

OUTRAGE

Oxfordshire Upper Thames Residents Against Gravel Extraction

Oxfordshire Minerals and Waste Local Plan: Part 1 Core Strategy August 2015 Proposed Submission

Representation by OUTRAGE

This response to Oxfordshire County Council's *Minerals and Waste Local Plan: Part 1 Core Strategy August 2015 Proposed Submission* is a representation by Oxfordshire Upper Thames Residents Against Gravel Extraction (OUTRAGE).

Chair – Julie Hankey

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1 Introduction

This is a Representation on Oxfordshire's Minerals and Waste Local Plan: Part 1 Core Strategy August 2015 Proposed Submission (the Plan) on behalf of Oxfordshire Upper Thames Residents Against Gravel Extraction (OUTRAGE).

1.1 OUTRAGE

OUTRAGE stands for Oxfordshire Upper Thames Residents Against Gravel Extraction. It is an unincorporated association which has at times included volunteers and supporters from Northmoor, Moreton, Bablockhythe, Stanton Harcourt, Sutton and Standlake.

OUTRAGE was established in 1976 when ARC applied for permission to dig gravel from a site at Watkins Farm to the north and east of Northmoor. At various times since 1987 OUTRAGE has been deeply concerned with proposals first by ARC and subsequently by Hanson for a quarry at Stonehenge Farm, Northmoor. Relevant aspects of the history of applications at Stonehenge Farm are discussed below.

Throughout its existence OUTRAGE has taken part in many OCC consultation exercises and has also made representations to Examinations in Public of OCC policies that related to Minerals.

1.2 *The Stonehenge Farm application and appeal*

In 1987, OUTRAGE fought an application by ARC for a very large quarry at Stonehenge Farm Northmoor. Permission was granted in 1988. However, following an intervention by an archaeologist member of OUTRAGE at that time, that permission was subject to a legal agreement with English Heritage. No such agreement was reached, and the 1987 Application was eventually withdrawn.

In 2004 Hanson as successor to ARC expressed its intention to re-apply for permission for a smaller quarry at Stonehenge Farm connected by conveyor belt to a processing plant at Linch Hill Stanton Harcourt.

OUTRAGE was active in opposing that application, which was refused by OCC in November 2008 with formal notice of refusal in January 2009. Hanson appealed, and after a long appeal process the Inspector granted permission in October 2010, subject to 49 conditions.

The main grounds given by the Inspector for allowing Hanson's appeal related to the requirement that Oxfordshire should maintain a 7-year landbank of permitted extraction at the 1.8mtpa Oxfordshire apportionment level then current for Sharp Sand and Gravel (SS&G).

During the appeal process, OUTRAGE maintained that the apportionment had for many years been set too high: a combination of market conditions with restrictions on permissible routes to development areas which were largely in South Oxfordshire meant that Hanson would not find a market for the quantities it proposed to extract from the Stonehenge Farm quarry.

As of September 2015, a full five years after being given permission to dig, Hanson has dug one small hole so as to avoid letting the permission lapse. The material from that hole remains stockpiled on site. The processing plant more than 2km away at Linch Hill which had served the quarry at Watkins Farm was approaching the end of its useful life when Hanson decided that a conveyor system would enable it to process material from the Stonehenge Farm site. The result is that the Linch Hill site has now lain dormant for years, a derelict eyesore decorated with warnings of danger.

The Stonehenge Farm Appeal ended at exactly the time when the then-new coalition government introduced National Policy Planning Framework and with it an end to the system of centrally planned apportionments.

It is on the basis of long experience that OUTRAGE strongly objects to the attempt by OCC to continue in the Plan the retrograde bias towards excessive provision which characterised the system of apportionments that the NPPF has abolished.

1.3 The experience of OUTRAGE

As has been mentioned at 1.2 above, Oxfordshire has in the past had imposed upon it levels of central apportionment that are now widely recognised as excessive. OUTRAGE in particular has objected to such high levels for many years. The damaging effects of excessive concentration of quarry operations in the Lower Windrush Valley have been compounded by the effects of oversupply:

- during periods of slow or suspended operation existing quarry and processing sites are frequently left unattended and almost derelict, and restoration for after-use is delayed
- unnecessary permissions have been granted on the basis of an exaggerated apportionment: for example at Stonehenge Farm permission was granted after a long and hard-fought appeal almost entirely on the basis of the landbank requirement but after 5 years only token work has been carried out in order to keep the permission alive
- wide areas are affected by planning blight, and communities are exposed to anxiety and uncertainty

1.4 Summary

This Representation is only concerned with the Plan as it relates to minerals and to land-won sharp sand and gravel (SS&G) in particular.

The Plan sets out how Oxfordshire is to deliver the quantities that are specified in the Local Aggregates Assessment for 2014 (LAA 2014) and subsequent annual updates. Consequently the reasoning, methods and effect of LAA 2014 are central to the impact that the Plan will have between now and 2031.

The focus of this Representation is on the reasoning, method and effect of LAA 2014 as the basis of the Plan and on the process by which OCC arrived at the Plan and at LAA 2014.

OUTRAGE submits that the Plan is unsound because it is based on an LAA which fails to meet the tests of soundness that are specified in the National Policy Planning Framework.

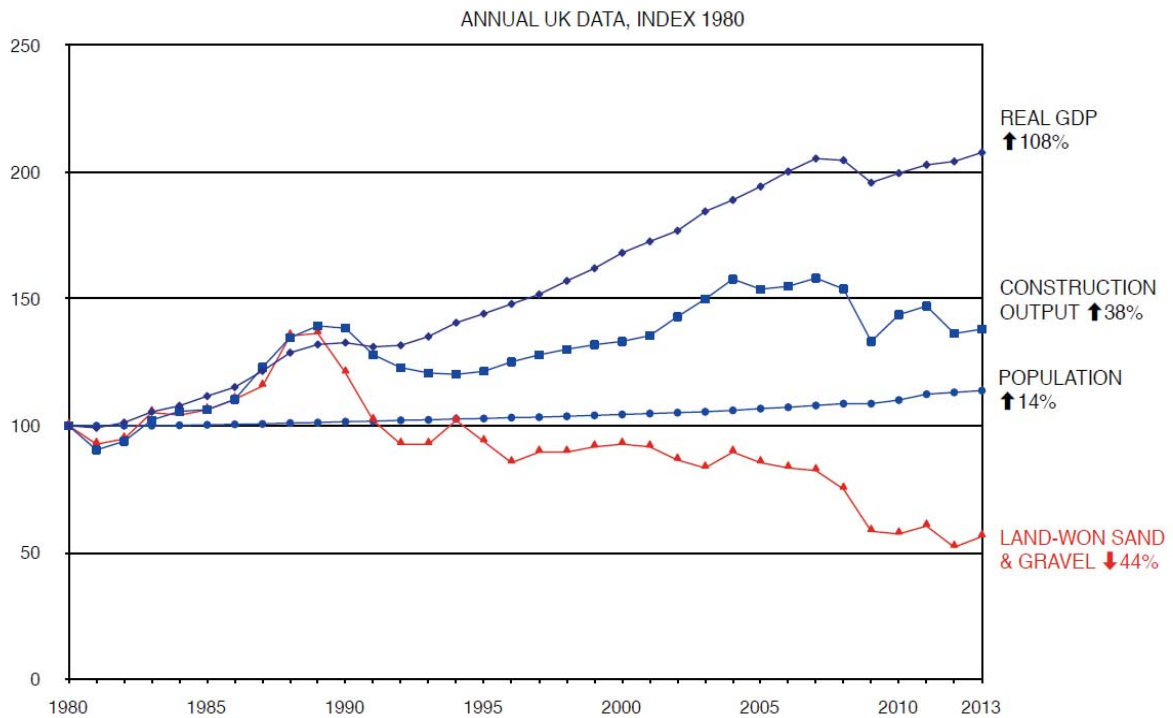
OUTRAGE further submits that OCC developed the Plan as constructed on the basis of LAA 2014 in a way that does not meet legal requirements for community consultation.

2 The social and economic context: structural change

Discussion of the policy for land-won aggregates takes place in a social and economic context of structural change.

2.1 Declining importance of land-won aggregates

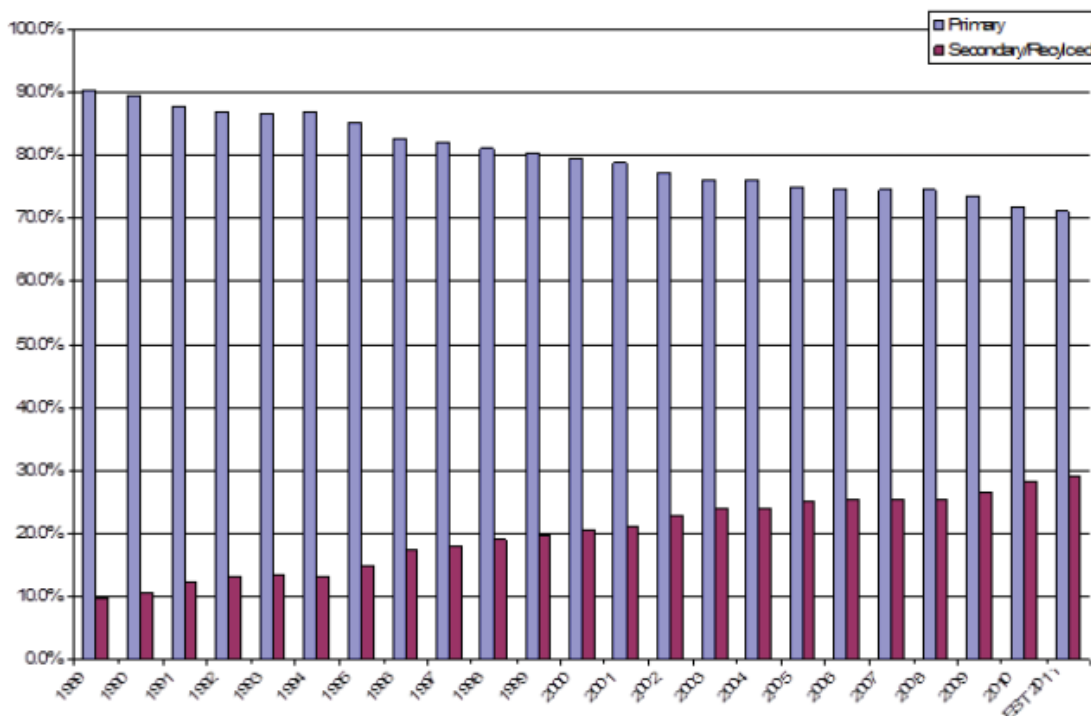
Use of land-won aggregates has consistently fallen across the UK during periods in which GDP, construction output and population has increased.



2.2 Increased use of recycled aggregates

There has been a steady increase in sales of recycled aggregates¹ as a proportion of total aggregate sales.

Share of primary and recycled/secondary aggregates, 1989 to 2011



Source: MPA statistics.

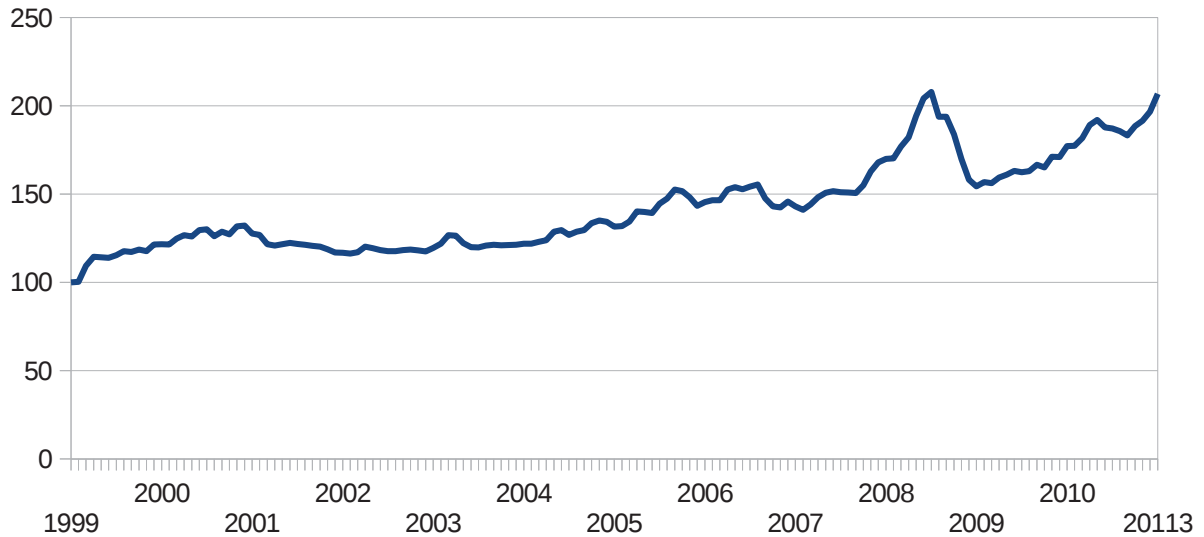
1 Aggregates Market investigation, P12
<https://www.cumbria.gov.uk/elibrary/Content/Internet/538/755/1929/6478/41345114843.pdf>

2.3 Increasing transport costs

The market for land-won aggregates is affected by transport costs and viable route mileage. During the period 2000-2011 diesel fuel prices showed a significant increase. Even if the raw cost of fuel falls at some times in the future, environmental costs and the need to reduce CO2 emissions will very probably continue to impose equivalent constraints.

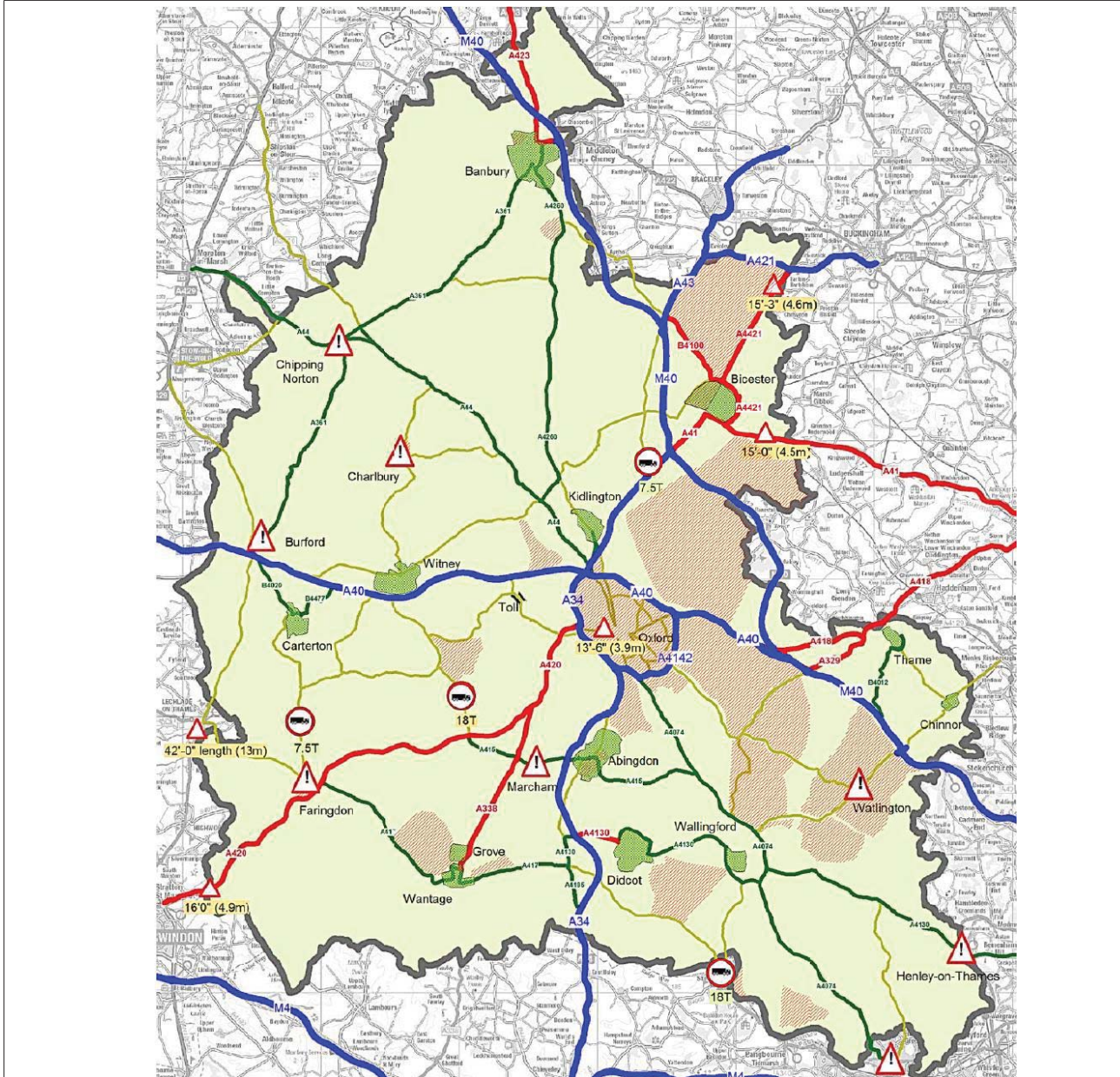
UK Diesel fuel price index 2000-2011

Based on ONS Social Trends 41 - Transport Data 24 Feb 2011, data for Figure 4



2.4 Weak bridges, weight restrictions and congested roads

In 2006 an 18-tonne weight limit was imposed at Newbridge on the A415 route south from West Oxfordshire, an area that had historically provided more than 80% of Oxfordshire's SS&G. This and subsequent restrictions have directed SS&G transport to development areas south of the Thames onto longer and more congested routes as can be seen from OCC's preferred route map¹ for lorries.



| | |
|--------------------|--|
| blue | the strategic routes for through traffic (motorways, trunk roads and similar) |
| red | main links to the larger towns (where, along with Oxford, most businesses are located) |
| green | links to smaller towns |
| light green | more local access across the county |

1 Oxfordshire Lorry Routes - <https://www.oxfordshire.gov.uk/cms/content/lorry-routes>

3 Planning policy and legal requirements

3.1 The National Planning Policy Framework

The NPPF (March 2012) states that MPAs should plan for a steady and adequate supply of aggregates by:

- *preparing an annual Local Aggregate Assessment, either individually or jointly by agreement with another or other mineral planning authorities, 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);*
- *participating in the operation of an Aggregate Working Party and taking the advice of that Party into account when preparing their Local Aggregate Assessment;*
- *making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;*
- *taking account of published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;*
- *using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;*
- *making provision for the maintenance of landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites;*
- *ensuring that large landbanks bound up in very few sites do not stifle competition; and*
- *calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.*

3.2 The Planning Practice Guide website

The effect of NPPF 2012 was subsequently summarised in the the Government's Planning Practice Guide web site as follows (Paragraph: 062 Reference ID: 27-062-20140306):

A Local Aggregate Assessment should contain three elements:

- a forecast of the demand for aggregates based on both the rolling average of 10-years sales data and other relevant local information;
- an analysis of all aggregate supply options, as indicated by landbanks, mineral plan allocations and capacity data e.g. marine licences for marine aggregate extraction, recycled aggregates and the potential throughputs from wharves. This analysis should be informed by planning information, the aggregate industry and other bodies such as local enterprise partnerships; and
- an assessment of the balance between demand and supply, and the economic and environmental opportunities and constraints that might influence the situation. It should conclude if there is a shortage or a surplus of supply and, if the former, how this is being addressed.

3.3 The 10-year rolling average

The PPG website gives some further clarification (Paragraph: 064 Reference ID: 27-064-20140306):

Can mineral planning authorities prepare a Local Aggregate Assessment solely on the basis of a 10 year average supply?

Local Aggregate Assessments must also consider other relevant local information in addition to the 10 year rolling supply, which seeks to look ahead at possible future demand, rather than rely solely on past sales. Such information may include, for example, levels of planned construction and housebuilding in their area and throughout the country. Mineral Planning Authorities should also look at average sales over the last three years in particular to identify the general trend of demand as part of the consideration of whether it might be appropriate to increase supply.

The Planning Officers Society (POS) and the Mineral Products Association (MPASS) produced 'Practice Guidance on the Production of LAAs (April 2015)' which repeats much of the above Government Policy. However it makes an obvious but important point:

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. (para 3.9)

Also

There are limitations on how far specific future demand from various factors can be translated into direct aggregates demand. Further work on this aspect is being undertaken by a number of MPAs and lessons learnt will be incorporated in future versions of this Guidance. (para 3.8)

3.4 The legal requirement to take account of representations

Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations April 2012 requires that

1. *A local planning authority must — (a) notify each of the bodies or persons specified in paragraph (2) of the subject of a local plan which the local planning authority propose to prepare, and (b) invite each of them to make representations to the local planning authority about what a local plan with that subject ought to contain.*
2. *The bodies or persons referred to in paragraph (1) are — (a) such of the specific consultation bodies as the local planning authority consider may have an interest in the subject of the proposed local plan; (b) such of the general consultation bodies as the local planning authority consider appropriate; and (c) such residents or other persons carrying on business in the local planning authority's area from which the local planning authority consider it appropriate to invite representations.*
3. *In preparing the local plan, the local planning authority must take into account any representation made to them in response to invitations under paragraph (1).*

3.5 *The Statement of Community Involvement (SCI)*

The PAS Local Plan Legal Compliance Checklist April 2013 with reference to Regulation 18 contains the following recommendation in relation to a Statement of Community Involvement (SCI):

how will community engagement be programmed into the preparation of the DPD? - If the SCI is up-to-date, use that.

The then-current OCC SCI 2006 includes the following paragraphs:

3.6 We believe that strong Community Involvement is a key factor in the preparation of the Minerals and Waste Development Framework. This should strengthen the base-line evidence for minerals ... documents and help in producing more robust plans and planning decisions...

4.1 The 'community' includes all individuals, groups, organisations and statutory bodies living, working or operating in Oxfordshire... having a particular interest in minerals...

4.3 We will go beyond just meeting the requirements of the Regulations. We will seek to involve all individuals, groups, organisations and bodies that we think have an interest in the minerals... documents being prepared...

4 *The Plan is unsound because it is based on an unsound LAA*

OUTRAGE submits that the Plan is seriously flawed because it is based on LAA 2014 which is flawed in itself as a free-standing document and in its ostensible purpose as an annual update to LAA 2013.

Failure of LAA 2014 and the Plan itself to meet the NPPF tests of soundness is discussed at at 5 below.

4.1 *Use of 10-year rolling average in the LAA*

The NPPF in 2010 introduced a major change in minerals planning, namely a system of Local Aggregate Assessments based on a 10-year rolling average of annual sales taking account of other factors including the trend of the most recent three years.

The whole point of using the 10-year rolling average of sales as the starting point for constructing an LAA is that it provides a simple, clearly defined basis for annual revisions based on changes in the rolling average as the 10-year window advances.

The Plan is constructed so as enable the MPA to deliver in each year during the plan period the quantities specified by successive annual updates of the LAA. This was explained by OCC's officer in his report recommending adoption of LAA 2013:

20. The NPPF requires the LAA to be updated annually. This updating should include an assessment for each mineral of the current 10-year sales average as the basic indicator of demand; the reserves of minerals already with permission (the landbank); and the additional provision that will need to be made in order to meet expected demand. Given that these figures will change annually, this points to an approach in the revised Minerals and Waste Plan whereby the minerals policies do not specify the exact amount of mineral to be provided through the plan but state that permissions will be granted as and when required in order to meet the level of need indicated by the most recent LAA and landbank position. The effect of the 10-year rolling average is to ensure that in a period when actual sales are falling the average remains at a higher level and so provides headroom.

4.2 *LAA 2013 and MWCS February 2014 draft*

The June 2013 Atkins report which OCC had commissioned for use as a draft LAA 2013 recommended that LAA 2013 should take into account local information including linkages to population growth and economic activity. The reduction or suspension of operations at three quarries, as a result of commercial decisions made by Hanson between 2004 and 2010, was quoted as a significant factor. According to Atkins, this led to a net increase of imports from Gloucestershire. Atkins also considered past and anticipated rates of development in the County and OCC's economic forecast. Atkins chose a complex methodology linking SS&G consumption to population growth which which could equally apply to most authority areas. The result of this exercise was a recommended LAA of 0.964mtpa for S&SG (1.204mtpa for all and gravel).

In September 2013 OCC consulted OUTRAGE and seven other environmental groups representing various communities across the County. These groups put forward a number of arguments to show that the Atkins report was flawed and that there were no logical reasons to deviate from the 10-year rolling average.

4.3 OCC meeting of 6 November 2013

Oxfordshire's OCC Cabinet Advisory Group (CAG) took account of these views and recommended that LAA 2013 should be based directly on the 10 years sales average.

At their meeting on 26th November 2013 the OCC Cabinet unanimously approved the LAA 2013 of 0.812mtpa for SS&G based simply on the 10-year rolling average for the years 2003-2012. This figure was used in the Consultation Draft Minerals and Waste Core Strategy February 2014 which was the subject of a full consultation during that spring.

4.4 OCC officer's report on Atkins' June 2013 draft LAA

The Officer's report for the OCC Cabinet meeting of 26 November 2013 provides a succinct account of the reasons why OCC at that time believed that there was no robust argument for departing from the 10-year rolling average. Although the report refers to the commercial decisions of quarry operators as having affected Oxfordshire, this is not picked out as a topic of particular concern.

15. The [Cabinet Advisory] Group's discussion highlighted concerns that the adjustment methodology proposed in the LAA was unclear and not easy to understand. Members were concerned that the Council's evidence would be hard to defend at later stages in the process. In addition, the members on the Group emphasised the fact that based on the 10-year sales average there would already exist scope for sharp sand and gravel production within Oxfordshire to increase substantially above the current level; and they questioned the need for setting a figure that is higher than the 10-year sales average. On this point, members questioned why Oxfordshire should adopt a different approach from that apparently being taken by other mineral planning authorities.

17. Within the South East, the draft Oxfordshire LAA 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.

4.5 LAA 2014

In August 2014 OCC appointed another consultant, LUC and Cuesta Consulting (LUC) to develop LAA 2014. This turned out not to be an annual update of LAA 2013 as agreed by OCC Cabinet but an entirely new and radically different document.

LAA 2014 introduced a new way of calculating the LAA from the 10-year rolling average so as to produce a much higher figure for SS&G. If LAA 2013 had been updated as expected that figure would have been 0.715mtpa. LAA 2014 proposed 1.015mtpa, that is to say 0.300mtpa more than LAA 2013, an increase of 42%.

OCC circulated the draft new LAA 2014 to the minerals industry and to MPAs but did not publish it or invite representations even from the groups that had contributed to the consultation on LAA 2013. The public first heard about the new LAA 2014 one week before the OCC Cabinet meeting on 25th November 2014 when the meeting papers were published.

At the OCC Cabinet meeting of 25 November 2014 four environmental groups from across the county and four councillors, all of them members of the CAG, described the flaws in the LUC report and the failure to consult with local communities. They encouraged the OCC Cabinet to reject LAA 2014 and to revert to the simple 10-year rolling average. One councillor supported the proposal. The discussion lasted for over an hour but the LUC report was finally approved with 5 votes for and 0 against with 3 abstentions.

4.6 *How does OCC arrive at the figures in LAA 2014?*

In LAA 2014, OCC considers a number of factors which might justify setting a figure higher than the 10-year rolling average of sales. Of these only one is quantified.

For Soft Sand, OCC finds no factor that justifies adopting a value other than the 10-year rolling average.

For Crushed Rock and SS&G the values actually adopted in LAA 2014 are the values obtained by calculations which seek to compensate for "Commercial Decisions by Quarry Operators".

Many of the factors considered in LAA 2014 are similar or identical with those that had been comprehensively rejected by OCC in their unanimous decision of 26 November 2013 as discussed at x above.

| Factors considered by OCC | | |
|--|-------------------------------|---------------------------|
| Factor | Used as justification? | Quantified by OCC? |
| <i>Continued availability of Primary, Land-Based Resources and Reserves</i> | NO | NO |
| No comment | | |
| <i>Ongoing availability of secondary and recycled materials</i> | NO | NO |
| No comment | | |
| <i>Commercial Decisions by Quarry Operators</i> | YES | YES (CR and SS&G) |
| This factor supposes that commercial decisions by quarry operators to 'mothball' certain sites, to delay work on others and to substitute material imported from other counties represent a "distortion" of the market. As this is the only factor which is quantified, it is discussed in detail at 4.7 below. | | |
| <i>Overall Trends in Supply compared with Apportionments</i> | YES | NO |
| This factor is based on the notion that the actual apportionment levels that had been imposed by central planning should be continued despite the fact that they belong to a discredited system and despite the fact that they had been abolished by the NPPF. It is surprising that this factor is considered at all. | | |
| <i>Economic Growth</i> | YES | NO |
| This factor is based on the supposition that there is a direct relationship between economic growth and consumption of land-won aggregates. The chart at 2.3 above suggests that there is no such relationship. It shows that consumption of land-won aggregates has declined during a period of increasing GDP, population and construction activity. | | |
| <i>Population and Housing Growth</i> | YES | NO |
| See comments on Economic Growth above. | | |
| <i>major infrastructure/key development</i> | YES | NO |
| See comments on Economic Growth above. OCC are not able to quantify the present effect of this factor. | | |
| <i>Imports and Exports</i> | YES | NO |
| It has for many years been difficult to obtain accurate figures for imports and exports of aggregates between counties, as OUTRAGE found when preparing its case for the Stonehenge Appeal. | | |

4.7 *Commercial Decisions by Quarry Operators*

In relation to this factor, OCC's reasoning can be summarised as follows: during the recession, quarry operators took commercial decisions to 'mothball' certain sites, to delay work on others and to substitute material imported from outside Oxfordshire where necessary. As a result, the decline in production within Oxfordshire was steeper than elsewhere, so that Oxfordshire's share of sales fell relative to sales in England as a whole and did not recover.

The chart of SS&G production in Oxfordshire throughout the years 2001-2012 shows a continuous decline.

These effects were observed in relation to Crushed Rock and SS&G but not in relation to Soft Sand which "cannot easily be substituted by crushed rock products and opportunities for importing soft sand into Oxfordshire from adjoining counties are limited".¹

4.7.1 *OCC assumption: a right and proper ratio*

OCC then reasons on the basis of an assumption that the average Oxfordshire/England sales ratio during the years 2001-2007 before the start of the recession is in some sense the natural, right and proper ratio, and that commercial decisions by quarry operators that reduced this ratio during the recession have introduced a "distortion" into the market.

4.7.2 *Fudge factor based on 2001-2007 average sales*

The LAA 2014 figure for SS&G is calculated in section 4.30 of LAA 2014 by applying a fudge factor to the 10-year rolling average for the 10 years 2003-2012, the figures for 2013 for England as a whole not then being available. That fudge factor seeks to ensure that Oxfordshire will continue to account for the proportion of sales of SS&G in England that it did during the years 2001-2007. The calculation is as follows:

- during the years 2001-2007 Oxfordshire accounted for 2.51% on average of annual SS&G sales in England as a whole
- during the 10 years 2003-2012 Oxfordshire accounted for 2.01% on average of annual SS&G sales in England as a whole
- the 10-year rolling average of SS&G sales in England as a whole in the 10 years 2003-2012 was 40.433mtpa
- OCC then calculates the LAA 2014 figure for SS&G as $(40.433 \times 2.51\%) = 1.015\text{mtpa}$ so as to return to the Oxfordshire/England sales ratio that was current in 2001-2007

4.8 *What happened during the years 2001-2012?*

In preparing LAA 2014 OCC have failed to realise that the divergent behaviour of the Oxfordshire/England supply ratios reflected a real change in underlying conditions which affected Soft Sand less than Crushed Rock and SS&G, as listed below.

1 LAA 2014 para 4.26

4.8.1 High levels of production in 2001-2007

OCC have chosen to base their LAA for SS&G on the years 2001-2012 and not just on the years 2003-2012, using the average value of the Oxfordshire/England sales ratio during 2001-2007 to bias the final outcome on the basis of two additional years in which sales were at a high level

4.8.2 High levels of central apportionment

During most of the period 2001-2012, the centrally apportioned target figure for SS&G production in Oxfordshire was and had for some time been set at a level which even OCC now recognise was excessively high¹. The concentration of high levels of production in parts of Oxfordshire during those years reflects to some extent a feedback loop between planning decisions and market conditions.

4.8.3 Structural change in the market for land-won aggregates

At the start of the period 2001-2012 there was a high level of economic activity at a time when consumption of land-won SS&G was more closely correlated with economic activity. As can be seen from the chart at 2.1 above consumption of land-won aggregates has declined while GDP, construction and population has increased.

4.8.4 Increasing use of recycled aggregates

During the whole period from 2001-2012 the ratio of land-won SS&G consumption relative to recycled aggregates was declining from a high level, with a corresponding change in the geographical distribution of supply – recycled aggregates are increasingly used near or even on the sites where they can be recovered and re-used.

4.8.5 Increasing use of marine aggregates

During the whole period from 2001-2012 the ratio of land-won SS&G consumption relative to marine aggregates was also in decline, with a corresponding change in the geographical distribution of supply – more than 80% of marine S&G² is landed in the London and Thames Corridor and the South East, areas that were part of the export market for Oxfordshire S&G.

4.8.6 Fuel costs, weak bridges and congested routes

As can be seen at 2.3 above fuel costs increased substantially throughout the period, with the greatest increases occurring in 2006-2011. During that time freight transport between Oxfordshire's most productive quarries in West Oxfordshire and development areas in South Oxfordshire became increasingly subject to weight limits on bridges (see map at 2.4 above). The result has been longer and more expensive mileage on routes that are subject to heavy congestion.

4.8.7 Commercial decisions reflect market conditions

If it is the case that quarry operators selectively reduced their operations in Oxfordshire more than in other counties during the recession, such decisions in themselves are likely to arise from the operators' analysis of the strengths and weakness of different sites. OUTRAGE contend that such decisions reflect structural change in market conditions.

1 Oxfordshire LAA 2014 para 4.35

2 British Marine Aggregate Producers Association

4.9 LAA 2014 looks back not forwards

The PPG says that MPAs should look at factors beyond past sales so as “to look ahead at possible future demand” and that they should consider the trend of the most recent three years.

OCC describe the decline of Oxfordshire's share of SS&G sales in England as a distortion of the market resulting from commercial decisions driven solely by the recession. OCC's calculations look back to very different conditions before the start of the 10-year rolling average window and ignore the trend of the most recent three years.

It is unclear how OCC intends to use this formula in subsequent updates to LAA 2014. Unless they choose to commission external consultants to concoct an entirely new scheme every year, they must intend to apply the average sales ratio of some earlier 7-year period as a fudge factor to the 10-year rolling average of sales in each subsequent year.

If the same average Oxfordshire/England sales ratio for 2001-2007 is retained and applied in subsequent annual updates to the LAA , the effect will be to build in an increasingly backward looking bias. Alternatively OCC could choose in updates of the LAA to calculate their fudge factor as a rolling average of 7 years starting 2 years before the 10-year rolling average, but in either case the resulting bias towards the past is incompatible with the requirement to look forwards and to take account of the trend of the most recent three years of the 10-year rolling average.

OUTRAGE contends that the change that OCC describes as market distortion is the result of real change in factors that have reduced and will continue to reduce Oxfordshire's share of the market for SS&G, as implied by the trend of the most recent three years.

Consequently OUTRAGE contends that LAA 2014 does not comply with the NPPF because it starts from the assumption that the future should resemble the past. During the period 2001-2012 which OCC has chosen to consider there have been significant changes that have affected and will continue to affect the geographical distribution and the economics of supply of land-won aggregates.

In other words, LAA 2014 is unsound because OCC have failed to understand that what they see as market distortion is in fact structural change, and because they have chosen to look backwards, not forwards.

5 The NPPF tests of soundness

The NPPF specifies that plans should meet four tests of soundness¹: they should be **positively prepared**, **justified**, **effective**, and **consistent** with national policy. OUTRAGE submits that the LAA 2014 and therefore the Plan itself fails these tests.

5.1 Is the Plan positively prepared ?

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;

LAA 2014 does not present objectively assessed development and infrastructure requirements in a way which can be quantified, and it ignores evidence that Population, GDP and construction activity has for many years been accompanied by declining consumption of land-won SS&G.

5.2 Is the Plan justified?

Justified - the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

OCC produce no specific and quantified factors to justify departing from the simple 10-year rolling average. Instead LAA 2014 departs from the 10-year rolling average so as to try to recreate a pattern of production characterised by the average Oxfordshire/England production ratio of an earlier but initially overlapping 7-year period. This systematic and arbitrary distortion of the figures is not the most appropriate strategy during a period of structural change, and it will become less and less appropriate over time.

5.3 Is the Plan effective?

Effective - the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities;

LAA 2014 specifies quantities of land-won minerals that are to be delivered by the Plan. As has been shown, these quantities have been arrived at by looking back to market conditions that have for some time been left behind by structural changes in the market for land-won aggregates. These changes affect the market in England as a whole and Oxfordshire's position within that market, so that the quantities specified in LAA 2014 will result in excessive production and misallocation of resources. To the extent that the Plan delivers the quantities specified in LAA 2014 it will be an effective plan for doing the wrong thing.

1 NPPF para 182

5.4 *Is the Plan consistent with national policy?*

Consistent with national policy - the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Land-won aggregates are a non-renewable resource that occurs within and beneath other resources. Most actual and proposed quarries for Sharp Sand and Gravel in Oxfordshire are or were once within areas of agricultural land. The change of use from agriculture to restored quarry almost always results in less sustainable forms of land-use.

It is frequently said that land-won aggregates can only be dug where they are found. However, recycled aggregates are increasingly recovered on or near the sites where they will be used and especially on or near redevelopment and brownfield sites.

The Plan seeks to buck the market by introducing a bias towards past conditions that no longer apply. It cannot be regarded as a sustainable strategy, for the following reasons:

- it will tend to remove agricultural land from sustainable use so as to resume concentrated overproduction of land-won aggregates
- concentrated overproduction is an unsustainable response to ongoing structural change that affects the market for land-won aggregates from Oxfordshire in particular and also the market for land-won aggregates across the UK

6 *A failure to meet the legal requirement to consult*

As has been explained at 4 above, LAA 2013 represented the results of a wide consultation which included OUTRAGE and other environmental groups. By contrast LAA 2014 represents only the results of a narrow consultation with the minerals industry and other MPA's.

LAA 2013 was used as the basis for the draft MWCS February 2014 which was the subject of a full public consultation in spring 2014.

The NPPF abolished a rigid system of centrally dictated apportionments which had for many years distorted minerals planning in Oxfordshire. Under that system West Oxfordshire and in particular the Lower Windrush valley had produced a very high percentage of Oxfordshire's SS&G.

Under the NPPF, Oxfordshire is required to prepare a long term plan for delivering the quantities that are specified in the LAA and in its annual updates. The effect is that the LAA, its annual updates and the method by which they are arrived at will determine the impact of minerals policy on communities in Oxfordshire.

It has been suggested that OCC is not obliged to consult on every document they produce. However, LAA 2014 is a new and very different document which departs radically from LAA 2013 in ways that will have a major impact on our communities. Far from being a straightforward update to LAA 2013, it reintroduces much of the reasoning which OCC had already rejected as a result of representations made by OUTRAGE and other groups.

In particular LAA 2014 introduced an arbitrary change in the method of calculating the provision figures for Crushed Rock and SS&G so as to recreate the effect of the system of apportionments that the NPPF had abolished.

LAA 2014 proposes a figure for SS&G that is 42% higher had been expected. The 10-year rolling average of sales of SS&G for 2013 stood at 0.715mt, giving a total requirement over 18 years of 12.87mt against reserves already permitted of 12.904mt, so that on that basis no **new SS&G sites would be required**.

The effect of the arbitrary change introduced in LAA 2014 is that the total SS&G requirement over the plan period is 18.270mt and that there **will be a requirement for new SS&G sites**.

OUTRAGE and other local groups had a legitimate expectation that LAA 2014 would be the first of a series of annual updates to LAA 2013 and that they would again be consulted if OCC decided to make radical changes that would invalidate the basis on which OCC had consulted them in relation to the draft MWCS Feb 2014.

It is impossible to see how OCC's procedure is compatible with its own SCI 2006 or how it complies with the requirements of genuine community involvement as specified in Regulation 18 of the The Town and Country Planning (Local Planning) (England) Regulations April 2012 (see 3.4 above). Having accepted in relation to LAA 2013 that the eight environmental groups including OUTRAGE had a legitimate interest in the formulation of the LAA, OCC was required to invite them to make representations about LAA 2014 and to take account of their views.

7 Conclusion

The Plan and the basis on which it is arrived at is a subject of very great importance to anyone who lives in those parts of Oxfordshire which contain substantial mineral deposits.

The Plan is based on LAA 2014. OUTRAGE submits that LAA 2014 as discussed in section 4 above is unsound and that for that reason the Plan itself is unsound because as shown in section 5 above it fails to meet the NPPF tests of soundness.

OUTRAGE further submits in section 6 above that the way OCC arrived at LAA 2014 and used that as the basis of the Plan failed to meet a legal requirement to invite and take account of representations made by groups and people affected by a local plan.