



**Down Ampney  
Bendlowes Road  
Great Bardfield  
Essex  
CM7 4RR  
07887 662166  
geoff@gardnerplanning.com**

Oxfordshire County Council  
Minerals and Waste Core Strategy Consultation  
Environment and Economy  
County Hall  
New Road  
Oxford  
OX1 1ND

By email  
mineralsandwasteplanconsultation@oxfordshire.gov.uk

9 March 2017

Dear Sir or Madam

**Consultation on Proposed Main Modifications to Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy and Sustainability Appraisal Report Update, February 2017**

I write to you as Director of Gardner Planning Ltd (**GPL**) acting on behalf of Oxfordshire Against Gravel Extraction (**OXAGE**). As you are aware, the Proposed Modifications (**PMs**) to the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy (**MLP**) are on consultation from 3 February - 20 March 2017. Please accept this letter and the attached Report (with appendices A to D) as our formal response to the same.

The PMs are an attempt to amend the MLP which are needed to make it 'sound'. It is our view that they do not do so. The attached Report sets out the main response to the consultation including grounds for finding the Inspector's Interim Report (**IR**) flawed. Appendix A to the Report is a list of the PMs to which we object and the detail of those where not set out in the Report. It will be noted that our objections are fundamental, and challenge the Inspector's Interim Report (**IR**). As such our report forms an argued case which goes beyond the wording of the PMs.



## **1.0 Principle Objections**

1.1 The principle objections in our Report are:

1. That the annual rate of sharp sand and gravel (**ss&g**), on which the MLP is based, as proposed in the modifications, is too high; that the justification for deviating from Government policy (that a 10-year past average should be used) is not based on robust evidence; and that the outcome is likely to be an excess of land-won supply, with the consequences set out in the attached Report.
2. That the 'rebalancing strategy' for shifting future provision to South Oxfordshire and away from North Oxfordshire is not sufficiently justified nor based on robust evidence and may not be capable of implementation. Furthermore, that the introduction of 'production capacity', rather than the adequacy of landbanks of permitted reserves, as a measure of whether there is any unmet need for minerals is unworkable.
3. Some modifications seem to favour planning applications being made outside the 'plan-led' system.

1.2 My client has sought legal advice as to the legal framework available for challenging the adoption of a development plan document such as this. A copy of that advice is attached as Appendix C to the Report. This is not an advice as to prospects with regard to such a challenge. Should the plan be adopted without the changes we recommend, my client intends to seek further legal advice as to the prospects of making an application pursuant to Section 113 of the Planning and Compulsory Purchase Act 2004 ('PCPA') on the basis that the MLP is "outside the appropriate power" for those reasons outlined in the attached Report and Appendix A.

## **2.0 Our position**

2.1 It is accepted that the Council is obliged to take the Inspector's Interim Report (**IR**)<sup>1</sup> into consideration, however it is submitted that this is a "recommendation" only.

2.2 It is submitted that the PMs do not make the MLP 'sound' for all of those reasons set out in the attached Report and Appendix A. It is not the purpose of this letter to reiterate those arguments and we instead refer the Council to them. In light of those concerns, we have put forward amended PMs which in our view would address the same.

2.3 It is submitted that the Council must consider our consultation response and whether or not it deems us to be correct, to give reasons for its decision. It is further submitted that

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<sup>1</sup> Inspector's Interim Report 12 October 2016



OCC is responsible for adopting what it considers is a 'sound' Plan, it is insufficient to merely rely on the recommendations of the Inspector in this case.

2.4 In the event that the Plan is adopted without our recommended changes, my client intends to seek further legal advice as to the prospects of making an application pursuant to Section 113 of the Planning and Compulsory Purchase Act 2004 ('PCPA') on the basis that the MLP is "outside the appropriate power" for those reasons outlined in the attached Report and Appendix A.

2.5 My client reserves their right to refine and expand upon the arguments in the attached report in the event of a section 113 challenge where appropriate, subject to advice.

Regards

*Geoff Gardner*

Geoff Gardner MSc, MRTPI  
Director  
Gardner Planning Ltd.



**Oxford Minerals and Waste Local Plan Part 1**

**Proposed Modifications**

**Response to consultation by OXAGE (Oxfordshire Against Gravel Extraction)**

<b>Project reference</b>	GP 009	<b>Date</b>	9 March 2017
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**Gardner Planning Ltd**

**Down Ampney  
Bendlowes Road  
Great Bardfield  
Essex  
CM7 4RR**

**07887 662166  
geoff@gardnerplanning.com**

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## 1. INTRODUCTION

1.1. This **Report** is the response to the consultation by Oxfordshire County Council (**OCC**) on the Proposed Main Modifications (**PMs**) to the Oxfordshire Minerals and Waste Local Plan: Part 1 - Core Strategy (**MLP**), which are on consultation from 03 February - 20 March 2017., by Gardner Planning Ltd (**GPL**) on behalf of Oxfordshire Against Gravel Extraction (**OXAGE**). GPL/OXAGE participated in the Examination of the MLP in September 2016.

1.2. **OXAGE** is a county-wide alliance of community action groups against gravel extraction. OXAGE was formed in 2013 in order to formulate a joint response to the OCC's draft minerals strategy, and has fully participated in the OCC Minerals and Waste Local Plan through the various stages. The groups which currently make up OXAGE are as follows:

**BACHPORT** (Burcot and Clifton Hampden Protection of River Thames)

Parishes:

Burcot and Clifton Hampden

Long Wittenham

Appleford

Total population c. 2,500.

**CAGE** (Communities Against Gravel Extraction)

Parishes:

Aston Tirrold

Aston Upthorpe

Brightwell-cum-Sotwell

Cholsey

Moulsford

North Moreton

Wallingford

Total population 14,000 (Census 2011) now estimated to be approximately 15,000 as a result of new housing since then.

**PAGE** (Parishes Against Gravel Extraction)

Parishes:

Benson

Berinsfield

Berrick Salome

Dorchester-on-Thames

Drayton St Leonard

Newington

Stadhampton

Warborough  
Total population of around 5,500.

**SEAG** (Sonning Eye Against Gravel)  
Sonning Eye  
Population around 100.

**Oxfordshire CPRE** (Council for the Protection of Rural England) supports this alliance.

- 1.3. **Appendix A** to this Report is an outline response to the Proposed Modifications comprising a detailed commentary and proposed changes to the mineral modifications. For the avoidance of doubt, as our objections are fundamental and challenge the Inspector's Interim Report (**IR**), this GPL Report seeks to present an argued case which goes beyond the wording of the PMs. **Appendix B** is an extract from the Representations Form with contact details etc., but this Report and Appendix A constitute Part 2 of the form. Appendix C is the legal advice.
- 1.4. The PMs are an attempt to amend the MLP to make it 'sound'. This Report considers that they do not do so. While Oxfordshire County Council (**OCC**) is obliged to take the Inspector's Interim Report (**IR**)<sup>1</sup> into consideration, OCC is reminded that the IR is a "recommendation" only and it is not legally bound to accept the same<sup>2</sup>.
- 1.5. This Report sets out the grounds for finding the IR flawed. OCC must consider whether that is so, or not, and give reasons for its decision. It is OCC's responsibility to put forward what it considers is a 'sound' Plan. It is insufficient to merely rely on the recommendations of the Inspector.
- 1.6. The principle objections in this Report are:
1. That the annual rate of sharp sand and gravel (**ss&g**), on which the MLP is based, as proposed in the modifications, is too high; that the justification for deviating from Government policy (that a 10-year past average should be used) is not based

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<sup>1</sup> Inspector's Interim Report 12 October 2016

<sup>2</sup> PCPA 2004 20(7) and 23 (2) (2A) and (3)

on robust evidence; and the outcome is likely to be an excess of land-won supply - with consequences set out below.

2. That the 'rebalancing strategy' for shifting future provision to South Oxfordshire and away from North Oxfordshire is not sufficiently justified nor based on robust evidence and may not be capable of implementation. Furthermore, that the introduction of 'production capacity', rather than the adequacy of landbanks of permitted reserves, as a measure of whether there is any unmet need for minerals is unworkable.
  3. Some modifications seem to favour planning applications being made outside the 'plan-led' system.
- 1.7. These points were made at the Examination and the objection to the Inspector's findings have already been made known to him and OCC Officers. In response, the Programme Officer said as follows (emphasis added - bold text throughout indicates our emphasis)<sup>3</sup>:

*However, the County Council will have seen all the correspondence as it was also copied to Peter [Day, OCC Officer]. They will no doubt consider the points you raise in finalising the main modifications that will be proposed and consulted upon. **If you consider that they are formulated on the basis of what you believe to be a flaw in the IR no doubt you will say so in your consultation response. The Inspector will consider whatever arguments you make then.***

- 1.8. The Officer's Report seeking Cabinet to publish the draft modifications<sup>4</sup> made reference to these points but contained no reasoned justification for rejecting the arguments, relying entirely on the IR. **On that basis, this Report makes these objections again (in the context of the modifications) and awaits a full response from OCC and the Inspector, as promised in the Programme Officer's email, before OCC decide to adopt the Plan as proposed for modification.**

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<sup>3</sup> Email from Programme Officer 20.12.16

<sup>4</sup> Report to Cabinet 24.1.17





- 1.9. The remedy for the adoption of an unsound Plan is an application to the High Court pursuant to Section 113 (3) of the Planning and Compulsory Purchase Act 2004. Any such application must be made before the end of the period of six weeks after adoption.

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## 2. FORECAST ANNUAL PRODUCTION

- 2.1. Calculation of a future annual production figure for land-won material is fundamental to a Minerals Plan because it is multiplied by the years in the plan period to produce a total requirement. Small changes to the annual figure can result in millions of tonnes of extra material required over the lifetime of the Plan.
- 2.2. In the time of regional planning pre-2011 the annual county figure was an ‘apportionment’ of a national, then regional, then county figure of projected annual supply. It was almost always an over-estimate; considerably higher than actual production. For Oxfordshire, the ‘apportionment’ figure for sand and gravel was 2.0mtpa then 1.82mtpa<sup>5</sup>, a level of production which was never reached even in the ‘boom’ years.
- 2.3. To simplify the post-regional world in 2012, the Government fundamentally changed the methodology (in the NPPF<sup>6</sup>, MASS<sup>7</sup> and PPG<sup>8</sup>) to an *“average of 10 years sales data”*<sup>9</sup>. These references added *“and other relevant local information”* - but this was intended to be something major or extraordinary as footnote 1 in MASS suggests *“for example the National Infrastructure Plan”* (full footnote below<sup>10</sup>)..
- 2.4. Point 1 of paragraph 145 of the NPPF requires the preparation of *“an annual Local Aggregate Assessment...based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources) which requires ‘robust evidence’<sup>11</sup> to deviate from. Point 2 requires “participation in the operation of an Aggregate Working Party”*

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<sup>5</sup> LAA Nov 2014 Table 3.3

<sup>6</sup> National Planning Policy Framework March 2012

<sup>7</sup> Guidance on the Managed Aggregate Supply System Oct 2012

<sup>8</sup> Planning Practice Guidance (on-line)

<sup>9</sup> NPPF para 145 pt 1, MASS para 6 pt 1, PPG para 62

<sup>10</sup> Including, for example, the National Infrastructure Plan, an update of which is published every year. Mineral Planning Authorities should also look at the average 3 year sales in particular to identify the general trend of demand as part of the consideration of whether it might be appropriate to increase supply.

<sup>11</sup> See Inspector’s questions for the Examination and the POS/MPA document both referred to below.

(in this case SEEAWP) **and** “taking the advice of that Party into account when preparing their Local Aggregate Assessment”. These requirements are clearly to be regarded as separate points, effectively linked by the word ‘and’ rather than the word ‘or’.

- 2.5. OCC accepted the 10-year methodology in 2013<sup>12</sup> for an earlier version of the Plan, but has now changed its mind (perhaps indicating that the evidence is fragile rather than robust):

*“17. Within the South East, the draft Oxfordshire **LAA** [Local Aggregate Assessment] is the only one that has proposed an adjustment to the 10-year sales average. All other LAAs are based on a 10-year sales average, unless the authority already has an adopted plan with a different figure, except for one case where the average of the last 3 years sales has been used because there were no sales during the first part of the 10-year period. Outside the South East, all LAAs that we are aware of use the 10-year sales average.*

*18. The adjusted methodology proposed in the draft LAA relies on certain assumptions and relationships which are open to challenge and may be difficult to explain and defend; and there is a risk that the approach would be found unsound at examination. These include the use of population as a proxy for demand; the application of national consumption per head figures to Oxfordshire; the use of the ratio of sales to estimated consumption as the net import or export position in Oxfordshire over the last 10 years; and the use of an average of those figures as a net import or export factor as an adjustment factor applied to the level of provision in future years.*

*19. Having looked at the LAA methodology in the light of these factors and the responses to the June 2013 draft LAA, I am not convinced of the need for an adjustment to be made to the 10-year sales average. There is significant headroom between the 10 year average figures and the position in 2012, as shown in the table below, which would enable sales to increase such that Oxfordshire could move from being a net importer to a net exporter of sharp sand and gravel.”*

- 2.6. In **MM14** Policy M2 if a 10-year average figure for ss&g were to replace the convoluted LAA figure it would be 0.628mtpa, giving a requirement of 10.045mt for the 18-year plan period (2014 - 2031 inclusive) or 9.42mt for the 15 remaining years (2017 - 2031 inclusive). With reserves calculated at 12.302mt at the end of 2016 (see below) this

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<sup>12</sup> Cabinet report 26.11.13

would mean that no new sites are required, making a Part 2 plan for ss&g unnecessary and resulting in no need for a debate on a ‘north/south rebalancing’.

2.7. In common with the rest of the country, sales dropped in Oxfordshire in 2008/9 because of the recession. Some sites were mothballed. The 2014 LAA/OCC assessment (on which the MLP is based) views this as abnormal and states that this is a “local factor”<sup>13</sup> which seems to mean “relevant local information” in NPPF and MASS terms, notwithstanding it was commonplace and not unique to Oxfordshire, and that sites were mothballed because of lack of demand rather than causing an abnormal drop in sales. All other MPAs in the South-East ignored the effect of the recession and adopted the 10-year average approach. OCC however chose to review the LAA in 2014 and adopt a quite different approach to other MPAs and proposed a substantial increase over the 10 year average using sales information from pre-2007.

2.8. To deviate from the 10-year average methodology requires “robust evidence”<sup>14</sup> to do so. The Inspector recognised that in his questions for the relevant Examination session:

*Issue 2: Is the evidence presented in sections 2 and 3 of the 2014 LAA robust and if not, why not? Is the evidence presented in sections 2 and 3 of the 2014 LAA **robust** and if not, why not?*

*Issue 3: Section 4 of the 2014 LAA considers each group of ‘other relevant local information’ and assesses whether the evidence presented justifies a departure from historical sales average as a basis for assessing future aggregates demand. Taking each in turn, should it be taken into account at all and, if so, **is the assessment and conclusion robust?** (emphasis added<sup>15</sup>)*

2.9. Moreover, the Planning Officers Society and Mineral Products Association produced ‘Practice Guidance on the Production of LAAs’ (April 2015), which was raised by GPL/OXAGE in writing before the Examination (and referred to at the Examination). This makes an obvious and important point (emphasis added):

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<sup>13</sup> LAA para 4.5 and p47

<sup>14</sup> Inspector and POS/MPA document already referred to below

<sup>15</sup> use of bold in quotations indicated emphasis added

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*There will need to be sufficiently robust information to justify deviation from the starting point of the 10 years rolling sales average. The use of other relevant local information needs to be based on sound evidence that is not only relevant but is adequate, proportionate and up to date.* (paragraph 3.9)

- 2.10. The Inspector's Interim Report (IR) accepted the annual figure in the 2014 LAA and the Plan for 1.015mtpa for land-won ss&g but does so without finding that the evidence for this much higher figure is "robust". This Report suggests the Inspector has erred in forming his view by failing to apply his own test. It is the view of this Report that the IR acceptance of the LAA is therefore flawed and should not be relied upon by OCC when seeking to adopt the Plan.
- 2.11. This Report, therefore, contains major objections to many of the proposed modifications which use the higher figure for ss&g production - 1.015mtpa - rather than the 10-year average of 0.628mt (2006 - 2015) and 'post-recession' (2013 - 2015) 3-year average of 0.603mtpa.
- 2.12. The Inspector's letter to OXAGE of 2 December 2016<sup>16</sup> states that paragraphs 89 - 123 of his IR are commentary on the preparation of the LAA, with conclusions at paras 124 and 125. Paras 89 - 123 comment on the weight given by the Inspector to various factors making up 'other relevant information'. But only the "*commercial decisions by operators*" seems to be material to the Inspector's conclusion that the LAA is justified in departing from the 10-year average approach<sup>17</sup> and provides a means of quantifying such a change (although significantly he does not refer to that as 'robust evidence').
- 2.13. The other factors (growth in population, housebuilding, economy, and infrastructure) are also not described as based on 'robust evidence'. Indeed the inspector agreed that on balance these factors cannot be used to alter the LAA, he states: "*none were used to make a quantitative outcome which I consider the correct outcome*"<sup>18</sup>.

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<sup>16</sup> Appendix D

<sup>17</sup> IR para 110

<sup>18</sup> IR para 125

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- 2.14. The Inspector instead put great weight on the evidence that the commercial decisions by operators (affecting three quarries) which reduced production, even though it is recorded in the IR that this evidence for this is “*documentary and anecdotal*”. The ‘documentary’ evidence is identified as Document H9 and Document M3/1 Appendix A<sup>19</sup>. Furthermore, that ss&g sales increased from 2010 (although declined in 2013) with an uplift in 2015. The ‘anecdotal’ evidence is that crushed rock substituted for sand and gravel in certain applications<sup>20</sup> and that the recent trend in sales resulted in the Council’s ‘conclusion’ that production had switched back to Oxfordshire<sup>21</sup>.
- 2.15. There are several problems, even with the documentary evidence, in arriving at a conclusion that commercial decisions to close quarries *caused* a decline in sales rather than that they were *reflecting* lower demand. If an economic recession is a factor, then there is little doubt that other recessions are likely in the Plan period (this was not challenged at the Examination). Thus, taking an average of the past is valid for the future level of sales.
- 2.16. The documentary evidence presented to the Examination was thin:
- Document H9 is the Hanson email (20 November 2012) which informs OCC that one of the three quarries will be mothballed in late 2012, well past the recession when the LAA states that supply was restricted. Document H9 also records that “*this was a sustained period of low demand*”.
  - Document M3/1 Appendix A provides a single figure of 0.187mt sand and gravel import in 2009 from Gloucestershire, dropping to 0.002mt in 2014.
- 2.17. Moreover, the weight given to recent supply figures and the OCC “conclusion” that production has switched back to Oxfordshire actually supports the proposition that (although the recession is over) ss&g supply has returned to a ‘new normal’ 3-year

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<sup>19</sup> Paragraph 107, IR

<sup>20</sup> Paragraph 108, IR

<sup>21</sup> Paragraph 109, IR

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average of 0.603mtpa i.e. at a much lower level than that pre-recession (2001 - 2007) of 1.224mtpa, with no evidence of recent or current significant imports. At 1.015mtpa the LAA ss&g supply level for the future is some 62% higher than the 10-year average of 0.628mtpa and 68% higher than the 'post-recession' average of 0.603mtpa.

- 2.18. The paucity of the documentary evidence was raised by OXAGE and others at the Examination. The evidence provided does not support the weight given to the conclusion that a drop in local supply for a short period of economic recession represents material "local information" to justify the 2014 LAA's significant uplift. Such a drop in demand in a recession is both commonplace and repeatable. Furthermore this figure was derived from data which is up to 14 years old and which cannot be said to be "up-to-date" as a justification for raising the supply figure. That surely is not what was intended by the NPPF when looking for a basis for adjusting the 10-year average sales figures.
- 2.19. The only other local evidence presented in the LAA that the Inspector suggested merited an uplift to the LAA supply figure (although he noted it was difficult to quantify) was a possible increase in housing growth, GDP etc.<sup>22</sup> This linkage was challenged by participants pointing to the graph in the BACHPORT submission which clearly showed that there was no direct link between GDP/construction output and past ss&g sales for the last 30 years, and further that this graph was from data published by the Mineral Producers Association itself. It must also be noted that the IR says care is needed to avoid double counting of the 'housing/employment' factor with the 'commercial decisions' factor.<sup>23</sup> OCC's intention, by increasing the LAA figures, was that Oxfordshire needed to be able to supply the same portion of UK sales as it had prior to the recession so that it provided for the "wider need". It is significant that OCC claimed at the Examination that this was an NPPF requirement although the Inspector said there was nothing in the NPPF to support this. A study of NPPF paras 143 and 145 supports the Inspector's view. OXAGE and other participants stated that there is no evidence to

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<sup>22</sup> IR paras 117 - 119

<sup>23</sup> IR para 119

suggest that the last ten years of sales data does not reflect unmet needs for other areas (certainly there was no shortage of available production capacity had the demand existed); that there is no evidence that other areas were unable to source supply because Oxfordshire's contribution to UK sales had declined during the last ten years.

- 2.20. It is surely inappropriate to put forward "*commercial confidentiality*"<sup>24</sup> to avoid a proper examination of supply patterns during the economic recession, yet then rely H9 which provides a wealth of selective commercial information, even if it does not support the LAA case e.g. it is dated 2012 and is about an intention then to mothball a quarry - not in the recession. With Hanson reopening Sutton Courtenay in 2013, the last 10-year sales figures capture the economic cycle of recession and a return to growth, a more robust economic basis for future provision than relying on out of date "pre-recession" figures proposed in the 2014 LAA.
- 2.21. The evidence is not actually described as 'robust' in the appropriate section of the IR. Instead, the IR says that SEEAWP "*scrutinised this LAA very carefully and concluded it was robust*". That does not mean that SEEAWP examined the evidence on which the LAA relies, which is what is required to satisfy NPPF para 145 point 1. It is not clear whether SEEAWP examined any evidence in that the nature of this "*scrutiny*" is not recorded in any of the written statements nor is it recorded in the minutes of the relevant SEEAWP meetings. There is no record either in statements, oral evidence or minutes of what 'evidence' SEEAWP had before it when considering the LAA in Autumn 2014; but it could not be M3/1 Appendix A - the Gloucestershire export figure made available in June 2016 - or H9 (the Hanson email) which was only released by OCC at the Examination in 2016.
- 2.22. The Inspector records that he relies on the oral evidence of the MPA and others on the SEEAWP process which went unchallenged. There is no record of what that oral evidence was as it was not alluded to in the written submissions, no details are recorded in the IR, nor do GPL/OXAGE have any clear recollection of it. However, SEEAWP's

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<sup>24</sup> IR paragraph 131



objectivity **was** challenged by GPL at the hearing, pointing out that SEEAWP - which consists of minerals industry representatives and surrounding MPAs, all who have a collective interest in maximising Oxfordshire's level of supply - could not reasonably be relied upon to make a critical examination of the LAA, or is there any documentary evidence that it did.

- 2.23. Moreover, if OCC were claiming at the time that Oxfordshire was relying on imports from other counties for the period of 'mothballing' no evidence was made available. Furthermore, it was surely the function of SEEAWP to firstly compare sales levels of all MPAs within its area and suggest reductions to the 10 year average if any were 'abnormally' supplying Oxfordshire; secondly to notify other AWP's that abnormal circumstances may have occurred in 2008/10 but there is no record of SEEAWP doing either of these.
- 2.24. It is the strong view of this Report that it is inappropriate to rely on the unrecorded scrutiny and endorsement of SEEAWP (behind closed doors) as a test of robustness. To do so undermines the process of the LP Examination openly assessing the actual evidence. This point is made more important because during the Examination, when the source material was discussed, the IR does not record that the critical actual evidence is "robust", only that SEEAWP's scrutiny of the LAA was robust, seemingly without knowing what that scrutiny involved. This fails the test of NPPF para 145.
- 2.25. The IR places "*significant weight*" on the "*endorsement*" of SEEAWP<sup>25</sup>. The Inspector's letter of 2 December 2016 states that the evidence had already been "settled" before IR paragraphs 126 to 131. It could not have been "settled" unless the evidence to settle it was found to be "robust". To accord SEEAWP's endorsement some weight may be justifiable, but it is no substitute for finding the actual evidence on which the LAA based its major (at least 62%) uplift in supply "robust", which the IR does not.

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<sup>25</sup> Paragraph 126, IR

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- 2.26. The IR concludes at paragraphs 124 and 125 that a quantitative adjustment is justified without finding that any of the factors in paragraphs 126 - 131 are based on robust evidence. Indeed, the IR poses the question in paragraphs 126 to 133 '*is the adjustment robust?*' but then fails to confirm that it is, except in the sense that SEEAWP approved it.
- 2.27. IR paragraph 127 states that the methodology for adjustment also needs to be robust. It finds that the method is robust because it is based on the historical relationship between Oxfordshire and England sales pre-2008 and this is "*simple*"<sup>26</sup>. This does not mean it is robust. No evidence was presented that this relationship was critical to ongoing supply (i.e. that Oxfordshire needed to provide more for "elsewhere" in future years). Apart from simplicity, the IR provides no other reason to justify a linkage between Oxfordshire and England production levels.
- 2.28. Ironically, simplicity was actually the original attraction of a forecast based on past 10-year average sales data, as an alternative to the pre-2012 'sub-regional apportionment', which was always too high. The 10 year average method avoided an inconclusive and unconvincing debate. The IR does not mention that. Neither the NPPF nor MASS say that county production should be a percentage of England production nor that pre-recession figures should be used. The IR states there is nothing in national guidance to say that a comparison between England and Oxfordshire sales cannot be used<sup>27</sup> to make adjustments, but it is a matter of fact that national guidance does not give this as an example of testing figures, which if it is regarded as a 'robust' (or even 'simple') methodology it could have done. In fact, such a methodology has a passing resemblance to the old 'top down' approach to sub-regional/county apportionments which were abandoned with the advent of the NPPF and MASS.
- 2.29. In any event, the latest figures for England's production are for 2013, so by the time of the Examination we were looking at figures that were 3 years old and as such unreliable.

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<sup>26</sup> Paragraph 128, IR

<sup>27</sup> IR para 127

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- 2.30. The overall conclusion at paragraph 132 to the IR is that any evidence is to be considered “robust” by reason of it being the best available at the time. If that were so, then it renders an Examination to test the latest evidence put before it as redundant.
- 2.31. The fact remains there is almost no actual ‘evidence’ in the LAA to justify a much much higher future sales figure than the average of the last ten years of sales, only ‘guesstimates’ and assertions. By way of illustration:
- alignment with England production - “*whatever the precise reasons*” paragraph 3.12, “*it is our judgement*” paragraph 4.30
  - recycled material - “*no information*” LAA paragraph 4.24
  - economy - “*no evidence is available*” paragraph 4.41
  - population and housing growth - “*evidence is somewhat indirect*” paragraph 4.46
  - infrastructure - “*likely to be limited*” paragraph 4.49, “*will not influence future aggregate demand*” paragraph 4.50, “*whilst it is difficult to quantify, there are some indications*” paragraph 4.56
  - import and export - “*difficult to build up a clear picture*” paragraph 4.57, “*no factual evidence to confirm this*” paragraph 4.58
- 2.32. It cannot be right that a **major uplift** in provision for future sales (with all of the implications that flow from this) can be based on the very low (at best) level of factual evidence available when the LAA was prepared. More evidence was made available at the Examination (H9 and M3/1 Appendix A). It is a non-sequitur that evidence is “robust” just because it was the best available at the time and, in any event, it was later added to. Either it is robust when fully and finally examined, or not. The annual figure for future supply on which the Plan is based is central to determining whether additional resources are deemed to be required during the period. Using the uplifted LAA means the Plan, as it stands, will require an additional site or sites for 5mt of ss&g (**MM11**). This means that more of Oxfordshire’s countryside would have to be dug up. Land-won material is relatively cheap to produce and if too plentiful it will force out more sustainable sources such as recycled and marine dredged material. Using a lower annual

figure closer to the 10 year average of 0.6mtpa will not require any new sites because of the large landbank of permitted reserves already available and has the benefit of ensuring there is no oversupply early on in the plan period.

### SA/SEA on future provision

- 2.33. The Inspector's requirements included a SA/SEA response to the following (emphasis added):

*"39. The NPPF changed the approach to assessment of provision to one that is based upon the annual preparation of the LAA. I shall deal with the provision later in this interim report. However, for the purposes of this issue it should be noted that the quantitative departure from the rolling average of 10-year sales data is calculated on the basis that Oxfordshire will continue to make its historic contribution towards the aggregate needs of a wider area than the County. The Council itself poses the question as to **whether future production should (Council's emphasis) reflect past proportions of the national total and suggests this is for the local plan process to determine (Document M3/1, paragraph 6.2). There is no evidence that the SEA/SA process has considered this in respect of this Plan in the way that it did for the withdrawn 2012 Plan.**" (our emphasis).*

- 2.34. The new 2017 SA/SEA has still provided no assessment of the alternative of a 10-year average v the Plan/LAA approach:

*"...but in view of the requirements of the NPPF there is no reasonable alternative to the objectively assessed need figures themselves and therefore there is no reasonable alternative to the amounts of provision to be made in policy M2.  
Therefore provision based just on the 10 year sales average (or not making provision for the wider area) is not considered to be a reasonable alternative"*

- 2.35. The SA/SEA has clearly not had regard to NPPF para 145 point 1 which sets out the alternatives of a 10-year average or as adjusted for 'other relevant local information'. There is nothing in the Plan or the LAA to suggest that the higher LAA figure for ss&g is to enable Oxfordshire to make provision for a wider area. The Inspector may (wrongly) have made that suggestion but the SA/SEA is assessing the Plan, not the IR.
- 2.36. OCC makes an opposite comment in a note to the Inspector (25.10.17)

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*“Indeed, the requirement for LAAs to be based in part on the 10-year sales average means that the assessment of the future provision requirement automatically takes into account the past pattern of supply, including cross-boundary flows of material and, where applicable, supply to the wider area. This national policy / guidance position is referred to in paragraph 6.4 of Document M3/1”.*

- 2.37. The Inspector’s response does not withdraw his requirement that the SA/SEA should look at the robustness of the two different approaches.
- 2.38. The PMs are based on the Inspector’s endorsement of flawed figures and conclusions and OCC has not seemingly examined his conclusions to see whether they are reliable. It is its responsibility to do so as the body which is seeking to adopt the Plan. The Inspector is merely making recommendations. OCC must be sure that the Plan is sound and evidenced based and be aware that objectors have a right of legal challenge.
- 2.39. **The revised SA/SEA remains inadequate in terms of numbers because it fails to assess the alternative projections.**

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### 3. RE-BALANCING FUTURE SUPPLY

- 3.1. Proposed Modifications **MM15** to **MM19** and **MM20** (policy M3) seek to give preference to new sites in southern Oxfordshire (75%) rather than northern Oxfordshire (25%). The Submitted Plan paragraph 4.28 is not proposed for modification and its reasoning for “changing the balance” is environmental impact (emphasis added):

***“Production of sharp sand and gravel in Oxfordshire has become increasingly concentrated in the northern part of the county (Cherwell and West Oxfordshire Districts), particularly in West Oxfordshire, with a decline in the proportion coming from quarries in the southern part (South Oxfordshire and Vale of White Horse Districts). Over the last 10 years an average of 74% of production has been from northern Oxfordshire. Although there are extensive remaining sand and gravel resources in West Oxfordshire, including within the current working areas of the Lower Windrush Valley and around Cassington, there are concerns about the rate and intensity of mineral working in the area and the consequent cumulative impact on local communities, generation of traffic, including on the A40, and impacts on local rivers and groundwater flows.”***

- 3.2. Whilst this remains a justification, the case for serving the ‘north’ (Cherwell, West Oxfordshire and half of Oxford) and ‘south’ (South Oxfordshire, Vale of White Horse and half of Oxford) in terms of mineral resources has been given more prominence in **MM15**. This states that demand north/south is approximately equal but that an objective is to minimise distance between supply sites and market. **MM16** then says that ‘an assessment of options’ to best meet that objective, *“and overall is the most sustainable”* option, is to concentrate 75% of additional supply of ss&g to the Thames and Lower Thames Valleys (5) and Caversham (4) strategic resource areas, with 25% at Thames, Lower Windrush and Evenlode Valleys (6). This is said to be because the ‘north’ already has a higher level of permitted reserves.
- 3.3. The Inspector was not convinced about this rebalancing and said a fully revised and comprehensive SA/SEA should be prepared to look at the options and justify this policy. The IR provides guidance for a new SA/SEA on *“changing the balance of production*

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*capacity between the strategic resource areas in western [now northern] Oxfordshire and southern Oxfordshire*<sup>28</sup>.

3.4. IR para 43 goes on to set out the requirements for the SA/SEA:

- SEA/SA should determine if it is the most appropriate of the reasonable alternatives
- Housing, employment and other developments likely to come forward
- Mineral planning permissions granted and other changes in production capacity since the strategy was first settled to determine if and at what point in the plan period the change in the balance is likely to be delivered
- The quality of the resource in the southern part of the County is such that larger areas of land would need to be worked to achieve a mineral yield equivalent to that from the resource in the west.
- There is no evidence that the environmental implications have been assessed and, to the extent that the evidence to do so is available, it should be.

3.5. The SA/SEA (February 2017) Appendix D firstly seeks to assess whether the Bampton/Clanfield Mineral Safeguarding Area should also be a Strategic Resource Area (**Option 2**). This is an anomaly because the MSAs are defined as “*areas of known mineral resource that are considered to be of sufficient economic or conservation value*”<sup>29</sup>. All other like MSAs are also defined as SRAs (**Option 1**).

3.6. Appendix D concludes that Bampton/Clanfield, although a Mineral Safeguarding Area (**MSA**) should not become a SRA for the following (summarised) reasons:

1. The weighted average distance from minerals workings to market is greater for Option 2 than for Option 1 and is likely to lead to greater effects on transport, including increased congestion or congestion over a wider area, and increased requirements for road maintenance.

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<sup>28</sup> IR para 41

<sup>29</sup> MLP glossary p141

2. It may result in lower economic benefits from Option 2 as it may appear a less attractive option for investment and bring smaller financial benefits, although distances depend on the exact location of mineral workings.

Although the benefits are:

3. With regards to SA Objectives 1, 2a, 2b, 3 and 9, Option 2 performs slightly better.
  4. The weighted average area that would need to be worked to provide a million tonnes of mineral resources in Option 2 would be less than for Option 1 (i.e. Bampton/Clanfield has the best resources).
  5. Both options perform similarly with regards to SA Objectives 6 and 10.
  6. Option 1 would result in a more limited range of SRAs which would restrict the choice of potential site allocations.
- 3.7. The 'distance to market' point seems to relate only to the identified nodes of Bicester and Didcot; however there are other growth locations of future demand for minerals which are close to Bampton/Clanfield:
- West Oxfordshire Garden Village, including 2,200 homes, now Government supported (January 2017)
  - Wantage
  - Faringdon
  - Oxford;
  - Swindon
- 3.8. The 'economic/unattractive to the minerals industry' point is guesswork about how the minerals industry would view viability without any evidence in support of the conclusion. This is countered by the benefit of wider choice; Appendix D acknowledges



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that “*there are a number of nominated mineral extraction sites within this area*” and that “*the economic implications of the increased distance to market from Bampton/Clanfield remain uncertain*”. Moreover, the MCAs are defined as being ‘*considered to be of sufficient economic ... value*’.

- 3.9. The case for excluding the Bampton/Clanfield MCA from the Strategic Resource Areas has not been made. It also seems to have thicker deposits with less land-take so requiring a smaller new site than elsewhere.
- 3.10. **MM15** for para 4.29 states that the examination of factors such as construction activity within the 5 Council areas shows that demand for minerals will be equally split north and south. The SA/SEA Appendix D does not include that data. Whilst the SA Appendix D has examined the reserves north and south, it has no data on ‘*housing, employment and other developments likely to come forward*’ as required by the Inspector. It has not produced evidence to demonstrate why demand north and south is approximately equal
- 3.11. The SA/SEA (February 2017) Appendix D then assesses and identifies 4 options for allocating the additional 5mt that PM **MM11** (para 4.19) calculates is required. This Report, as stated elsewhere, considers that the annual production figure is grossly excessive and that the 10-year average figure would mean that no extra ss&g resource is required. The options are:
1. 0% Southern 100% Northern
  2. 35% Southern 65% Northern
  3. 75% Southern 25% Northern
  4. 100% Southern 0% Northern

It is not clear why the progression from option 2 is not followed for option 3, with the option of 65% Southern 35% Northern.

- 3.12. The preferred option in the SA/SEA is 3 - that 25% of that (1.25mt) should be accommodated in northern/western Oxfordshire and 75% (3.75mt) in southern Oxfordshire. This is shown in **MM16** modified paragraph 4.30 and **MM20** modified policy M3. This clarification is necessary although paragraph 4.30 still states *“The requirement for additional sites for sharp sand and gravel should therefore be met primarily in the southern part of the county, particularly over the first half of the plan period.”* Whilst 75% may equate to ‘primarily’, there is no evidence in the SA<sup>30</sup> or elsewhere to justify why this should be focussed *‘particularly over the first half of the plan period’*.
- 3.13. Plan paragraph 4.31 is unaltered including *“any significant requirement for additional sites in this part of the county will need to be met by a new working area within the Thames and Lower Thame Valleys area from Oxford to Cholsey”*, although there is no supporting evidence at all to support this ‘semi-policy’.
- 3.14. On the objective to minimise travel distances between source and market, the SA characterises this as main market north - Bicester, south – Didcot, then calculates that tonnage/miles would be greater if production were weighted towards the north. There is no data on comparative requirements for each market, or other locations of growth, and the probability that sources of supply outside Oxfordshire would be utilised for some markets. In all, it is not demonstrated that the objective to minimise travel has been demonstrated by the proposed 25/75% allocation.
- 3.15. The claim about additional environmental impact in the north/west (in unaltered paragraph 4.28) is not substantiated. Assessment of the various factors in Appendix D shows little difference between north and south.
- 3.16. In summary, apart from seeking to equalise reserves between the north (+1.25mt) and south (+ 3.75mt), given that reserves are currently higher in the north, this is an

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<sup>30</sup> Sustainability Appraisal Report Update Appendix D: Post-Examination Hearings Assessments of Minerals and Waste Spatial Strategy Alternatives, Feb 2017



arithmetical exercise only. Any planning justification for weighting the south has not been substantiated.

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## 4. THE PROPOSED MODIFICATIONS

- 4.1. Section 2 of this Report have made the case that the resource requirement for the MLP is grossly inflated, and the IR should not be relied upon. Section 3 makes the case that the ‘rebalancing strategy’ is both unsupported and would be very difficult to implement. This section 4 begins with the unreliability of ‘production capacity’ as a planning tool, and recommends that only a ‘landbank of reserves’ approach is appropriate for future minerals planning in Oxfordshire.

### Production capacity

- 4.2. Following Part 1 of Local Plan, the next stage is Part 2 which (unless the annual production figure is reduced as advocated by this Report) will probably identify one or more new sites or extensions for 1.25mt ss&g in the north and 3.75mt in the south. One of the purposes of Part 1 Policy M3 (**MM20**) is to identify the ‘strategic resource areas’ from which these sites are selected in Part 2.
- 4.3. There are several references to the need to maintain ‘production capacity’ which may seem to be an alternative to maintaining ‘landbank’ of permitted reserves (e.g. at **MM12** para 4.20, **MM14** Policy M2). The introduction of ‘production capacity’ is unworkable. The extent of site areas and reserves is effectively known and ‘fixed’, and monitored annually, so is a good planning tool. Production capacity can change annually by introduction of new plant if the market justifies it, or reduction for secret commercial reasons (such as ‘mothballing’ sites). This is a commercial decision of the minerals industry and lack of production capacity is a matter of investment, not minerals planning. Large reserves with small processing plants cannot justify the release of more sites. Moreover, published monitoring in Oxfordshire and elsewhere over many years does not include ‘production capacity’ (see Aggregates Monitoring Survey 2015 Quarry Sales and Reserves in Oxfordshire 2.6.16), nor could it. It is GPL/OXAGES’s recollection

that the inspector seem to agree with our point about the use of production capacity at the Examination.

- 4.4. Ss&g sales in Oxfordshire for 2015 were 0.768mt<sup>31</sup>. This is unlikely to be the total current production capacity. But, if it were, then there would be a clamour by minerals industry for more sites to provide the difference in terms of additional sites so that 1.015mtpa could be achieved. This is despite the fact that the level of current reserves (the landbank) is sufficient for 12 years even on this inflated figure.
- 4.5. If production capacity were to be the determinant for considering planning applications and applied to north and south, then the south (with 45% of current production capacity<sup>32</sup>) would be more vulnerable to having an ad hoc application permitted. In fact, the 'south' currently has 5 quarries compared to the 'north' with 4.
- 4.6. There is no justification for permitting new sites on theoretical production requirements, nor should an increase in capacity be justified on short term spikes in demand when alternative sources of supply (e.g marine dredged material) could more flexibly and environmentally meet a period of shortfall, rather than increasing local capacity by opening up a whole new area of supply with all the environmental consequences that would bring, including future oversupply and future mothballing.
- 4.7. It is therefore submitted that 'production capacity' (for the purpose of considering planning applications or new sites in Part 2) should be deleted from proposed paragraph 20 (**MM12**), Policy M2 (**MM14**), paragraph 4.30 (**MM16**), and Policy M3 (**MM20**) for the reasons that:
- production capacity is capable of increasing (or decreasing if sites are 'mothballed') to meet demand from permitted sites;

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<sup>31</sup> AM 2015 Table 2

<sup>32</sup> SA/SEA Appendix D para 3.9

- no data is published on production capacity and, if it were, then a judgement would have to be taken as to whether or not it could be increased - not just a figure provided by the minerals industry)

4.8. Also, modified M2 (**MM14**) could contain two measurements

- “provision” meaning maintaining annual production capacity of 1.015mtpa for ss&g (although we object to this actual number
- “provision” meaning maintenance of landbanks

4.9. There should only be one meaning which should be maintenance of landbanks which is a long-term measurement rather than an annual ‘production capacity’ measurement which is much harder to verify and could alter year on year.

## The quantum of resources required

### Policy M2/MM14

4.10. Section 2 makes the case for basing the plan on a 10-year average rather than the LAA methodology.

4.11. Policy M2 **MM14** should be reworded as follows:

**Overall provision for the Plan period (i.e. not an annual requirement)** will be made through policies M3 and M4 to enable the **average annual supply over the remaining Plan period** of:

- sharp sand and gravel - **0.628** ~~1.015~~ mtpa giving a total provision requirement of **9.42** ~~18.270~~ million tonnes

*[no comment on soft sand or crushed rock]*

from land-won sources within Oxfordshire **2017** ~~2014~~ – 2031 inclusive (**15 years**). **This is based on the latest available average production figures of the last 10 years 2006 - 2015 (0.628mtpa).**

**The total permitted reserves likely to be worked 2017 - 2031 inclusive for sharp sand and gravel were 12.302mt at the end of 2016, this means that at the end of 2016 the**

**sharp sand and gravel landbank was the equivalent of 18 years working, so that no new sites are required.**

Permission will be granted for aggregate mineral working under policy M5 to enable separate landbanks of reserves with planning permission to be maintained for the extraction of minerals of:

- at least 7 years for sharp sand and gravel;
- at least 7 years for soft sand;
- at least 10 years for crushed rock;

in accordance with the annual requirement rates **which were 0.628mtpa (sharp sand and gravel) for 2016 but which will be adjusted in future in** the most recent Local Aggregate Assessments. ~~taking into account the need to maintain sufficient productive capacity to enable these rates to be realised.~~

#### **MM11 Paragraph 4.19**

- 4.12. This covers similar ground to that based on the case made for lower figures so should be reworded as follows:

~~Based on the Local Aggregate Assessment 2014~~ Annual provision figures **(which are not annual targets) based on a 10-year past average provide** the total requirements over the **remaining** plan period 2017~~4~~ to 2031 are:

- Sharp sand and gravel – ~~9.42~~ ~~18.270~~ million tonnes (~~1.015~~ **0.628 x 15** ~~18~~);  
[no comment on soft sand or crushed rock]

The Plan needs to make provision to enable the supply of these quantities of primary aggregate minerals from land won sources in Oxfordshire over the plan period, **but not on an annual basis**. This is set out in policy M2. Taking into account actual sales in 2014 and 2015, **estimated sales in 2016**, permitted reserves remaining at the end of 2015 (excluding reserves that are not expected to be worked during the plan period\*) and permissions granted in 2016\*\*, **indicate that permitted reserves at the end of 2016** ~~the following additional requirements for which provision needs to be made over the plan period (2014 to 2031), taking into account existing planning permissions are~~ approximately:

- Sharp sand and gravel – **12.302mt**<sup>33</sup> - **no additional requirement** ~~5.0 million tonnes~~;  
[no comment on soft sand or crushed rock]

<sup>33</sup> AMR15 records that ss&g reserves were 12.487mt at the end of 2015 plus 0.515mt permitted in 2016 (**MM11**) less an assumed 0.7mt extracted in 2016

This is the position as at the end of 2016 but these additional requirements may change over time, as actual sales and remaining permitted reserves figures for further years become available, and if further planning permissions are granted. The additional requirements for each aggregate mineral type, for which provision needs to be made, will therefore be recalculated when **or if** the Site Allocations Document is prepared.

4.13. It should be noted that even if the annual ss&g amount remains at 1.015mt, the total requirement for the remaining plan period (2017 - 2031) 15 years inclusive would be 15.225mt. With reserves at 12.302mt at the end of 2016, this would require an additional resource of 2.923mt, not 5.0mt.

4.14. **Alternative paragraphs to MM11 para 4.19** should therefore be:

~~Based on the Local Aggregate Assessment 2014~~ Annual provision figures (**which are not annual targets**) **based on a 10-year past average provide** the total requirements over the **remaining** plan period 2017 to 2031 are:

- Sharp sand and gravel – ~~15.225~~ ~~18.270~~ million tonnes (1.015 x ~~15~~ ~~18~~);  
[no comment on soft sand or crushed rock]

The Plan needs to make provision to enable the supply of these quantities of primary aggregate minerals from land won sources in Oxfordshire over the plan period, **but not on an annual basis**. This is set out in policy M2. Taking into account actual sales in 2014 and 2015, **estimated sales in 2016**, permitted reserves remaining at the end of 2015 (excluding reserves that are not expected to be worked during the plan period\*) and permissions granted in 2016\*\*, **indicate that permitted reserves at the end of 2016** ~~the following additional requirements for which provision needs to be made over the plan period (2014 to 2031), taking into account existing planning permissions are~~ approximately:

- Sharp sand and gravel – **12.302mt - additional requirement 2.923mt** ~~5.0 million tonnes~~;

### The 're-balancing strategy'

4.15. Section 3 above firstly makes the case that Bampton/Clanfield Mineral Safeguarding Area should also be a Strategic Resource Area. The Section also finds that advocating more future resources in south rather than the north (or west) is both unjustified and unworkable.



4.16. Policy 3 **MM20** (Principal locations for working aggregate minerals) should therefore be reworded as follows:

The principal locations for aggregate minerals extraction will be within the following strategic resource areas, as shown on the Policies Map:

Sharp sand and gravel

in northern Oxfordshire (Cherwell District and West Oxfordshire District):

- The Thames, Lower Windrush and Lower Evenlode Valleys area from Standlake to Yarnton;
- **Bampton/Clanfield Mineral Safeguarding Area should also be a Strategic Resource Area**

in southern Oxfordshire (South Oxfordshire District and Vale of White Horse District):

- The Thames and Lower Thame Valleys area from Oxford to Cholsey;
- The Thames Valley area from Caversham to Shiplake.

[no comment on soft sand or crushed rock]

Specific sites (new quarry sites and/or extensions to existing quarries) for working aggregate minerals will be identified within these strategic resource areas will be allocated in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, in accordance with policy M4.

Specific sites for extensions to existing aggregate quarries (excluding ironstone) outside the strategic resource areas may also be allocated in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document provided they are in accordance with policy M4.

~~Sites allocated for sharp sand and gravel working (including both new quarry sites and extensions to existing quarries, including any extensions outside the strategic resource areas), to meet the requirement in policy M2 will be located such that approximately 25% of the additional tonnage requirement is in northern Oxfordshire and approximately 75% of the additional tonnage requirement is in southern Oxfordshire, to achieve an approximately equal split of production capacity for sharp sand and gravel between northern and southern Oxfordshire by 2031.~~

**If this last paragraph is not to be deleted then it should be modified as follows:**

Sites allocated for sharp sand and gravel working (including both new quarry sites and extensions to existing quarries, including any extensions outside the strategic

resource areas), to meet the requirement in policy M2 will be located such that approximately 25% of the additional tonnage requirement is in northern Oxfordshire and approximately 75% of the additional tonnage requirement is in southern Oxfordshire, to achieve an approximately equal split of **reserves of production capacity** for sharp sand and gravel between northern and southern Oxfordshire by 2031.

4.17. Consequent changes to associated paragraphs should be as follows:

**MM15** para 4.29 - delete because of lack of evidence and justification

**MM16** para 4.30 - delete because of lack of evidence and justification. But if not deleted in its entirety then the last sentence should be deleted because reference to 'production capacity' is unworkable for reasons explained in this Report, as this Part 2 of this Plan intends to allocate sites then policy M5 (as amended) states that only reason for granting permission on non-allocated sites would be to otherwise maintain the landbank of reserves.

**MM17** para 4.33 - change the following paragraph:

~~There are also large areas of sharp sand and gravel resource within the part of the Thames Valley to the west of the Lower Windrush Valley, around Bampton and Clanfield, but these are not included within the strategic resource areas in policy M3. This is primarily because these areas are further from the main locations of demand for aggregate in Oxfordshire, in some cases in terms of direct distance but more generally due to the relatively long routes that would be involved using and lack suitable road access to the advisory lorry route network and avoiding unsuitable bridges and environmentally sensitive areas (see policy C10 and figure 13). The requirement for further working areas within the plan period can be met from the strategic resource areas that are closer to the main areas of demand and provision should not be made from the areas around Bampton and Clanfield. An assessment undertaken as part of the sustainability appraisal of the plan has shown that excluding the areas around Bampton and Clanfield is the more sustainable option.~~

## Planning Applications

4.18. Proposed Policy M5 (**MM22**) specifically provides for planning permission to be granted for new sites in advance of the adoption of Part 2. This Report submits this would be

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contrary to NPPF para 17 which states that the first of 12 principles which describe what “*the overarching roles that the planning system ought to play*” is to be “*genuinely plan-led*”. NPPF para 14 states that “*For decision-taking this means: approving development proposals that accord with the development plan*”. This reflects the statutory requirement at Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that the determination of the appeal must be made in accordance with the Development Plan unless material considerations indicate otherwise.

- 4.19. Our objection to **MM22** M5 and **MM14** M2 (to which it is related) goes further. It is apparent from Government guidance that a "single" local plan should be prepared for setting out the vision and framework for the future development of the area, with clear policies on what will or will not be permitted and where<sup>34</sup>. Although the MLP is not to have all the policies in one comprehensive document and is to be prepared in two stages the Plan is all the same still one plan, just made up of two documents. Therefore it is not acceptable that policy M5, as drafted, would permit sites to be identified through the development control process rather than in Stage 2 of the plan, an approach which is entirely at odds with the Governments objectives for plan-led planning. Only in exceptional circumstances, where the mineral provision at the time of the preparation of the core strategy was insufficient (i.e at levels below or close to the required minimum landbank which it is clearly not) could there be justification for core strategy policies to provide for new sites before adoption of Stage 2 of the plan.
- 4.20. The Part 2 plan program (LDS February 2016) is to commence work after the Part 1 Examination (which is September 2016 - four months later than expected), produce a Draft Part 2 Plan in September 2017, Pre-Submission May 2018, and Adoption April 2019. As there is more than 12 years landbank for ss&g (even when using the much higher LAA proposed in the Plan to determine the landbank), there is no immediate threat to justify policy M5.

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<sup>34</sup> NPPF paras 143, 154, 157

- 4.21. Therefore, there seems no need in **MM22/Policy M5** to even raise the prospect that new sites may be needed in advance of Part 2 which should be adopted by April 2019. From proposed paragraph 4.19 (**MM11**), the landbank of ss&g seems to be 13.27mt (18.27mt requirement less 5mt to be allocated). This Report calculates that ss&g reserves at December 2016 were 12.302mt<sup>35</sup>, which even at the inflated rate of 1.015mtpa will be over 10mt (or sufficient for 10 years) when Part 2 is adopted in 2019. Any need for additional sites (if there are any needed) not allocated in Part 2 will only be required well after Part 2 is adopted, not before. Therefore, **paragraph 1 of M5 (MM22) should be deleted.**
- 4.22. Two speculative ss&g planning applications have come forward in the south of the county, the favourable determination of which would be harmful to the Government's objective of a 'plan-led' system. This facilitates the most sustainable use of minerals by allowing a proper comparison of all available site options and the selection of future sites which are most environmentally desirable. An exception could be that extra sites are required because they are needed to maintain the county ss&g landbank permission, which is clearly not the case here. The applications should be refused permission.
- 4.23. The third paragraph of proposed Policy M5 (**MM22**) needs clarifying. It should mean that sites outside of the Part 2 sites will not be granted unless required to maintain the landbank described in proposed Policy M2 (**MM14**), but it does not use these words, so should be amended to be consistent with M2.

#### **MM22 Policy M5**

- 4.24. For the above reasons, Policy M5 (Working of aggregate minerals) should be worded as follows:

~~Prior to the adoption of the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, permission will be granted for the working of aggregate minerals where this would contribute towards meeting the requirement for provision in policy M2 and~~

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<sup>35</sup> AMR15 records that ss&g reserves were 12.487mt at the end of 2015 plus 0.515mt permitted in 2016 (**MM11**) less an assumed 0.7mt extracted in 2016

~~provided that the proposal is in accordance with the locational strategy in policy M3 and that the requirements of policies C1 – C12 are met.~~

Permission will be granted for the working of aggregate minerals within the sites allocated further to policy M4 provided that the requirements of policies C1 – C11 C12 are met.

Permission will not be granted for the working of aggregate minerals outside the sites allocated further to policy M4 unless ~~the requirement to maintain a steady and adequate supply of aggregate~~ **required to maintain the county landbank** in accordance with policy M2 ~~cannot be met from within those sites and~~ provided that the proposal is in accordance with the locational strategy in policy M3 and the requirements of policies C1 – C12 are met.

[remainder M5 - no comment]

4.25. If the first paragraph in M5 is not to be deleted as proposed above then it should read:

Prior to the adoption of the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, permission will be granted for the working of aggregate minerals where this would contribute towards meeting the requirement for provision **to maintain landbanks** in policy M2 and provided that the proposal is in accordance with the locational strategy in policy M3 and that the requirements of policies C1 – C12 are met.

4.26. Sub-dividing the county north and south in proposed Policy M3 (**MM20**) for the purpose of identifying additional Part 2 sites could lead to separate landbanks. However, there is nothing in proposed Policy M2 (**MM14**) to suggest that the ss&g landbank is anything other than county-wide. The 25/75% split is largely to equalise the current landbanks north (65%) and south (35%), with an additional requirement for 5mt<sup>36</sup> to be allocated in Part 2. Data is not currently published on north/south landbanks. There is no published intention of considering planning applications in the south on the basis of the sub-divided landbank, but if this is the intention it would be inappropriate for the PMs not to say so.

<sup>36</sup> SA/SEA Appendix D paras 3.8, 3.9 and proposed para 4.19

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## 5. CONCLUSION

- 5.1. The Proposed Modifications on the future level of production, which is the basis for the Plan, identify a level of 1.015mtpa for ss&g which is 61% higher than the 10-year (2006 - 2015) average (0.628mtpa) and 68% higher than the 3-year (2013 - 2015) 'post-recession' average (0.603mtpa). It will result in unwarranted mineral extraction in Oxfordshire's countryside, and deter the use of more sustainable sources such as recycled material and greater efficiency of use.
- 5.2. The IR endorsed the higher figure but without it passing the Inspector's own test (which is also universal) of being based on 'robust' evidence. This is unsurprising because there is none. A dip in production levels (including the commercial decision to mothball sites) because of the economic recession did affect the 10-year average, but that is the nature of averages. Over the remaining 18-year lifetime of the Plan it is inevitable that there will be ups and downs in the economic cycle. In fact, production had already dropped to around 0.9mtpa (2006/2007) from a 1.224mtpa average (2001 - 2007) before the recession. What is now known is that post-recession, land-won ss&g production has settled at 0.603mtpa (3-year average 2013 - 2015) considerably below the 2001 - 2007 average of 1.224mtpa pre-recession sales. At this lower Oxfordshire 10-year average figure (0.628mtpa), because of substantial reserves already with planning permission, no new sites would be required - a huge relief for many communities in Oxfordshire.
- 5.3. The intention to prevent any new working in the north/west of Oxfordshire has now reduced. However, even the new share of 25% north 75% south is based on arithmetic rather than market reality. Location of supplies and the spread of where they are required is a complex business or commercial matter. Arbitrarily declaring a north/south divide is too simplistic - there is no control over where mineral supplies might travel. There are larger and thicker seams of sand and gravel in the north/west (and the Bampton/Clanfield area of resource should be included) and new market needs are emerging in the north area (e.g. the West Oxford Garden Village).



- 5.4. There is also no need to contemplate the approval of ad-hoc planning applications for mineral extraction. Existing reserves are sufficient for 12 years' extraction even at the inflated figure proposed (1.015mtpa), but are sufficient for over 17 years at the 0.6mtpa figure. Seeking to justify such approval based on sub-divided County areas or on any allegation of insufficient production capacity is wholly unjustified.
- 5.5. OCC are not bound to accept the IR; its status is a 'recommendation'. OCC has the legal responsibility to justify the Plan's figures and content.



**Appendix A: outline response to the Proposed Modifications**

See full report for detailed objections.

**Oxfordshire Minerals and Waste Plan Proposed Modifications**

**Gardner Planning on behalf of OXAGE**

refs page policy or para	Objector's Wording	justification
MM1 37 4.1	by making provision for <del>the</del> <b>any</b> remaining need to be met from working primary aggregates such as sand and gravel and crushed rock.	need may vary over time, so it cannot be assumed that there will be a need
MM2 37 4.2	Spatial elements of the strategy, including <del>principal locations for working aggregate minerals</del> (strategic resource areas), mineral safeguarding areas and safeguarded aggregate rail depots, are shown on the Policies Map. <b>The purpose of each of these areas is defined in the Glossary.</b> It provides a policy framework for the identification of suitable sites in the Minerals and Waste Local Plan: Part 2 – Site Allocations Document. <del>and against which planning applications for new mineral workings and other developments will be considered.</del>	The Glossary entry for strategic resource areas is better expressed and more 'plan-led' which is correct e.g. <i>taken into account in the assessment of site options when the Site Allocations Document is prepared.</i> and <i>the main purpose of the strategic resource areas is to define those areas of the county within which sites will be allocated and not areas where planning permission will necessarily be granted.</i>



		The 'Policies Map' is much more site specific than the original 'minerals key diagram' for which there was no forewarning and discussion at the Examination. Unless this restricted to – and explicitly referenced as - guidance for Part 2, it could be interpreted as a 'site allocations' plan itself, inviting planning applications.
MM9 p40 para 4.14	These figures will be revised on an annual basis through the annual Local Aggregate Assessment and will be superseded by the figures in the most recent Local Aggregate Assessment.	<p>These words should be reinstated.</p> <p>They are proposed for deletion which implies that there will not be an annual adjustment of the figures; yet MM10 and MM12 continue to mention annual adjustments through the LAA.</p> <p>Whilst a Local Plan should be reviewed regularly (paragraph 1.8 of the Housing White Paper 2017 says that this should be every 5 years), and the starting point is a fixed figure to guide plan making (e.g. Part 2 - if there is one), decisions on planning applications are based on the sufficiency of the land bank so that as sales fall the annual LAA will change, reserves will last longer and the need for new permissions recedes. It is therefore important that there is explicit provision within the Plan for the revision of figures annually.</p>
MM10 40 4.18	The Local Aggregate Assessment is to be reviewed annually and the provision figures are likely to change as the 10-year sales average period moves forward and other relevant local information changes.	These words are proposed for deletion but should be reinstated. It is an inconvenient truth which lies at the heart of the Plan's flawed methodology that over time the 10-year average will continue to decline meaning that the hopelessly inflated figure for future years, which currently drives the plan, results in unwarranted additional allocations or permissions.
MM11 41 4.19		<b>This is dealt with more fully in the main Report, and Section 4 has revised wording.</b>

<p>MM12 41 4.20</p>	<p>The requirement for aggregate mineral working in the county may change over the plan period if the levels of annual provision change as the Local Aggregate Assessment is reviewed annually. Such changes are likely to be relatively small from one year to another but may add up to more substantial change over a period of years. The strategy for mineral working therefore includes flexibility to allow for changes in demand for locally supplied aggregates; policy M2 requires landbanks to be maintained in accordance with the most recent Local Aggregate Assessment <del>and taking into account the need to maintain sufficient productive capacity</del>; and policy M5 provides for permission to be granted where the need for aggregate supply cannot be met from allocated sites. Policy M2 therefore does not include the figures from the current Local Aggregate Assessment but instead makes a policy commitment to meeting the requirements in the most recent Local Aggregate Assessment. Provision to meet these requirements in policy M2 will be made through the allocation of specific sites for mineral working in the Site Allocations Document under policies M3 and M4, taking into account the need for appropriate flexibility to enable the plan to be delivered.</p>	<p>This is supported, except for the mention of ‘productive capacity’, and explains how the Plan will work - adding sites (if necessary) through a 5-yearly review of Part 2. ‘Need’ is traditionally interpreted to mean ‘maintenance of the landbank of reserves’ and is so identified in NPPF para 145.</p> <p>The extent of ‘reserves’ of land-won sand and gravel is not given in MM11 or MM12 but were (by deduction) over 12mt at the end of 2016. Even at the inflated 1.015mtpa they are sufficient for over 12 years’ extraction making the grant of planning permission for a new site completely unjustified for at least 5 years (by which time there should be a review of the Plan).</p> <p>The introduction of ‘productive capacity’ is unworkable, for the reasons given in the Report.</p> <p><b>This is dealt with more fully in the main Report.</b></p>
<p>MM14 43 Policy M2 (4.21)</p>		<p>This refers to the amounts of material required, based on inflated projections.</p> <p><b>This is dealt with more fully in the main Report, and Section 4 has revised wording.</b></p>
<p>MM15 to MM17 22 - 45 4.29 - 4.33</p>		<p>These paragraphs deal with the ‘changing balance’ from north to south.</p> <p><b>This is dealt with more fully in the main Report, and Section 4 has revised wording.</b></p>

MM20 48 Policy M3 (4.45)		This Policy deals with the 'changing balance' from north to south.  <b>This is dealt with more fully in the main Report, and Section 4 has revised wording.</b>
MM22 50 Policy M5 (4.47)		This deals with planning applications and other matters.  <b>This is dealt with more fully in the main Report, and Section 4 has revised wording.</b>



**Appendix B: extract from Representation Form**

**Oxfordshire Minerals and Waste Plan Proposed Modifications  
Gardner Planning on behalf of OXAGE**

**Oxfordshire County Council**  
**Minerals and Waste Plan:**  
**Part 1 – Core Strategy**  
**Proposed Main Modifications, February 2017**



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**Representation Form**

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**Please return this form before 5pm on 20 March 2017**

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This form should be used to make representations on the Proposed Main Modifications to the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy, February 2017. Advice on how to make representations is provided in the guidance notes which accompany this form.

This form comprises of 3 parts:

- Part 1 – Respondent details
- Part 2 – Your representation
- Part 3 – Equalities information

The period for making representations runs from 03 February 2017 to **5.00pm on 20 March 2017**, after which representations will not be accepted.

Representations on the Proposed Main Modifications to the Core Strategy should be submitted using this form, either:

- a) by email to: [mineralsandwasteplanconsultation@oxfordshire.gov.uk](mailto:mineralsandwasteplanconsultation@oxfordshire.gov.uk)

or

- b) by sending the form to:  
Minerals & Waste Core Strategy Consultation  
Planning Regulation – Minerals and Waste Policy Team  
Communities  
Oxfordshire County Council  
County Hall, New Road  
Oxford OX1 1ND.

**Please note that late representations – received after 5.00pm on 20 March 2017 – cannot be accepted.**

**Data protection:** Please be aware that any representations made cannot be treated as confidential. Respondent details and representations will be forwarded to the Inspector carrying out the examination of the Core Strategy when the period of consultation has ended. All representations and related documents will be held by Oxfordshire County Council and will be available for the public to view by appointment and published on the Council's website. They will be handled in accordance with the Data Protection Act 1998 and kept for at least three years after the Minerals and Waste Core Strategy is adopted.

## Part 1 – Respondent Details

<b>1(a) Personal details</b>									
<b>Title</b>									
<b>First Name</b>									
<b>Last Name</b>									
<b>Job Title (where relevant)</b>									
<b>Organisation (where relevant)</b>									
<b>1(b) Agent details</b> <i>Only complete if an agent has been appointed</i>									
<b>Title</b>	Mr								
<b>First Name</b>	Geoff								
<b>Last Name</b>	Gardner								
<b>Job Title (where relevant)</b>	Director								
<b>Organisation (where relevant)</b>	Gardner Planning Ltd								
<b>1(c) Contact address details</b> <i>If an agent has been appointed please give their contact details</i>									
<b>Address Line 1</b>	Down Ampney								
<b>Line 2</b>	Bendlowes Road								
<b>Line 3</b>	Great Bardfield								
<b>Line 4</b>	Essex								
<b>Postcode</b>	CM7 4RR								
<b>Telephone No.</b>	07887 662166								
<b>Email address</b>	geoff@gardnerplanning.com								
<b>Are you writing as</b>	<table border="0"> <tr> <td><input type="checkbox"/> A resident</td> <td><input type="checkbox"/> A parish council</td> </tr> <tr> <td><input type="checkbox"/> A local business</td> <td><input type="checkbox"/> A district council</td> </tr> <tr> <td><input type="checkbox"/> Minerals industry</td> <td><input type="checkbox"/> A county council</td> </tr> <tr> <td><input type="checkbox"/> Waste industry</td> <td><input checked="" type="checkbox"/> Other (please specify) acting on behalf of OXAGE</td> </tr> </table>	<input type="checkbox"/> A resident	<input type="checkbox"/> A parish council	<input type="checkbox"/> A local business	<input type="checkbox"/> A district council	<input type="checkbox"/> Minerals industry	<input type="checkbox"/> A county council	<input type="checkbox"/> Waste industry	<input checked="" type="checkbox"/> Other (please specify) acting on behalf of OXAGE
<input type="checkbox"/> A resident	<input type="checkbox"/> A parish council								
<input type="checkbox"/> A local business	<input type="checkbox"/> A district council								
<input type="checkbox"/> Minerals industry	<input type="checkbox"/> A county council								
<input type="checkbox"/> Waste industry	<input checked="" type="checkbox"/> Other (please specify) acting on behalf of OXAGE								

<b>Please tick the appropriate boxes if you wish to be notified of any of the following:</b>	
Publication of the Inspector's report and recommendations	yes
Adoption of the Oxfordshire Minerals and Waste Core Strategy	yes

Please tick this box if you no longer wish to be notified of any updates regarding the Oxfordshire Minerals and Waste Core Strategy:

<b>Please sign and date the form:</b>			
<b>Signature:</b>	<i>G Gardner</i>	<b>Date:</b>	6 March 2017



## **Appendix C**

### **Legal Advice**

#### **Oxfordshire Minerals and Waste Plan Proposed Modifications**

**Gardner Planning on behalf of OXAGE**



# **IN THE MATTER OF THE OXFORDSHIRE MINERALS AND WASTE LOCAL PLAN CORE STRATEGY (MLP) – PROPOSED MODIFICATIONS**

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## **ADVICE AS TO LEGAL FRAMEWORK**

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### **INTRODUCTION**

1. I am instructed by Geoff Gardner on behalf of Oxfordshire Against Gravel Extraction (**OXAGE**) to provide a short outline as to the legal framework available for challenging the adoption of a local plan core strategy such as the Oxfordshire Minerals and Waste Local Plan Core Strategy ('MLP').
2. I should make it clear at the outset that I am not instructed to provide, nor should this document be construed as providing, advice as to prospects with regard to such a challenge. It should not be considered a consultation response by me personally. I give my opinion on matters of law only; the 'facts' or 'merits' are matters for planning and not legal judgment.

### **CHALLENGING ADOPTION OF A LOCAL PLAN**

3. An aggrieved party may make an application to the High Court pursuant to Section 113 of the Planning and Compulsory Purchase Act 2004 ('PCPA') to challenge the adoption of a local plan (among other relevant documents<sup>1</sup>) not later than the end of the period of six weeks starting with the relevant date<sup>2</sup>.
4. A statutory challenge pursuant to section 113 of the PCPA may be made on two grounds<sup>3</sup>. Namely (a) the relevant document is to any extent outside the appropriate power; or (b) the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

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<sup>1</sup> Section 113(1) of the PCPA

<sup>2</sup> Section 113(4) of the PCPA. For a DPD this is the date when it is adopted by the local planning authority or approved by the Secretary of State per Section 113(11)

<sup>3</sup> Section 113(6) of the PCPA

5. This is a statutory form of judicial review<sup>4</sup> based upon conventional public law principles<sup>5</sup>. The generally accepted grounds for judicial review have been summarised by the Court as ‘illegality’, ‘irrationality’ and ‘procedural impropriety’<sup>6</sup>.
  
6. On such an application the High Court may<sup>7</sup>:
  - (a) quash the relevant document;
  - (b) remit the relevant document to a person or body with a function relating to its preparation, publication, adoption or approval.
  
7. Section 20(5) of the PCPA sets out the purpose of an independent examination:
 

*“(5) The purpose of an independent examination is to determine in respect of the development plan document–*

  - (a) whether it satisfies the requirements of sections 9 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents;*
  - (b) whether it is sound [; and]*
  - (c) whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation”.*
  
8. Further, section 20(7) of the PCPA sets out that the person appointed to carry out the examination must (a) make recommendations and (b) give reasons for the recommendations, and section 20 subsections (7B) and (7C) of the PCPA set out the process for modifications to a document with similar soundness requirements.
  
9. The Council may, where adoption is recommended by an Inspector, pursuant to section 23(2) *“adopt the document as it is, or with modifications that (taken together) do not materially affect the policies set out in it”*, and where non-adoption is recommended (and pursuant to section 20(7C) main modifications recommended) the Council may adopt the document *“with the main modifications, or with the main modifications and additional modifications if the additional modifications (taken*

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<sup>4</sup> Persimmon Homes v Stevenage Borough Council [2005] EWCA Civ 1365

<sup>5</sup> Blyth Valley Borough Council v Persimmon Homes (North East) Ltd [2008] EWCA Civ 861; paragraph 8 per Keene J

<sup>6</sup> Council of Civil Service Unions v Minister of State for the Civil Service [1985] AC 374; Paragraph 410-411 per Lord Bingham

<sup>7</sup> Section 113(7) of the PCPA

*together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications”.*

10. An inspector's duty pursuant to section 20(5)(b) of the PCPA to determine whether a plan is “sound” is a matter of planning judgment however may be challenged where the decision is “irrational”<sup>8</sup>. Paragraph 182 of the NPPF gives guidance for Inspectors examining Local Plans such as the Core Strategy regarding the question as to whether a plan should be found to be “sound” for the purposes of section 20(5):
- “182. The Local Plan will be examined by an independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. A local planning authority should submit a plan for examination which it considers is “sound” – namely that it is:*
- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;*
  - Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;*
  - Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities;*
  - Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the [NPPF]. ...”*

## **CONCLUSION**

11. As outlined at the commencement of this opinion, it should not be construed as providing advice as to prospects with regard to such a challenge. In the event that the MLP is adopted, those instructing me may at that point wish to seek counsel’s advice as to the merits of a section 113 application. I understand this to be the intention of those instructing me. Should you have any questions arising out of this opinion please do not hesitate to contact me.

**6 MARCH 2017**

**LEANNE BUCKLEY-THOMSON**

**No5 Chambers**

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<sup>8</sup> Barratt Developments Plc v City of Wakefield MDC [2010] EWCA Civ 897; paragraph 33 Carnwath LJ

**IN THE MATTER OF THE  
OXFORDSHIRE MINERALS AND  
WASTE LOCAL PLAN – CORE  
STRATEGY (MLP) – PROPOSED  
MODIFICATIONS**

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**ADVICE  
AS TO LEGAL FRAMEWORK**

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Geoff Gardner  
**Gardner Planning Ltd**  
Down Ampney  
Bendlowes Road  
Great Bardfield  
Essex  
CM7 4RR

On behalf of: OXAGE



## **Appendix D**

**Inspector's letter to OXAGE 2 December 2016**

**Oxfordshire Minerals and Waste Plan Proposed Modifications**

**Gardner Planning on behalf of OXAGE**

## **Examination of the Oxfordshire Minerals & Waste Core Strategy**

**Inspector:** Brian Cook BA(Hons) DIPTP MRTPI

**Programme Officer:** Helen Wilson BA(Hons)  
32 Pennyford Close, Brockhill, Redditch,  
Worcestershire B97 6TW

Tel: 01527 65741

Mobile: 07879 443035

Email: [progofficer@aol.com](mailto:progofficer@aol.com)

Website: <http://www.hwa.uk.com/projects/oxfordshire-minerals-waste-core-strategy/>

2 December 2016

Dear Geoff

Thank you for your letter dated 30 November, the Inspector has responded as follows -

I deal first with the LAA and your paragraphs 7 to 12. The NPPF is quite clear in paragraph 145, bullet 1 as to how the LAA should be prepared. That is what we discussed at the hearing session and is what IR paragraphs 89 to 123 report upon. My conclusions on the approach are given in IR 124 and 125. The 10 year rolling average is factual information. Any fair reading of those paragraphs would appreciate that I agreed with the County's conclusions on some of the 'other relevant local information' taken into account but had some reservations on others. Overall however, a departure from the 10 year rolling average was justified. IR 126 to 131 then examine the second stage which is whether or not that departure can be quantified and made; I concluded on the evidence that it could and therefore should be. Your reference in paragraph 8 is taken from this section. It is wrong therefore to attribute it to the robustness of the LAA approach-that had already been settled.

With reference to paragraph 10, this is the oral evidence from David Payne of the Mineral Products Association and others who attend SEEAWP meetings. It could have been challenged during the hearing session but to my recollection was not. I do not believe the minutes to be a verbatim record of the discussion.

Turning now to paragraphs 2 to 6 of your letter, I believe it is clear from EX4b and EX10 Issue 6 that by the time of the hearing sessions this had emerged as an important point of principle. It was fully discussed at the hearing session. I believe it is clear from the EX18 exchange that I consider not meeting the unmet needs of others (and by implication, not basing the plan on the LAA as quantitatively adjusted-my thought on your paragraph 5) should be considered as a reasonable alternative. Whether the County Council does so or explains why it is not considered a reasonable alternative will presumably become clear when the proposed main modifications and the SEA/SA are published for consultation. While the housing policy analogy is fair, it should not be taken too far. Minerals can only be worked where they are present and some authorities will have a need for minerals that simply cannot be met from within their own area. As you know, that is the principle that underpins MASS and requires some mineral-rich areas of the country to produce minerals in excess of their specific need for them unless there are good reasons for not doing so.

I have asked Helen to place your letter and this reply on the examination web site.

Yours sincerely

*Helen Wilson*  
Programme Officer