultee. As part of that consultation process ECC will have reviewed all plans to</p>	<p>feasible without recourse to such information. However given that the volume, quality and economic value of the mineral is likely to be fundamental to most conclusions, any proposal to not include borehole investigation as part of the MRA should be agreed with the MWPA in advance.</p> <p>The proposed approach is still considered appropriate. It is agreed that ECC is a consultee for all local plans produced in Essex and therefore will have reviewed all plans to ensure they comply with the relevant policies, included assessing it from a mineral safeguarding perspective. As part of this process, ECC do raise mineral safeguarding issues for all of the relevant local plans being brought forward in the county, and it is considered that these are raised in the most pragmatic manner, which is to ensure that relevant district allocation policies include the need for MRA to be carried out ahead of non-mineral development being brought forward, which essentially delays mineral safeguarding issues until</p>
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			<p>ensure they comply with the relevant policies, included assessing it from a mineral safeguarding perspective.</p> <p>For an allocation to be adopted, the plans that it is allocated in must be found to be sound by an Inspector. As part of an Inspector's consideration of a Local Plan ECC will have been invited to comment on all matters. ECC will have had ample opportunity to raise mineral safeguarding issues for all of the relevant local plans being brought forward in the county.</p> <p>The clause included in the first row of table 8 is therefore unnecessary and should be removed. It should also be noted that viability matters for allocations are now considered at the local plan stage. In addition, the timing of the delivery of new developments, particularly in relation to housing and employment facilities is a crucial benchmark against which local authorities are scrutinised.</p>	<p>such a time as developers of sites which have the potential to be allocated are provided with that certainty of allocation.</p> <p>It is considered that the only other approach would be for ECC to formally object to any allocations on land designated as an MSA until such a time as a suitably informed MRA is produced to either demonstrate that prior extraction is not practical or environmentally feasible, or to commit to a programme of prior extraction prior to non-mineral development taking place. This would potentially mean that an MRA, perhaps also needing to be informed by intrusive ground investigation, would need to be produced as part of site submission details through a housing related Call for Sites. This would mean that the cost of such a report, as highlighted by the respondent, would need to be paid without the security of the site being allocated in a local plan.</p> <p>The approach to mineral</p>
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			<p>It is unreasonable for ECC to introduce further issues which will lead to the significant further costs and delays (if prior extraction was undertaken) for sites after they have been adopted.</p>	<p>safeguarding, including the need for MRA and prior extraction, has been a part of the Development Plan in Essex since 2014 and the NPPF since 2012. It is considered that the proposed amendments largely serve to offer further clarity with regards to the operation of adopted mineral safeguarding policy. As such, it is not correct to say that ECC are introducing 'further issues'. As mineral safeguarding is already part of the Development Plan, it is, by definition, compliant with the NPPF. All planning authorities must take decisions in accordance with the Development Plan unless material considerations dictate otherwise. At the site allocation stage during local plan formation, ECC requests that the local plan notes the need for mineral safeguarding assessment to be carried out as part of the delivery of those sites which meet the criteria. As such, the proposed amendments are bringing the MLP approach into conformity with that request. It is assumed that site promoters will be aware of the need to carry out MRA, and</p>
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				<p>the potential implications of prior extraction, when bringing their sites forward as the requirement is part of the Development Plan and will, presumably, form part of any site assessment by the local planning authority. There could be many years between the allocation of a site and its eventual delivery to appropriately consider mineral safeguarding issues.</p> <p>It is reiterated that mineral safeguarding policy is not about stopping development, it is to ensure compliance with the NPPF requirement that mineral is not sterilised by non-mineral development where this should be avoided (NPPF Paragraph 210c) and that prior extraction of mineral is encouraged where practical and environmentally feasible, if it is necessary for non-mineral development to take place (NPPF Paragraph 210d). This is to be justified by the MRA, which may ascertain that prior extraction is practical in full, or in part, across all or part of the non-mineral site, including to facilitate on-site benefits such as amenity,</p>
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			<p>TABLE 9:</p> <p>In the section that deals with the nature of the existing mineral resource, in line with our comments above some clarity should be provide that an intrusive site investigation that is purely required for the MRA should only be undertaken if a desk-based assessment cannot reach an agreed conclusion with MPA.</p> <p>In addition to the constraints listed as impacting on the practicality of mineral extraction (distinct from those that would arise from the primary development), further should be included:</p>	<p>biodiversity or SuDs provision. The conclusions of an MRA should inform Masterplanning stages of bringing a site forward rather than being considered at the last minute.</p> <p>As per previous comments, this is agreed and an amendment is proposed to make this clearer. However given that the volume, quality and economic value of the mineral is likely to be fundamental to most conclusions, any proposal to not include borehole investigation as part of the MRA should be agreed with the MWPA in advance.</p> <p>The schedule of requirements set out in Table 9 is not intended to scope every potential constraint, and an amendment is proposed to clarify this. However, there is merit in updating the schedule as suggested. As such, it is proposed to amend 'Highways infrastructure' to include 'Highways and rail infrastructure'. It is further proposed to enter a new criteria to cover 'Tree Preservation Orders and Mature</p>
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			<ul style="list-style-type: none"> • Impact upon rail infrastructure, particularly from a geotechnical stability perspective; • Tree preservation order and mature hedgerows – these can generally be built around and accommodated within the built development; • Impact upon public rights of way, invariably these will need to be altered to accommodate a mineral scheme, however a built development can retain these routes in situ. 	<p>Hedgerows where they are proposed to be retained’.</p> <p>It is not considered appropriate to include Public Rights of Way as these are often re-routed as part of mineral development. However, their re-routing could be a contributing factor to making prior extraction impractical, particularly on smaller sites. This would be for the MRA to assess.</p>
Coggeshall Parish Council (598729813)	Coggeshall parish council	No comment		N/A
David L Walker Ltd (559449615)	Brice Aggregates	No comment		N/A
Kelvedon & Feering Heritage Society (677892382)		No comment		N/A
Strutt & Parker (891506607)	G&B Finch	No comment		N/A
GeoEssex (538324742)		No comment	no comment	Noted
Suffolk County Council (549043477)		No comment	No comment.	Noted