

**Oxfordshire Minerals and Waste Local Plan  
Part 1 – Core Strategy**

**Submission Document**

**Topic Paper**

**Restoration of Mineral Workings**

**Revised April 2016**

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## **General Background to Topic Papers**

The Minerals and Waste Local Plan: Part 1 – Core Strategy (the Core Strategy) was submitted to the Secretary of State on 30 December 2015 for examination by a government appointed Inspector. The Core Strategy is Part 1 of the new Oxfordshire Minerals and Waste Local Plan. It provides the planning strategies and policies for the development that will be needed for the supply of minerals and management of waste in Oxfordshire over the period to 2031. This new Plan will replace the existing Oxfordshire Minerals and Waste Local Plan which was adopted in 1996.

Further information on the Plan and the background to its preparation can be found in other documents published on the County Council website at:

<https://www.oxfordshire.gov.uk/cms/content/minerals-and-waste-core-strategy>

A number of Topic Papers (previously termed Background Papers) were first published to support consultation on draft Minerals and Waste Planning Strategies in September 2011. Some of these were revised and further papers were prepared to support a Proposed Submission Draft Minerals and Waste Core Strategy in May 2012, which was then submitted for examination in October 2012 but was subsequently withdrawn, in July 2013. These papers include baseline data that has informed the development of policies and provide an explanation of how relevant parts of the plan have been developed.

Some of the Topic Papers are now being further updated, and some new Topic Papers introduced, to assist in the examination of the Core Strategy. Their purpose remains the same – to provide background data and information to show how specific parts of the plan were developed up to publication of the Proposed Submission Document in August 2015. In some cases they also include relevant information that has become available since the Core Strategy was published.

This paper has been updated to support the submission of the Core Strategy for examination. The recent update of this paper:

- Identifies relevant NPPF policy and the implications of those policies;
- Demonstrates a link between the NPPF policies and the strategies/policies in the plan to provide justification for those strategies and policies;
- Identifies relevant policies in updated local plans;
- Explains how the restoration policy was developed through consultation and feedback;
- Provides cross references to data used in other documents in the Council's evidence base.
- Identifies possible changes that could be made to the Core Strategy regarding the use of inert waste for restoration in the floodplain in light of a representation and recent case law on the difference between waste recovery and waste disposal.

## 1. Introduction

- 1.1 Mineral workings are considered a temporary land use; the land should be restored at the earliest opportunity to an appropriate land-use when extraction has been completed<sup>1</sup>. The restoration of a site should be determined in relation to its land-use context and surrounding environmental character. As part of the process of seeking planning permission for mineral extraction, an applicant must demonstrate that after quarrying the site will be restored to an appropriate land use. A restoration plan should be approved as part of the planning permission<sup>2</sup>.
- 1.2 The County Council is responsible for formulating policy to guide mineral extraction and restoration and district councils are responsible for determining applications for development where former areas of mineral extraction have been restored. The County and District Councils therefore need to work together to ensure policies in Local Development Frameworks and in the Minerals and Waste Development Framework are compatible.
- 1.3 This paper is part of the evidence base for the County Council's Minerals and Waste Core Strategy proposed submission document. It explains how Policy M10 on restoration of mineral workings has been developed and how the policy relates to Core Policies C6 (Agricultural land and soils), C7 (Biodiversity and geodiversity) and C11 (Rights of Way).

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<sup>1</sup> NPPF Para 143

<sup>2</sup> NPPF Para 144

## **2. Executive Summary**

- 2.1 Section 3 defines mineral restoration and describes different land uses to which minerals sites are often restored, including nature conservation, geodiversity, agricultural land, leisure and recreational development, public rights of way and flood attenuation. Examples of where restoration has taken place in Oxfordshire to create these land uses are given.
- 2.2 There are several active airfields in Oxfordshire. Section 4 explains how birds can pose a danger to aircraft, and how some forms of quarry restoration, such as the restoration to open water, can attract birds and increase the risk of bird strike. Consultation should take place with the relevant aviation authorities from the pre-application stage to ensure that any necessary mitigation measures are incorporated in the proposed operation of the site and restoration scheme to minimise the potential for bird strike.
- 2.3 Section 5 discusses the availability of inert fill for use in restoration of minerals sites.
- 2.4 Section 6 is on funding of aftercare schemes and has been revised to ensure that it is compliant with the guidance on minerals in the National Planning Practice Guidance.
- 2.5 Section 7 sets out the national and regional planning policy documents which were relevant to the generation and revision of the restoration policy in the submission Plan and the current planning policies which are relevant to quarry restoration in the NPPF. It also identifies relevant guidance relating to restoration of mineral workings in the National Planning Practice Guidance.
- 2.6 Table 3 demonstrates the links between the pre-NPPF and the NPPF policies and the relevant objectives and policy in the submission Plan and identifies which parts of the policy conform to the NPPF and how modifications have been made to ensure NPPF compliance.
- 2.7 Section 8 describes the stages of development of the policies on restoration by setting out the draft stages of consultation and the responses to those consultations. It demonstrates where the feedback received in the consultation process has been used to inform revisions to the draft policies.

### 3. Restoration

- 3.1 The Planning Practice Guidance for Minerals (paragraph 221) defines restoration as *'the return of land following mineral extraction to an acceptable condition, whether for resumption of the former land use or for a new use.'*
- 3.2 Restoration of mineral working can be for a number of purposes. The types of restoration listed here are not mutually exclusive and the list is not exhaustive. Where possible, restoration should have a primary end-use but all schemes have the potential to enhance biodiversity and the landscape and to improve public access. Potential purposes of restoration are:
- To enhance nature conservation and/or landscape character;
  - To restore or improve agricultural land quality;
  - To facilitate leisure and recreational development;
  - To create/link rights of way;
  - For use for flood alleviation and water supply;
  - To create benefits for local communities.

#### **Nature Conservation and/or Landscape Character**

- 3.3 Quarry restoration should provide an opportunity to create habitats for wildlife and for nature conservation. 'Nature conservation after-use' is defined (in the Core Strategy?) as restoration which meets Biodiversity Action Plan aims delivered through the Conservation Target Areas approach and/or conserves and enhances other priority species and habitats and is managed primarily for the benefit of biodiversity for a long-term (e.g. 25 year) aftercare and management period. Such restored sites may also include public access and amenity, provided that this does not prevent the nature conservation objectives being met.
- 3.4 The UK's Biodiversity Action Plan targets form the Government's commitment to biodiversity. Local implementation of these targets is through the Oxfordshire Biodiversity Action Plan (BAP), which uses the Conservation Target Area (CTA) approach to deliver its targets. There are 20 UK BAP priority habitats in Oxfordshire and 36 CTAs in the county; each CTA supports one or more of the BAP priority habitats. The CTAs cover 17% of the land area of Oxfordshire and they identify where targeted conservation work will have the greatest benefit<sup>3</sup>. The Conservation Target Areas are shown below in Figure 1.
- 3.5 The Conservation Target Areas approach did not include ponds as a target habitat because they were not defined as a priority habitat at the time. However, UK BAP priority ponds can be created on any restored minerals site, not just those restored for nature conservation. UK BAP Priority Habitat Ponds are defined as permanent and seasonal standing water bodies up to 2ha in extent, which meet one or more of the following criteria; they provide *'Habitats of high conservation importance, support species of high conservation importance, provide exceptional assemblages of key biotic groups, are ponds of high ecological quality or are important because they have a limited geographic distribution.'*<sup>4</sup>

<sup>3</sup> <http://www.oncf.org.uk/biodiversity/cta.html>

<sup>4</sup> <http://jncc.defra.gov.uk/page-5706>

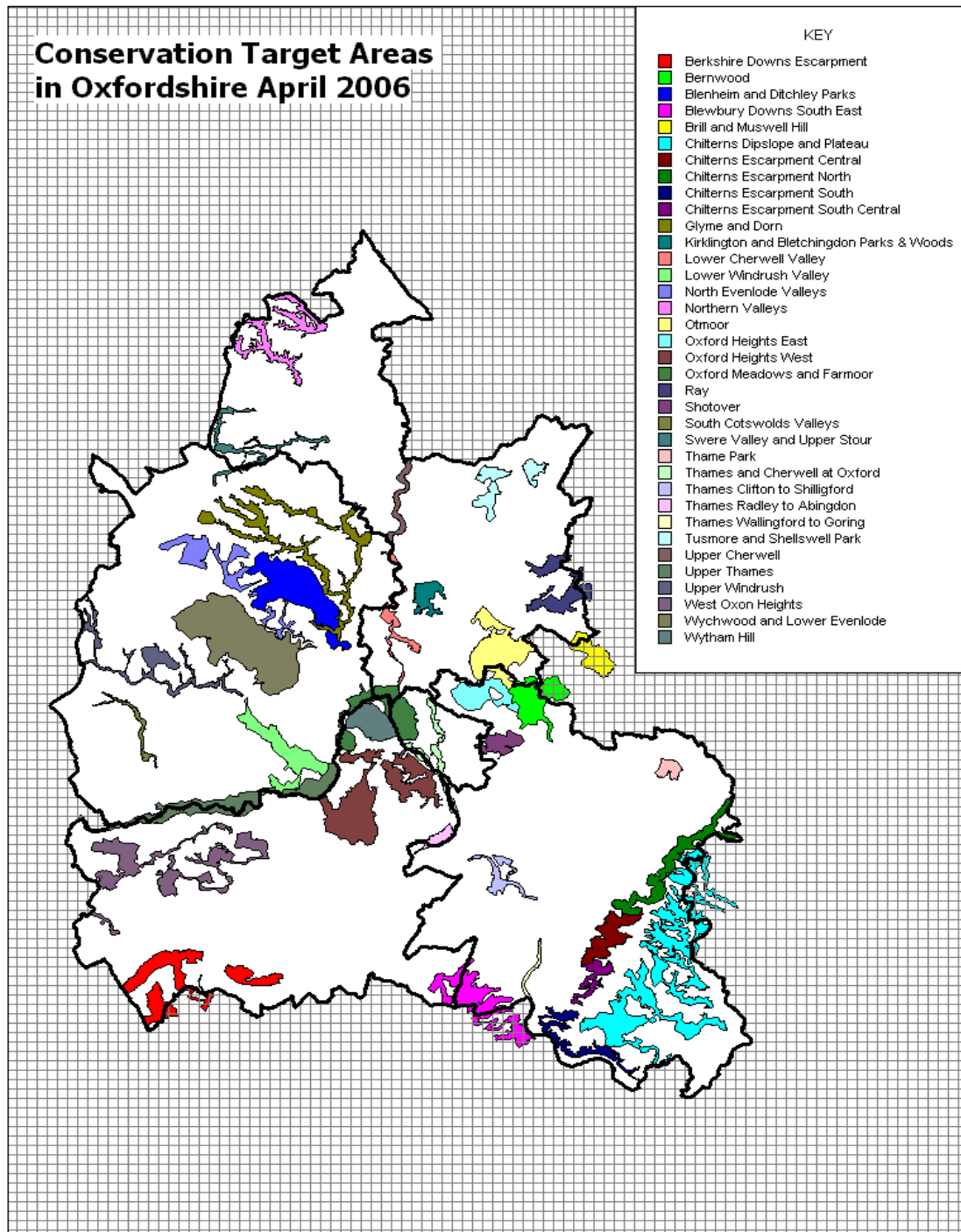


Figure 1: Conservation Target Areas



- 3.6 Much of the sand and gravel resource in Oxfordshire is located along the Thames, Lower Evenlode and Lower Windrush river valleys, where CTAs have been identified. This presents an opportunity for sand and gravel quarry restoration to contribute to linking and developing the habitats in these conservation target areas. Table 1 shows which CTAs relate to each of the Minerals Strategic Resource Areas within the minerals spatial strategy.

Table 1: Minerals Strategic Resource Areas and Conservation Target Areas

<b>Minerals Strategic Resource Area</b>	<b>Conservation Target Area</b>
1. Burford – South of A40	South Cotswolds Valleys
2. East/South East of Faringdon	West Oxon Heights
3. North West of Bicester	Tusmore and Shellswell Park
4. Thames valley – Caversham to Shiplake	-
5. Thames & Lower Thames Valleys – Oxford to Cholsey	Thames Clifton to Shillingford
6. Thames, Lower Windrush & Evenlode Valleys – Standlake to Yarnton	Lower Windrush Valley Upper Thames Oxford Meadows and Farmoor
7. Corallian Ridge – Oxford to Faringdon	Oxford Heights West West Oxon Heights
8. Duns Tew Area	Glyme and Dorn

- 3.7 Within these areas, individual site restoration schemes should contribute towards meeting the targets of these CTAs. For example, Biodiversity Action Plan targets associated with the Upper Thames and Lower Windrush Valley river corridors CTAs are:
- Lowland Meadows – one of the key habitats in this area;
  - Wet grassland;
  - Floodplain Grazing Marsh;
  - Mesotrophic / Eutrophic Standing Water – large numbers of water filled gravel pits managed largely for fishing and water sports; all the lakes collectively support a rich invertebrate fauna and aquatic plant flora;
  - Reedbed (and swamp) – management and creation.
- 3.8 Soft sand is extracted south west of Oxford in a number of quarries between Oxford and Faringdon. Soft sand quarries are not as extensive as sand and gravel quarries but they still offer opportunities to enhance or link CTAs.
- 3.9 The West Oxfordshire Heights CTA is found in the vicinity of some soft sand quarries south of Faringdon. Biodiversity Action Plan Targets associated with the West Oxfordshire Heights CTA are:
- Wet woodland – management;
  - Fen – management;
  - Lowland dry acid grassland – management and restoration;
  - Lowland mixed deciduous woodland – management;
  - Parkland (including veteran trees) – management and restoration.

3.10 In addition, the Oxford Heights West CTA encompasses the area west of Oxford around the soft sand quarries at Tubney and Upwood Park. The Biodiversity Action Plan Targets associated with the Oxford Heights West CTA are:

- Lowland heathland and lowland dry acid grassland – management and restoration (on the sandstone);
- Fen – management and restoration;
- Lowland mixed deciduous woodland – management and restoration;
- Lowland meadows – management and restoration (mainly on the northern escarpment);
- Lowland calcareous grassland – management and creation;
- Arable field margins – management and creation (particularly for arable wildflowers).

3.11 Because soft sand is normally worked ‘dry’, i.e. above the water table, there is opportunity for restoration to be to dry land and to incorporate some of the target habitats listed above, although this may be dependent on the availability of inert fill to raise ground levels; this is discussed in section 5 of this paper.

3.12 The RSPB and Natural England’s ‘Nature after Minerals’ programme<sup>5</sup> is based on a vision for restoration of minerals sites to contribute to large scale habitat creation and to augment, maintain and link BAP habitats. The County Council supports the aims of the RSPB and Natural England in respect of restoration of minerals sites and has developed Policy M10 to reflect these aims. The programme recognises that two conditions are key to delivering large scale habitat creation:

- Securing funding for long-term management will unlock many more opportunities by making nature conservation a more attractive option to landowners; guidance must be provided to facilitate this through local planning policies (including for minerals);
- Planning policies and site allocations should support habitat creation on mineral sites.

3.13 The issue of funding is discussed in section 6. Policies are included in the Core Strategy to support and encourage habitat creation to enhance, link and increase habitats for wildlife (M10, C7).

### **Geodiversity**

3.14 Geodiversity may be defined as the natural range (diversity) of geological features (rocks, minerals, fossils, structures), geomorphological features (landforms and processes) and soil features that make up the landscape.<sup>6</sup>

3.15 After-use of mineral extraction sites provides an opportunity to enhance study and public understanding of Oxfordshire geodiversity.

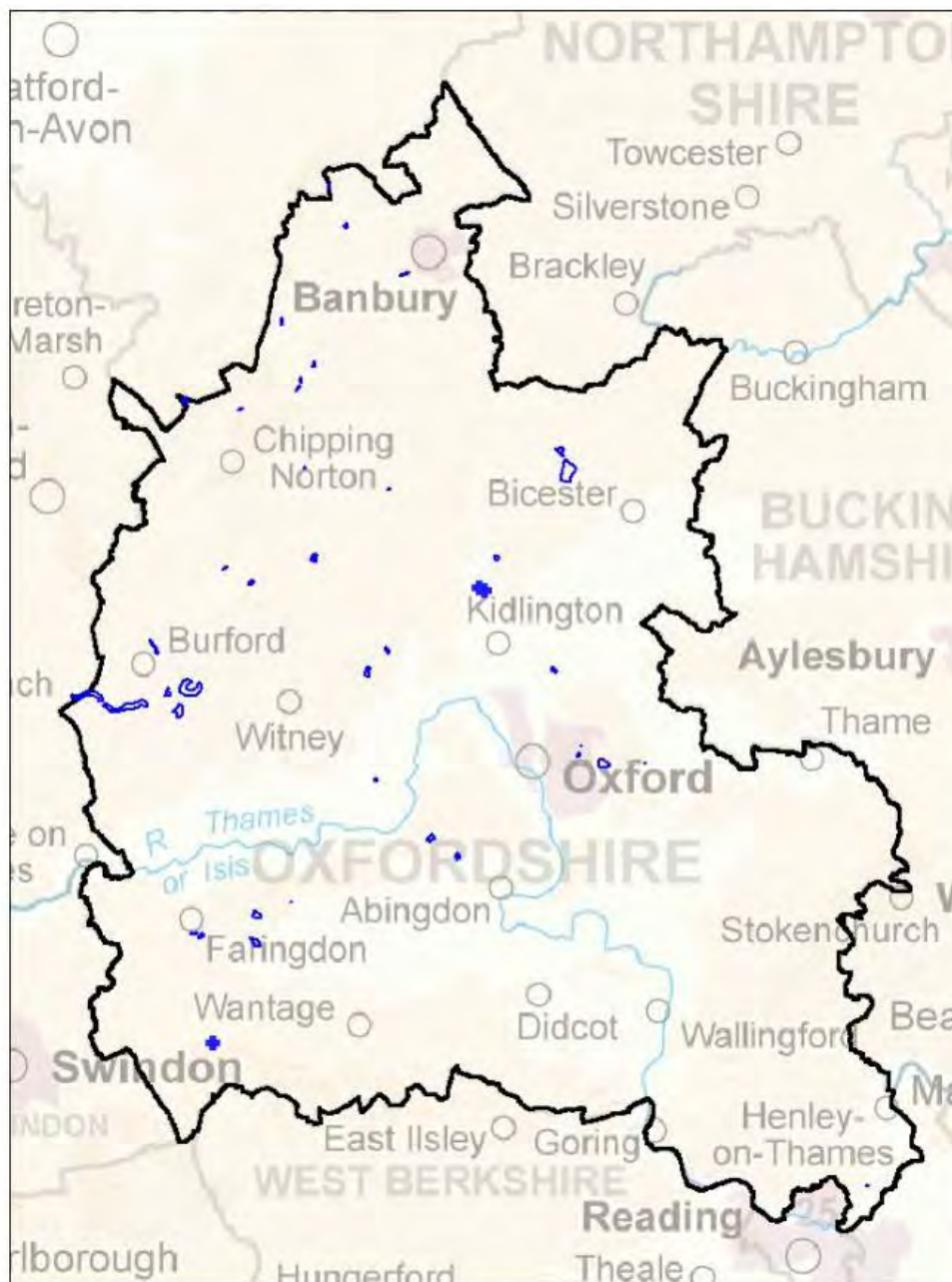
3.16 Oxfordshire’s bedrock ranges from the Lower Jurassic to the Upper Cretaceous covering a time span from about 200-90 million years ago. Since then there has

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<sup>5</sup> <http://afterminerals.com/programme.aspx>

<sup>6</sup> <http://www.naturenet.net/biodiversity/geodiversity.html>

been uplift and erosion before the sands and gravels of the Quaternary, present mainly in the river valleys, were deposited. In common with most inland counties there is little in the way of natural outcrop meaning that current and disused quarries, along with road cuttings, and other excavations are essential in gaining an understanding of the sequence of the geological strata.



Map produced by Thames Valley Environmental Records Centre in 2012  
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**Figure 2: Local Geological Sites in Oxfordshire 2012**

- 3.17 A Local Geodiversity Action Plan (LGAP), which outlines the importance of the Lower and Middle Jurassic of the county was produced by Oxfordshire Geology Trust in 2006<sup>7</sup>. At present there is not a countywide LGAP but this would be beneficial in order to draw together the importance of the geodiversity of the county and links to extraction, restoration and biodiversity.
- 3.18 There are 44 Local Geological Sites (formerly known as Regionally Important Geological Sites – RIGS) in the county and these are designated by Oxfordshire Geology Trust using criteria established by GeoconservationUK to meet any of four objectives including scientific and educational purposes. The location of these sites in Oxfordshire is shown in Figure 2. Of these 44 sites the majority of them, 34, are in current or disused quarries. Some of these sites, and others, are also of national significance and are designated as SSSIs, including Shipton on Cherwell, Ardley, Chinnor and Kirtlington. In total there are 23 SSSIs designated for geological interest in the county and the majority of these are disused quarries. Ardley Quarry SSSI has both national and worldwide significance for the dinosaur footprints found there and the first description of a dinosaur, *Megalosaurus*, was from the Stonesfield Slate Mines.
- 3.19 Many sites have both geodiversity and biodiversity interest, for example Dry Sandford Pit, which includes a fen at the base and offers a good opportunity for insects such as wasps, bees and sawflies in the soft sand faces. Contributions to nature conservation can be achieved by integrating geodiversity with biodiversity initiatives particularly in restoration designs<sup>8</sup>.
- 3.20 It is important to work with all parties concerned with mineral extraction, restoration and conservation in order to achieve a programme for restoration of sites that can be a useful resource for the public and researchers. Between 2009-2011 Oxfordshire Geology Trust have been carrying out conservation at many sites with local interest groups and this has led to improved knowledge of the sites and raised awareness of the geodiversity. The 13 sites worked on include Rock Edge, Wheatley, Kirtlington and Dry Sandford.
- 3.21 A regular programme to monitor the condition of geological sites is carried out by Oxfordshire Geology Trust (Local Geological Sites) and Natural England (SSSI). During 2010 two sites were found to be in poor condition or lost, primarily due to being infilled when the operators were unaware of their significance. It is important that this monitoring is continued although there is no provision for funding of Local Geological Site monitoring at present.

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<sup>7</sup> [http://www.oxfordshiregeologytrust.org.uk/L\\_MJurLGAP.pdf](http://www.oxfordshiregeologytrust.org.uk/L_MJurLGAP.pdf)

<sup>8</sup> <http://www.goodquarry.com/article.aspx?id=143&navid=18>



Figure 3: School children become geologists for the day at their local restored quarry

(Source: Local Geodiversity Action Plan for Oxfordshire's Lower and Middle Jurassic, Oxfordshire Geology Trust, 2006)

### **Landscape**

- 3.22 Oxfordshire contains parts of three Areas of Outstanding Natural Beauty, including the Cotswolds, the Chilterns and the North Wessex Downs. National policy seeks to further the conservation and enhancement of the natural beauty of the AONBs<sup>9</sup>. Government policy is that major developments should only be permitted in AONBs in exceptional circumstances and where it can be demonstrated that the developments are in the public interest, including an assessment of the need for the development, the cost of and scope for developing outside the AONB, and any detrimental effects on the environment, and the extent to which these can be moderated<sup>10</sup>. There are sufficient aggregate resources in Oxfordshire outside the AONB such that working within these areas is not necessary. Policy M4 of the submitted Plan includes the following criteria when considering sites for working aggregate minerals: *Avoidance of locations within or significantly affecting an Area of Outstanding Natural beauty*.
- 3.23 Small scale extraction of building stone for local use, or small scale waste facilities with an annual throughput of less than 20,000tpa may be appropriate in the AONBs and paragraph 6.42 of the Core Strategy notes the importance of limestone for maintaining the built environment in the Cotswolds Area of Outstanding Natural Beauty.
- 3.24 The Oxfordshire Wildlife and Landscape study was carried out by Oxfordshire County Council, English Nature, the Northmoor Trust and the Countryside Agency and was completed in 2004. The study sought to improve information about the biodiversity and landscape character areas of Oxfordshire. It identified 24 landscape types in the county and Figure 4 shows the landscape character types in Oxfordshire. Further information on the characteristics of each of the landscape types can be found at:

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<sup>9</sup> Countryside and Rights of Ways (CROW) Act, 2000, s.85.

<sup>10</sup> NPPF Para. 116

<http://owls.oxfordshire.gov.uk/wps/wcm/connect/occ/OWLS/Home/Oxfordshire+Landscape+Types/>

3.25 The restoration of a site should be determined in relation to its land-use context and surrounding environmental character. The character of the local landscape should therefore be one of the criteria taken into account when the restoration of a quarry is planned. For example, locally characteristic species should be used for planting schemes.

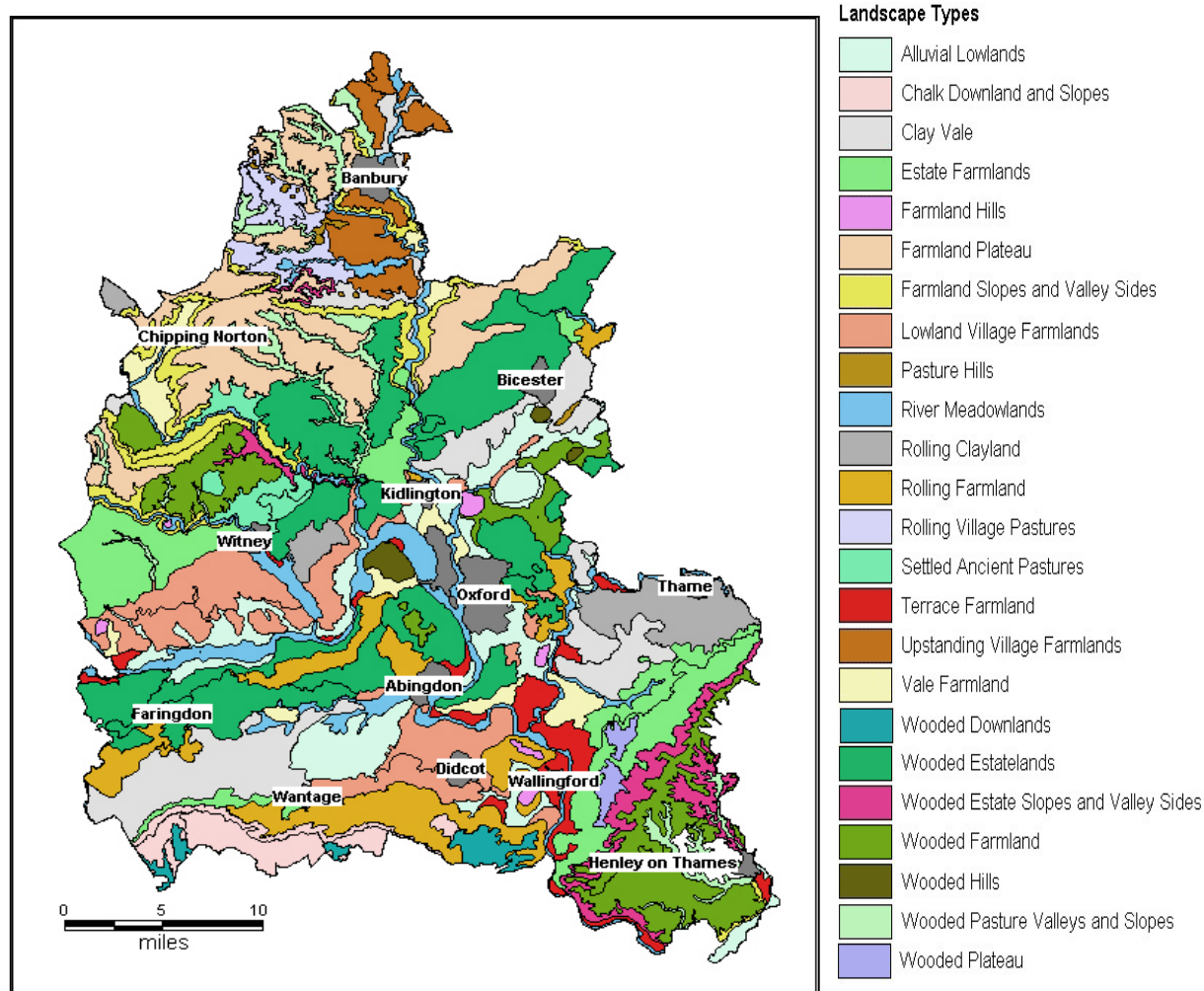


Figure 4: Landscape Character Types in Oxfordshire

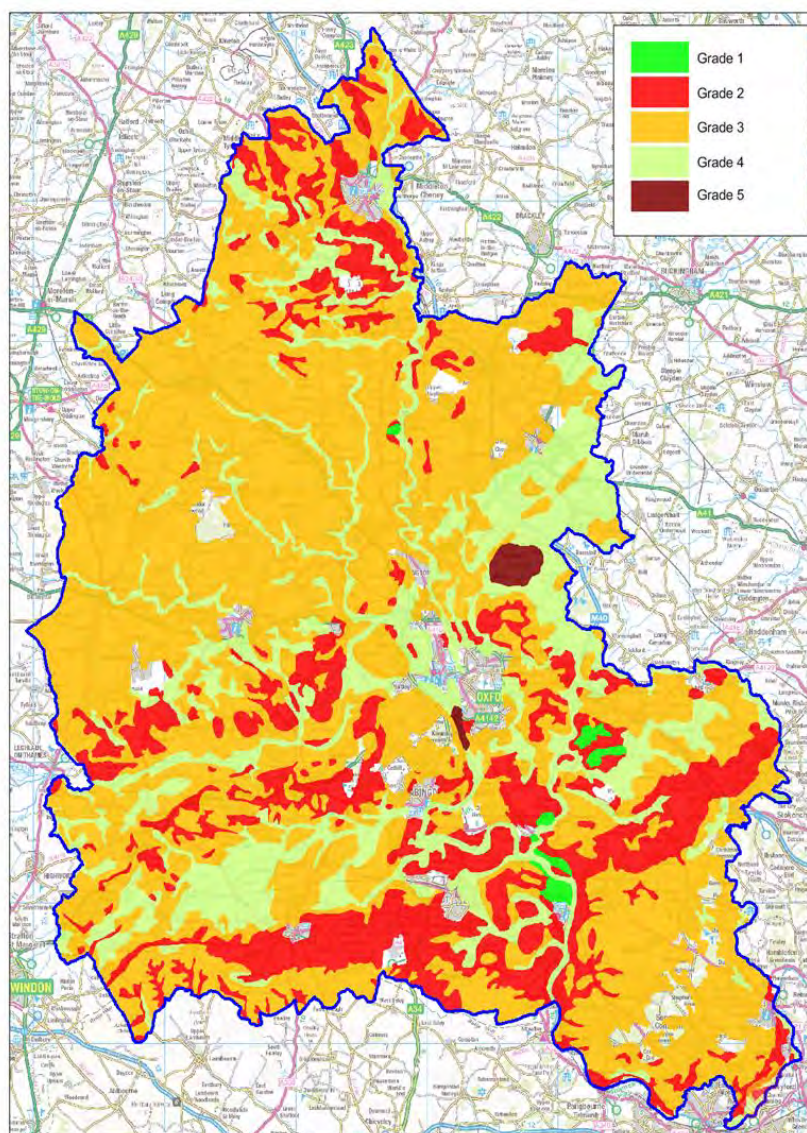
### Agricultural Land Quality

3.26 Best and most versatile (BMV) land is defined in the glossary to the NPPF as: *'Land in grades 1, 2 and 3a of the Agricultural Land Classification.'* Good agricultural restoration generally requires careful soil stripping, storage and replacement, storage of top soil separately from sub soil and avoiding compaction of soil.

Progressive restoration of land to agriculture is preferable to preserve the quality of best and most versatile soils. However, unless low level restoration is possible, suitable inert infill material would be required to achieve high quality agricultural restoration. 'Restoration' includes the return of land following

mineral extraction to an acceptable condition for the intended afteruse<sup>11</sup> and 'aftercare' includes operations necessary to maintain restored land in a condition necessary for an agreed afteruse to continue<sup>11</sup>. This can include operations such as cultivating, fertilising, planting and draining.

3.27 Agricultural land can be restored to an amenity or nature conservation afteruse such as species rich grassland. However, where 'best and most versatile' land is involved the methods used in the restoration and aftercare should aim to preserve the long term agricultural potential of the land for the future, as highlighted by paragraph 143 of the NPPF. All site restoration should also seek some biodiversity enhancement, even if biodiversity is not the prime after use in order to achieve a net gain in biodiversity set out in paragraph 11 of the NPPF.



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**Figure 5: Agricultural Land Classification in Oxfordshire**

<sup>11</sup> <http://planningguidance.communities.gov.uk/blog/guidance/minerals/definitions-terms-used-in-the-minerals-guidance/>

- 3.28 Figure 5 shows the agricultural land classification for agricultural land in Oxfordshire. Along the Thames valley and its tributaries, where much of the sand and gravel resource is located, there are extensive areas where land quality is mostly Grade 2 or 3a. There is only a small area of Grade 1 agricultural land near Dorchester.
- 3.29 Policy M10 in the Core Strategy submission document requires restoration of mineral workings to take into account the quality of and agricultural land affected. Policy C6 on Agricultural Land and Soils, also requires proposals for minerals and waste development to demonstrate that they have taken the presence of any BMV land into account, that the permanent loss of BMV land will only be permitted where it can be shown that there is a need for the development that cannot reasonably be met using lower grade land, and requires provision for the management and use of soils in order to maintain soil quality (and therefore BMV potential). For further information see the Topic Paper on agricultural land and soils which informs Policy C6.

### **Leisure and Recreational Development and Rights of Way**

- 3.30 Minerals operations and subsequent restoration offers opportunities to provide short and long term community benefits which can include improving public access to specific landscape, archaeological sites or attractions, improving existing or creating new public rights of way for walkers, cyclists and horse riders, including those with disabilities, providing open water for sailing, canoeing or fishing as well as providing access to nature conservation areas. Community benefits can be realised during the operational phases of quarrying, such as creating view points of the workings with interpretation boards explaining, for example, the geology of the area and what mineral is being extracted, the biodiversity using the active site and what the mineral will be used for.
- 3.31 If planned and managed well, a scheme to manage access in the construction and operational phases as well as a restoration scheme can incorporate leisure and access as well as conservation work and habitat creation. Improvements to rights of way could enable biodiversity improvements to be linked with other planned green space improvements such as providing green corridors for wildlife movement or for walking, cycling or horse riding. The management regime of site after uses may influence the types of land use, access to land and the level of possible social, community and economic benefits.
- 3.32 The majority of sand and gravel extraction sites in Oxfordshire that have been permitted to date have resulted in the creation of lakes used for leisure activities such as fishing, sailing and other water sports. These lakes are mainly in private ownership, managed as members clubs or commercial businesses.
- 3.33 In the Lower Windrush Valley, the development of a coordinated after use strategy has enabled a greater emphasis on securing general public access to restored sites and the wider countryside. A specific policy in the existing West Oxfordshire Local Plan<sup>12</sup> makes provision for the establishment and long term

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<sup>12</sup> West Oxfordshire Local Plan 2011(2006)



management of the Windrush Path, a footpath from Witney to the River Thames at Newbridge with associated circular routes and areas of public access. 8km of new footpaths, 10ha of public open space and the creation of two new nature reserves with disabled access have been opened to the public to date through planning agreements in the Lower Windrush.

- 3.34 Plans for restoration which will create new leisure or amenity facilities need to take into account long term impacts, including traffic generation, associated with any proposed development and balance these with potential positive impacts such as employment generation, boosts to the economy and providing more opportunities for walking, cycling and riding.
- 3.35 Policy C11 in the Core Strategy provides for the integrity, and amenity value of the rights of way network to be maintained, and improvements and enhancements to the rights of way network to be provided for, where appropriate, in the restoration and aftercare scheme.

### **Flood alleviation, water supply and Water Quality in the Restoration of Mineral Workings**

- 3.36 Extraction of minerals from sites in the floodplain can afford the opportunity to use the void created to store water, either on a permanent basis or for temporary use when neighbouring watercourses flood or groundwater levels rise. There are no examples of former quarries being used specifically for flood alleviation to date in Oxfordshire.
- 3.37 Restoration to any land-use should take into account the presence of aquifers on the site and the vulnerability of the flows and quality of groundwater, as identified on the Environment Agency's website<sup>13</sup>.
- 3.38 Policy M10 requires restoration of mineral workings to take into account the flood risk and opportunities for increased flood storage capacity, and Policy C3 on flooding states that the opportunity should be taken to increase flood storage capacity in the flood plain where possible. Policy C4 on the water environment requires proposals for minerals and waste development to demonstrate that there would be no unacceptable adverse impact on or risk to water resources, and that the Thames and other important watercourses and canals are adequately protected.

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<sup>13</sup> <http://www.environment-agency.gov.uk/homeandleisure/37793.aspx>

## 4. Airfield safeguarding

- 4.1 Airfield safeguarding zones are zones in which local planning authorities are required to consult either the military authorities or local civilian airports before granting planning permission for any development which is likely to attract birds within a 13km radius of an officially safeguarded civil aerodrome or within 8 miles of an officially safeguarded military aerodrome<sup>14</sup>.
- 4.2 Birds have caused catastrophic accidents to all types of aircraft. The issue of birdstrike is particularly relevant to mineral working where quarries within the given distances to airfields are proposed to be restored to open water. Open water can attract flocks of birds such as waterfowl and gulls which pose a particular threat to aircraft safety. In Oxfordshire, much of the sand and gravel resource lies in the valley of the River Thames and its tributaries, where the water table is high. Once gravel is extracted, the remaining void naturally fills with water. However, measures can be taken to through appropriate site restoration to reduce the risk of birdstrike to aviation.
- 4.3 Airfield safeguarding does not prevent mineral working taking place, but, in discussion with the relevant aviation authorities, restoration should be planned at the planning application stage to minimise the risk of bird strike from the site during operation as well as in afteruse. Where wetland restoration is planned, in order to avoid creating open stretches of water, reedbeds may be planted and inert fill used to create islands to reduce the depth of the water. This reduces the risk of birds flocking on open water, thus posing a threat to aircraft safety.
- 4.4 Table 2 lists the aerodromes in Oxfordshire or close to the county boundary which are safeguarded and Figure 6 shows the safeguarding zones around these sites.

Table 2: Safeguarded Aerodromes in Oxfordshire

<b>Safeguarded aerodromes</b>	
<b>Military</b>	<b>Civil</b>
RAF Brize Norton	Oxford Airport
Dalton Barracks	
RAF Chalgrove	
RAF Benson	
RAF Fairford	

<sup>14</sup> DfT (2003) Circular 1/2003: Safeguarding, Aerodromes, Technical Sites and Military Explosives Storage Areas, Annex 2.

4.5 The safeguarding areas cover most of the sand and gravel resource in Oxfordshire, along the Thames valley, the Lower Windrush, the Lower Evenlode and the Lower Thame valleys. In considering the restoration of sites in these areas, the issue of birdstrike will need to be considered and restoration carried out appropriately, in consultation with the Ministry of Defence and Oxford Airport and nature conservation bodies. Policy M10 requires the restoration of mineral workings to take into account bird strike risk and aviation safety.

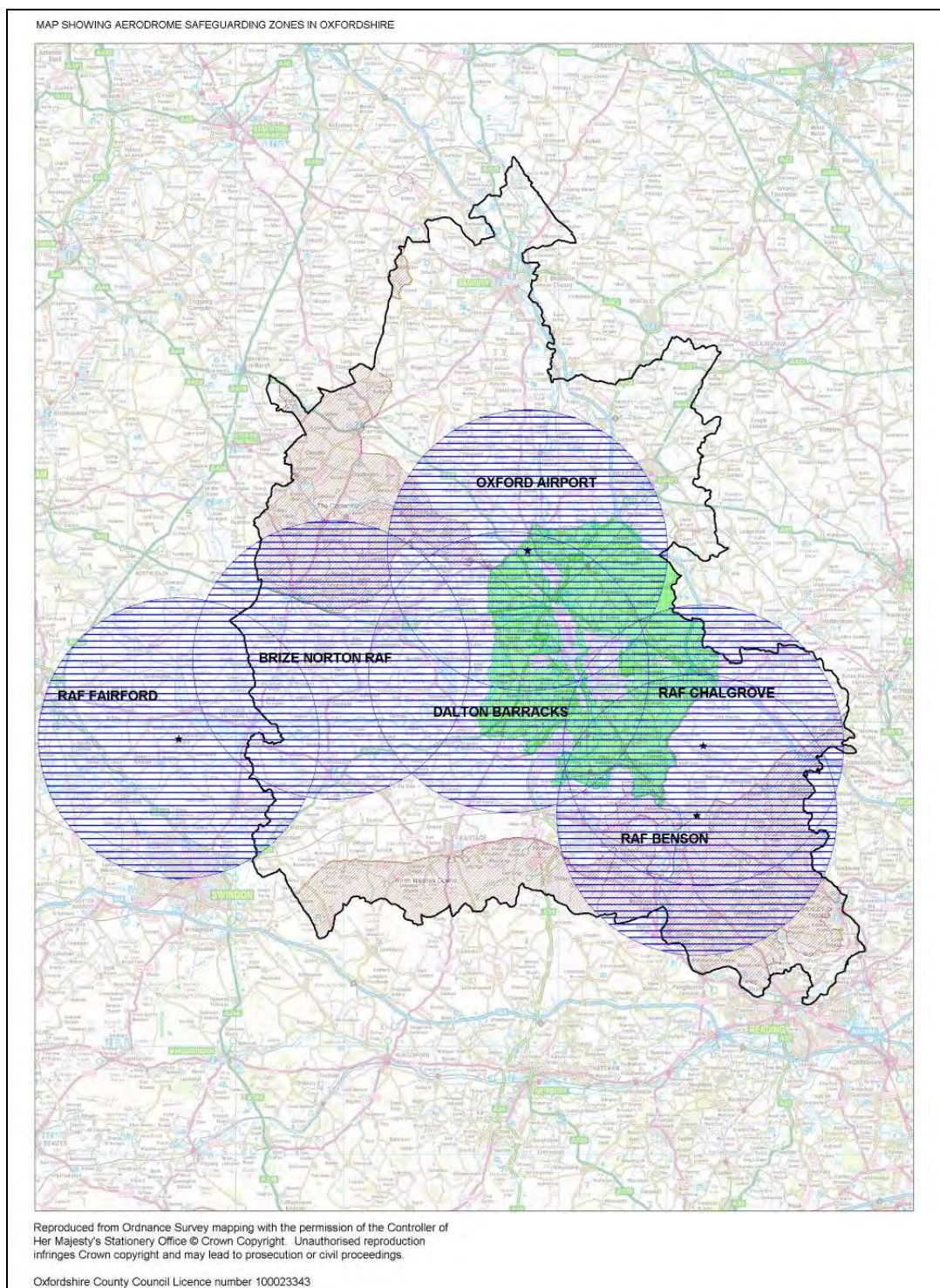


Figure 6: Airfield safeguarding zones affecting Oxfordshire

## 5. The Use of Inert Fill in the Restoration of Mineral Workings

- 5.1 Materials that are not removed as part of mineral extraction can normally be directly re-used in site restoration. Typically these materials are naturally occurring soils and sub-soils and other forms of overburden such as alluvium or clay. However, to achieve satisfactory restoration in accordance with the planning permission, on-site materials may need to be supplemented with imported material – usually in the form of inert material from construction and demolition sites (CDE waste). Additional material will almost certainly be required where the aim is to restore a site to pre-existing ground levels, or even where the intention is to return the land to agriculture at a lower level. Additional material may also be needed where mineral working has breached the water table and is to be restored to wetland habitat<sup>15</sup>.
- 5.2 In recent years, the amount of inert waste available to help restore quarries has reduced as the proportion of waste recycled has increased in line with European and national targets for recovery of resources (aggregates and soils) and diversion of waste from landfill. Construction, demolition and excavation waste arising also fell as a result of the decline in construction activity during the economic downturn (the Waste Needs Assessment provides more information). However, there are indications that the amounts of waste produced from this source are now returning to previous levels. What is clear is that the availability of suitable waste material has become increasingly relevant to options for the restoration and after use of mineral workings, and this needs to be taken into account when considering what type of restoration strategy can be put in place.

### Disposal (Landfill) or Recovery?

- 5.3 The use of inert waste as fill to restore quarry workings can, in different circumstances, be seen as either a waste disposal operation (i.e. landfill), or a waste recovery operation.
- 5.4 The term ‘recovery’ is defined in the European Waste Framework Directive<sup>16</sup> (the directive) as: *‘...any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.’*
- 5.5 The directive defines ‘disposal’ as: *‘...any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy.’*
- 5.6 The European Court has said that “the essential characteristic of a waste recovery operation is that its principal objective is that the waste serves a useful purpose in replacing other materials which would have had to be used for that purpose, thereby conserving natural resources”.

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<sup>15</sup> Quarry Products Association (2006): The need for inert wastes to restore aggregate mineral workings.

<sup>16</sup> Directive 2008/98/EC on Waste, Article 3 (1), (19)

- 5.7 The Environment Agency (EA), in its guidance note – Defining Waste Recovery: Deposit of Waste on Land<sup>17</sup> also states that the clearest indicator of waste recovery is: *‘when it can be shown that the waste used is a suitable replacement for non-waste materials that would otherwise have to be used to achieve the end benefit’* i.e. it saves the use of non-waste material.
- 5.8 In turn, waste disposal is described as being where the primary function is to get rid of waste. If this is the primary reason for the operation, then it cannot be classed as waste recovery even if there is a secondary benefit.
- 5.9 The question of whether use of inert waste as fill to restore quarry workings is disposal or recovery is primarily an environmental permitting issue, under the Environmental Permitting Regulations 2010. For the purposes of planning, the primary issue is whether the waste material is needed to satisfactorily achieve the planned quarry restoration rather than the technical issue of whether it is disposal or recovery. For planning purposes, if the use of inert waste as fill is necessary to achieve the planned quarry restoration to a beneficial after use then it should be seen as being an integral part of the overall mineral working operation and not as a separate landfill development.

#### Environmental Permitting and Planning Permission for Inert Fill

- 5.10 The importation of waste for the restoration of a quarry requires planning permission, regardless of whether the waste is deposited as part of a recovery or disposal operation. The activity will also require a permit under the Environmental Permitting Regulations, and it is the role of the Environment Agency to determine whether or not waste used in the restoration of a mineral working requires a bespoke permit for waste disposal or a standard permit for a recovery operation. Advice on this should be sought from the Environment Agency at an early stage. It is helpful that, where possible, the planning and environmental permit applications are submitted and considered in parallel.
- 5.11 The difference between disposal and recovery of waste in the restoration of mineral workings has been highlighted in the recent appeal by Tarmac Aggregates Ltd to the Court of Appeal<sup>18</sup>, relating to an environmental permit application. In its Judgement, the Court found that using inert waste to restore the landscape at Methley Quarry in Leeds in order to comply with a planning condition was waste recovery, not waste disposal. This was based on the fact that there was a requirement (planning condition) that would otherwise need to be satisfied through the use of primary materials.

#### The Use Of Inert Waste In The Floodplain

- 5.12 Sand and gravel working is classed as ‘water compatible development’<sup>19</sup> – a category of development that is at the lowest vulnerability to flooding and therefore may be carried out in the functional flood plain (Flood Zone 3b)<sup>20</sup>

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<sup>17</sup> RGN 13: Defining Waste Recovery – Permanent Deposit of Waste on Land. Environment Agency (2010)

<sup>18</sup> R (Tarmac Aggregates Ltd.) v SoS for the Environment, Food and Rural Affairs [2015] EWCA Civ 1149

<sup>19</sup> Planning Practice Guidance (Flood Risk and Coastal Change) Table 2.

<sup>20</sup> Only sand and gravel working is allowed in the functional flood plain: other mineral development is only allowed in areas of lower flood risk.

subject to the application of the sequential test. Inert waste has been used widely and effectively used in the restoration of sand and gravel workings in the flood plain for many years. However, the use of inert waste in the restoration of sand and gravel workings must also accord with national policy on flood risk. (The Topic Paper on Oxfordshire Water Environment, August 2015 addresses the level of flood risk associated with mineral and waste development in more detail).

- 5.13 Where the deposit of waste in a quarry is a disposal operation (i.e. landfill), this is classed as 'more vulnerable' development<sup>21</sup>. National planning guidance indicates that more vulnerable development is not appropriate in the functional floodplain<sup>7</sup> (and only as an exception in flood zone 3a), and therefore such disposal should not be permitted. However, where the deposit of inert waste in a quarry in order to secure its planned restoration is deemed to be an integral part of sand and gravel working, it would form part of a water compatible development and, subject to the sequential test, may be carried out in the floodplain, including in the functional floodplain. On this basis, it is expected that inert waste will continue to be used to secure the effective restoration of sand and gravel workings within the floodplain in Oxfordshire.
- 5.14 Most of the potential sharp sand and gravel extraction areas in Oxfordshire are located along the valley of the River Thames and its tributaries and in many cases they overlap with the functional floodplain. Therefore, the way in which inert waste may be used and the potential contribution it can make to the restoration of sand and gravel workings is an important issue for the Core Strategy.
- 5.15 Within the flood plain, for the purposes of planning, developers will need to be clear on whether the proposed import of waste to a quarry for restoration is an integral part of a sand and gravel working operation or is a separate landfill operation. For the purposes of environmental permitting, developers will also need to establish whether it is disposal or recovery.
- 5.16 Where the proposed deposit of waste is an integral part of a mineral working operation, consideration should be given to the minimum amount of material required to achieve satisfactory restoration. Within the floodplain, consideration should always be given to restoration below original land levels to increase flood storage capacity, and this should be addressed in the submission and consideration of a planning application. However, this should be undertaken on a case by case basis and in consultation with the Environment Agency.
- 5.17 Where the proposed deposit of waste is not an integral part of a mineral working operation but is considered to be a landfill operation, it would not be acceptable within the functional floodplain, and only exceptionally in flood zone 3a. This would include the filling of an un-restored mineral working with waste material where there is no requirement for such restoration as part of a planning permission but could also include the use of inert waste in the restoration of a mineral working where there are requirements for restoration as

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<sup>21</sup> See Planning Practice Guidance (Flood Risk and Coastal Change) Table 3.

part of a planning permission, but where the quantity of waste is greater than that required to achieve the planned restoration.

### Groundwater

- 5.18 The impact of using waste material in the restoration of mineral workings on both groundwater flows and groundwater quality should also be considered.
- 5.19 The Environment Agency's approach to the management and protection of groundwater is set out in their document Groundwater Protection: Principles and Practice (GP3)<sup>22</sup>.
- 5.20 The role of the planning system in the protection of groundwater is covered in the Topic Paper on Oxfordshire Water Environment, August 2015.

### Possible Changes to the Core Strategy

- 5.21 A representation on the published Core Strategy (August 2015) from Sonning Eye Action Group (representation no. 145) questions the use of inert waste in the restoration of mineral workings within the floodplain and whether this is consistent with national planning guidance.
- 5.22 This indicates a need to consider whether changes should be made to Policy M10 of the Core Strategy on the restoration of mineral workings and the related text. It may be appropriate to change the supporting text of the Core Strategy to clarify when the use of imported inert material would be considered 'recovery' or 'disposal' in planning circumstances, and to include a criteria in Policy M10 for consideration of the impacts of the use of inert fill on flooding and water quality.

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<sup>22</sup> Environment Agency: Groundwater Protection: Principles and Practice (GP3), August 2013 Version 1.1

## **6. Funding for restoration for nature conservation**

- 6.1 Mineral companies and landowners involved in mineral working often have considerable land holdings (freehold or leasehold) over which they have control or influence. This includes currently operational sites, restored areas, proposed future extraction areas and land which will never be worked. An integrated approach to management of these areas can provide for an optimum site after-use strategy<sup>23</sup>. There are a number of options for the management of a restored site; it may be managed by the landowner or the developer, or by a national or local wildlife organisation.
- 6.2 In 1991, Oxfordshire County Council set up a scheme to fund post mineral restoration for nature conservation purposes. Developers are currently asked to fund the management of the restored site for a minimum of 20 years, following the statutory 5 year after-care period. Contributions are calculated based on the estimated costs of managing the habitats on the site for a 20 year period. The calculations include the cost of an estate worker and equipment to carry out most work, plus specialist contractors where required eg for reed bed management. This funding arrangement is discussed at pre-application meetings and has been successfully implemented at quarries within the Lower Windrush Valley. After a 20 year period, any money left in the fund is used by the County Council in discussion with the landowner or operator on related projects.
- 6.3 Paragraph 144 of the NPPF states that bonds or other financial guarantees should only be sought in exceptional circumstances. The Planning Practice Guidance of Minerals paragraphs 047 and 048<sup>24</sup> states that mineral planning authorities should address any concerns about the funding of site restoration principally through appropriately worded planning conditions and goes on to say a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases, which could include: very long-term new projects where progressive reclamation is not practicable; where a novel approach or technique is to be used; or where there is reliable evidence of the likelihood of either financial or technical failure but these concerns are not such as to justify refusal of permission.

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<sup>23</sup> <http://www.quarry-restoration.com/landscape.htm>

<sup>24</sup> <http://planningguidance.communities.gov.uk/blog/guidance/minerals/restoration-and-aftercare-of-minerals-sites/>



## 7. Planning Policy on Mineral Restoration

- 7.1 During the earlier stages of preparation of the Minerals and Waste Core Strategy, planning policy statements, minerals and waste policy statements, the regional spatial strategy and saved policies from the Minerals and Waste Local Plan (1996) set the policy context for preparation of the plan. This suite of policies was largely replaced by the NPPF in March 2012.
- 7.2 The Government announced its intention to revoke the regional spatial strategies in 2010; the South East Plan was partially revoked on 25<sup>th</sup> March 2013. Some policies of the Oxfordshire Minerals and Waste Local Plan (1996) have been 'saved' by the Secretary of State<sup>25</sup> until such time as they are replaced by new policies in the Minerals and Waste Plan although the weight they are given in determining planning decisions will be dependent on how closely they conform to the NPPF. Consultation on the May 2012 Core Strategy proposed submission document took place shortly after the NPPF was published.
- 7.3 The following section of the paper sets out the national and regional planning policy documents which were previously relevant to the generation and revision of the restoration policy in the plan. The section on current planning policy and guidance sets out the current planning policies contained in the NPPF and other sources of extant guidance which are now relevant to the Core Strategy. Table 3 demonstrates the links between the former and the current policies set out below and the relevant objectives and policies relating to restoration in the submitted Core Strategy (2015), thereby providing explanation for inclusion of the policies in the submitted Plan.

### Pre-NPPF policies

#### National Policy

- 7.4 MPG 7<sup>26</sup> set out the contribution which reclaimed mineral sites could make to the Government's policies for sustainable development and mineral working, and for land use and other policies in the wider countryside. Paragraph 2 stated that: *'restoration and aftercare should provide the means to maintain or, in some circumstances, even enhance the long-term quality of land and landscapes taken for mineral extraction'*.
- 7.5 Paragraph 13 of MPG7 also noted that most land taken for mineral working is in agricultural use prior to extraction and that; *'where minerals underlie the best and most versatile agricultural land it is particularly important that restoration and aftercare preserve the long-term potential of the land as a national, high quality, agricultural resource.'*
- 7.6 Paragraph 19 of MPG 7 recognised the contribution mineral restoration could make to increasing amenity uses: *'Mineral workings reclaimed to amenity use can... contribute to Government policies in respect of recreation and nature conservation, including making a contribution to the UK Biodiversity Action Plan.'*

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<sup>25</sup> Letter dated 25 September 2007 from Office of the Deputy Prime Minister

<sup>26</sup> Mineral Planning Guidance: The Reclamation of Mineral Workings (ODPM, 1996)

7.7 MPS1<sup>27</sup> set out the Government's key overarching policies and principles which applied to all minerals. An objective of MPS 1 was: *'to protect and seek to enhance the overall quality of the environment once extraction has ceased, through high standards of restoration, and to safeguard the long term potential of land for a wide range of after uses'*.

7.8 MPS 1 also noted that local planning authorities should have regard to the positive or negative effects that minerals operations may have on rural communities and the extent to which adverse impacts of such operations could be moderated, but recognised that such developments can often also offer opportunities for these communities, especially at the restoration stage.

7.9 PPS 9<sup>28</sup> encouraged mineral restoration to contribute towards an increase in biodiversity and habitat creation: *'LDFs should identify any new areas or sites for the restoration or creation of new priority habitats which contribute to regional targets, and support this restoration or creation through appropriate policies.'*

#### Regional policy

7.10 Policy NRM 5 of the South East Plan<sup>29</sup> stated that:

*'Local planning authorities and other bodies shall avoid a net loss of biodiversity, and actively pursue opportunities to achieve a net gain across the region.'*

vi. *They shall influence and applying agri-environment schemes, forestry, flood defence, restoration of mineral extraction sites and other land management practices to:*

- *Deliver biodiversity targets;*
- *Increase the wildlife value of land;*
- *Reduce diffuse pollution; and*
- *Protect soil resources.'*

7.11 Policy C4 stated that *'outside nationally designated landscapes, positive & high quality management of the region's open countryside will be encouraged and supported by local authorities and other organisations, agencies, land managers, the private sector, grant aid and other measures.'*

7.12 Policy C6 stated that: *'Through Rights of Way Improvement Plans and other measures, local authorities should encourage access to the countryside, taking full advantage of the Countryside and Rights of Way Act 2000, particularly by maintaining, enhancing and promoting the Public Rights of Way system, and permissive and longer distance routes, to facilitate access within, to and from the countryside for visitors and all members of the local community.'*

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<sup>27</sup> Minerals Policy Statement 1: Planning and Minerals (2006)

<sup>28</sup> CLG (2005) Planning Policy Statement 9: Biodiversity & Geological Conservation

<sup>29</sup> Regional Spatial Strategy for South-East England: The South East Plan (2009)

7.13 Policy C7 stated that: *'taking account of the Thames River Basin Management Plan, local authorities should work together with other agencies to:*

- *Maintain and enhance the landscapes and waterscapes of the River Thames Corridor, in terms of their scenic and conservation value and their overall amenity;*
- *Conserve and enhance the nature conservation resources of the River Thames Corridor through the protection and management of its diverse plant and animal species, habitats (including wildlife networks) and geological features;*
- *Provide accessible facilities and opportunities for countryside and river-related recreation;*
- *Take account of the setting of the river in exercising their normal development control duties.*

#### Local Policy

7.14 Policy PE13 of the Oxfordshire Minerals and Waste Local Plan 1996 stated that mineral workings and landfill should be restored within a reasonable timescale and that planning permission will not be granted for mineral working unless satisfactory proposals have been made for restoration and after-use and for securing them in the long term.

#### **Current Planning Policy and Guidance**

##### **National Planning Policy Framework (NPPF)**

7.15 The National Planning Policy Framework (NPPF) came into force in March 2012. This became the main guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications. Relevant excerpts of the NPPF that have shaped the Oxfordshire Minerals and Waste Part 1 – Core Strategy policies are outlined below.

##### Restoration and after-care of minerals sites

7.16 Paragraph 143:

*'In preparing Local Plans, local planning authorities should:*

- *Put in place policies to ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place, including for agriculture (safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources), geodiversity, biodiversity, native woodland, the historic environment and recreation'.*

7.17 Paragraph 144:

*'When determining planning applications, local planning authorities should:*

- *Provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary....'*

##### Biodiversity and Soils

7.18 Paragraph 109:

*'The planning system should contribute to and enhance the natural and local environment by*

- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity;*
- protecting and enhancing valued landscapes, geological conservation interests and soils.'*

7.19 Paragraph 114:

*'Local planning authorities should:*

- Set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.'*

7.20 Paragraph 117:

*'To minimise impacts on biodiversity and geodiversity, planning policies should*

- Plan for biodiversity at a landscape-scale...*
- Promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations..."*
- Aim to prevent harm to geological conservation interests.'*

#### Agriculture

7.21 Paragraph 112:

*'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'*

#### Landscape

7.22 Paragraph 115:

*'Great weight should be given to conserving landscape and scenic beauty in national parks, the Broads, and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty'*

7.23 Paragraph 116:

*'Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of;*

...

- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'*

#### Climate Change

7.24 Paragraph 94:

*'Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change.'*

### Rights of Way

#### 7.25 Paragraph 75:

*'Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'*

#### 7.26 Paragraph 99:

*'Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply, changes to biodiversity and landscape.'*

### Financial guarantees

#### 7.27 Paragraph 144:

*'In preparing Local Plans, local planning authorities should:*

- *Provide for the restoration and aftercare at the earliest opportunity to be carried out to high environmental standards... bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.'*

### **Planning Practice Guidance on Minerals**

7.28 Further guidance on the restoration and aftercare of mineral workings is given in the Planning Practice Guidance on Minerals. This document, published as part of the planning practice guidance to complement the NPPF, provides further guidance on restoration and after-use of mineral workings, including guidance on the possible forms of afteruse following mineral extraction and on when financial guarantees may be required (paragraphs 45 and 48).

#### 7.29 Paragraph 45:

*'There are many possible uses of land once minerals extraction is complete and restoration and aftercare of land is complete. These include:*

- *creation of new habitats and biodiversity;*
- *use for agriculture;*
- *forestry;*
- *recreational activities;*
- *waste management, including waste storage; and*
- *the built environment, such as residential, industrial and retail where appropriate.*

*Some former mineral sites may also be restored as a landfill facility using suitable imported waste materials as an intermediate stage in restoration prior to an appropriate after use.'*

7.30 Paragraph 48:

*'A financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. Such cases, include:*

- very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry;*
- where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development;*
- where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission.*

*However, where an operator is contributing to an established mutual funding scheme, such as the Mineral Products Association Restoration Guarantee Fund or the British Aggregates Association Restoration Guarantee Fund, it should not be necessary for a minerals planning authority to seek a guarantee against possible financial failure, even in such exceptional circumstances.'*

**Oxfordshire Rights of Way Improvement Plan (RoWIP)**

- 7.33 As the highway authority, the County Council has a statutory duty to prepare and publish a RoWIP and review it to keep it valid. The RoWIP sets out the Council's ambitions for the improvement of Public Rights of Way in order to meet the government's aim of better provision for walkers, cyclists, equestrians and people with mobility problems. It is integrated with the fourth [Local Transport Plan 2015 - 2031](#).

**West Oxfordshire District Council draft Plan**<sup>30</sup>

- 7.34 Paragraph 6.36 states that;

*'The after-use of former mineral workings in the Lower Windrush Valley may offer particular opportunities for leisure and tourism development. Existing recreational uses include walking, fishing, horse riding, windsurfing, sailing, banger racing, power boating and water skiing. The after-use strategy established in the County Minerals and Waste Local Plan has been for the more intensive water based recreation to be focussed in the Standlake area with lower key recreation uses such as angling, walking and non-intrusive leisure uses and provision for nature conservation elsewhere in the valley. This strategy continues to be appropriate, notably as the more intensive leisure uses are likely to be incompatible with nature conservation if in close proximity.'*

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<sup>30</sup> West Oxfordshire District Council draft Plan October 2012

Table 3: Links Between pre-NPPF Policy, NPPF Policy and Policies in the Submission Plan

Former National, Regional or Local Planning Policy	Current NPPF Policy	Policies on Restoration in the Submitted Plan	Implication for OCC Policy
<b>Restoration and Aftercare</b>			
<p>An objective of MPS 1 was to: ‘protect and seek to enhance the overall quality of the environment once extraction has ceased, through high standards of restoration, and to safeguard the long term potential of land for a wide range of after-uses.’</p>	<p>Paragraph 143: ‘ Local planning authorities should put in place policies to ensure that high quality restoration and aftercare of mineral sites takes place, including for agriculture, geodiversity, biodiversity, native woodland, the historic environment and recreation’.</p>	<p>Objective ix: “Provide benefits to Oxfordshire’s natural environment and local communities through the restoration and aftercare of mineral workings at the earliest opportunity, in particular by contributing to nature conservation, enhancing the quality and extent of Conservation Target Areas, contributing to landscape character, improving access to the countryside, safeguarding local amenity, providing opportunities for local recreation and providing benefit to the local economy.”</p>	<p>Objective ix provides a framework which enables the plan to provide policies to meet the requirements of paragraph 143 of the NPPF.</p>
<b>Timing of Restoration</b>			
<p>Oxfordshire Minerals and Waste Local Plan 1996 policy PE13 required mineral workings to be restored within a reasonable timescale to an after use appropriate to the location and surroundings.</p> <p>MPS1 Policy on restoration, paragraph 19: ‘in order to avoid the possibility</p>	<p>NPPF Paragraph 143: ‘Local planning authorities should put in place policies to ensure worked land is reclaimed at the earliest opportunity... and that high quality restoration and aftercare of mineral sites takes place’</p>	<p>Policy M10: “Mineral workings shall be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and delivers a net gain biodiversity...”</p>	<p>Policy M10 is compliant with NPPF policies in respect of timing and quality of restoration.</p>

<p>of minerals working resulting in dereliction, ensure land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites takes place...’</p>			
<b>Financial Mechanisms</b>			
<p>Oxfordshire Minerals and Waste Local Plan 1996 policy PE13 stated that planning permission would not be granted unless satisfactory proposals for restoration have been made and means of securing them in the long term.</p> <p>MPS1 Policy on restoration, paragraph 19: ‘do not seek or require bonds or other financial guarantees to underpin planning conditions, except as set out in MPG7.’</p> <p>MPG7 refers to the ‘exceptional cases where it may be reasonable for an MPA to seek a financial guarantee to cover restoration’ including:</p> <ul style="list-style-type: none"> <li>i. for very long-term new projects where progressive reclamation is not practicable...</li> <li>ii. where a novel approach or technique is to be used, but the MPA considers it is justifiable to give permission for the</li> </ul>	<p>NPPF paragraph 144: ‘When determining planning applications, local planning authorities should... provide for restoration and aftercare at the earliest opportunity... Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.</p> <p>NPPF technical guidance paragraph 48 states that: ‘No payment of money or other consideration can be required when granting planning permission except where there is specific statutory authority.’</p> <p>MPPG paragraph 48 outlines the exceptional cases where a financial guarantee to cover restoration and aftercare costs:</p> <ul style="list-style-type: none"> <li>- very long-term new projects where</li> </ul>	<p>Policy M10: “Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including where necessary the means of securing them in the longer term.”</p>	<p>Following the removal of the requirement for financial contributions beyond the 5 year period, policy M10 is now compliant with the NPPF. It does not specifically require the use of financial mechanisms to guarantee restoration but allows for these to be used where necessary, as provided for in NPPG – Minerals paragraph 48.</p>



<p>development; iii. where there is reliable evidence of the likelihood of either financial or technical failure.’</p>	<p>progressive reclamation is not practicable... - where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development; - there is reliable evidence of the likelihood of either financial or technical failure.’</p>		
<b>Soils and Agricultural Land Quality</b>			
<p>MPG 7 paragraph 13: ‘where minerals underlie the best and most versatile agricultural land it is particularly important that restoration and aftercare preserve the long term potential of the land as a national, high quality, agricultural resource.’</p> <p>This is referred to in MPS1: where significant development of agricultural land is unavoidable, seek to use areas of poorer quality land in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations. <u>In order to achieve the intended after-use, a high standard of restoration</u></p>	<p>NPPF paragraph 112 notes that ‘LPAs should take into account the economic and other benefits of BMV land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.’</p> <p>Paragraph 143 states that policies should be put in place which safeguard the long term potential of best and most versatile agricultural land and conserve soil resources.</p>	<p>Policy M10 requires that restoration of mineral workings should take into account: ‘the quality of any agricultural land affected.’</p> <p>Policy C6: Agricultural Land and Soils requires mineral and waste development proposals to ‘make provision for the management and use of soils in order to maintain soil quality, including making a positive contribution to the long-term conservation of soils in any restoration.’</p> <p>It also states that: ‘the permanent loss of best and most versatile agricultural land will only be permitted where it can be shown that there is a need for the development</p>	<p>Policies M10 and C6 have been put in place to safeguard the long term potential of best and most versatile agricultural land required by the NPPF.</p> <p>Policy C6 complies with the requirement to protect and enhance soils in the NPPF.</p>

<p><u>would be required.</u></p>	<p>NPPF paragraph 109: ‘The planning system should contribute to and enhance the natural and local environment by protecting and enhancing...soils’;</p>	<p>which cannot be reasonably met using lower grade land.’</p> <p>Policy C6: “Development proposals should make provision for the management and use of soils in order to maintain soil quality, including making a positive contribution to the long-term conservation of soils in any restoration.”</p>	
<p><b>Climate Change</b></p>			
<p>Policy CC2 in the south East Plan on Climate change required that: “Measures to mitigate and adapt to current and forecast effects of climate change will be implemented through application of local planning policy and other mechanisms...”</p>	<p>Paragraph 94: ‘Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change.’</p>	<p>Objective vi: “Minimise the flood risk associated with minerals development and contribute to climate change mitigation and adaptation, including through restoration schemes which provide habitat creation as a mechanism for addressing climate change adaptation and additional flood storage capacity in the floodplain where possible.”</p> <p>Policy M10: “Mineral workings shall be restored to a high standard... taking into account ...flood risk and opportunities for increased flood storage capacity.”</p> <p>Policy C2: ‘Proposals for minerals or waste development, including restoration proposals, should take account of climate change for the lifetime of the development from construction through operation and</p>	<p>Objective vi and Policies M10, C2 and C3 are compliant with NPPF policy in respect of the provision of proactive strategies to mitigate to and adapt to climate change.</p>

		decommissioning...'	
		Policy C3: '...The opportunity should be taken to increase flood storage capacity in the flood plain where possible, particularly through the restoration of sand and gravel workings.'	
<b>Biodiversity</b>			
<p>PPS 9: 'LDFs should identify any new areas or sites for the restoration or creation of new priority habitats... and support this restoration or creation through appropriate policies.'</p> <p>Policy NRM 5 of the SE Plan: 'Local planning authorities and other bodies shall avoid a net loss of biodiversity, and actively pursue opportunities to achieve a net gain across the region.'</p> <p>MPS1: consider carefully mineral proposals within or likely to affect regional and local sites of biodiversity, geodiversity, landscape, historical and cultural heritage'</p> <p>MPS 1 Practice Guide: 'Mineral workings often provide the opportunity in their restoration and after-use to create new wildlife habitats, landforms and sites of geological interest. In</p>	<p>Paragraph 109: 'The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.'</p> <p>Paragraph 117: 'Planning policies should:... Plan for biodiversity at a landscape scale across local authority boundaries;... Promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species ...'</p> <p>Paragraph 143. 'In preparing Local Plans, local planning authorities should:... - put in place policies to ensure worked land is</p>	<p>Minerals planning objective ix: 'Provide benefits to Oxfordshire's natural environmental and local communities through the restoration and aftercare of mineral workings at the earliest opportunity, in particular by contributing to nature conservation, enhancing the quality and extent of Conservation Target Areas, contributing to landscape character...'</p> <p>Minerals Planning objective x: 'Implement a biodiversity-led restoration strategy that delivers a net gain in biodiversity, and contributes to establishing a coherent and resilient ecological network, through the landscape-scale creation of priority habitat.'</p> <p>Policy M10: 'Mineral workings shall be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and delivers a net gain in biodiversity. The restoration of mineral workings must take into account:...</p>	<p>Objectives ix, x, and policies M10 and C7 are compliant with NPPF policy in respect of providing for a net gain in biodiversity through biodiversity-led restoration at a landscape scale and promoting the recreation of priority habitats and ecological networks.</p>

<p>particular they should make a contribution, wherever possible, towards achieving specific targets set out in the UK Biodiversity Action Plan.’</p> <p>MPG 7, paragraph 19: ‘Mineral workings reclaimed to amenity use can... contribute to Government policies in respect of recreation and nature conservation, including making a contribution to the UK Biodiversity Action Plan.’</p>	<p>reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place, including for... biodiversity.’</p>	<ul style="list-style-type: none"> <li>- Any environmental enhancement objectives for the area</li> <li>- the conservation and enhancement if biodiversity appropriate to the local area, supporting the establishment of a coherent and resilient ecological network through landscape-scape creation of priority habitat...’</li> </ul> <p>Policy C7: “Minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity... All proposals for mineral working and landfill shall demonstrate how the development will make an appropriate contribution to the maintenance and enhancement of local habitats, biodiversity or geodiversity (including fossil remains and trace fossils), including contributing to the objectives of the Conservation Target Areas wherever possible.”</p>	
<b>Geodiversity</b>			
<p>MPS1: consider carefully mineral proposals within or likely to affect regional and local sites of biodiversity, geodiversity, landscape, historical and cultural heritage’</p> <p>MPS 1 Practice Guide: ‘Mineral workings often provide the opportunity in their restoration and after-use to create new</p>	<p>NPPF Paragraph 109: ‘The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interest and soils.’</p> <p>Paragraph 143: ‘In</p>	<p>Objective ix. ‘Protect Oxfordshire’s communities and natural and historic environments (including important landscapes and ecological, geological and archaeological and other heritage assets) from the harmful impacts of mineral development...’</p> <p>Policy M10: ‘Mineral workings shall be restored ... taking into account: the conservation and enhancement of</p>	<p>Objective ix and Policies M10 and C7 are compliant with NPPF policy on the protection and enhancement of sites of geological conservation interest.</p>

<p>wildlife habitats, landforms and sites of geological interest. In particular they should make a contribution, wherever possible, towards achieving specific targets set out in the UK Biodiversity Action Plan.'</p>	<p>preparing Local Plans, local planning authorities should:... put in place policies to ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place, including for... geodiversity...'</p>	<p>geodiversity...'</p> <p>Policy C7: 'All proposals for mineral working and landfill shall demonstrate how the development will make an appropriate contribution to the maintenance and enhancement of local habitats, biodiversity or geodiversity...'</p>	
<b>Rights of Way</b>			
<p>Policy C6 of the South East Plan: 'Through Rights of Way Improvement Plans and other measures, local authorities should encourage access to the countryside... particularly by maintaining and promoting the Public Rights of Way system.'</p> <p>MPS1, Policy 14: '...take account of the value of the wider countryside and landscape, including opportunities for recreation, including quiet recreation, and as far as practicable maintain access to land. Minimise the impact of minerals operations on its quality and character and consider the cumulative effects of local developments...'</p>	<p>NPPF Paragraph 75: 'Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'.</p>	<p>Policy C11: "The integrity and amenity value of the rights of way network shall be maintained and if possible it shall be retained in situ in safe and useable condition. Diversions should be safe, attractive and convenient and, if temporary, shall be reinstated as soon as possible. If permanent diversions are required, these should seek to enhance and improve the public rights of way network.</p> <p>Improvements and enhancements to the rights of way network will generally be encouraged and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be expected to make provision for this as part of the restoration and aftercare scheme."</p>	<p>Policy C11 complies with the requirements of the NPPF in respect of provision of public rights of way.</p>

## 8. Development of policy on minerals site restoration

8.1 Public consultation on draft policies on mineral working restoration has taken place on a number of occasions throughout the plan preparation period. This section sets out the timing and content of those consultations and shows how the policy has evolved.

### **Preferred Options 2007<sup>31</sup>**

8.2 Preferred Option 7 proposed that restoration and potential after-use would be one of the criteria for identifying where minerals should be worked: *'In identifying appropriate locations, the County Council will take account of the distribution of mineral resources; the existing pattern of supply and distribution of workings; proximity to main market areas; accessibility to the main transport routes; risk of birdstrike; restoration and after-use potential.'*

8.3 Paragraph 12.3, the supporting text to the policy noted that: *'generally, restoration to agriculture, woodland, nature conservation or recreation are acceptable after-uses.'*

8.4 Paragraph 12.4 also noted that; *'The issue of risk to aircraft from birdstrike will be an important consideration which may restrict the location of workings and affect the design of restoration schemes.'*

8.5 Preferred Option 8 proposed to; *'Promote and require progressive working and restoration of mineral sites within reasonable timescales to acceptable uses that are appropriate to the location whilst maximising appropriate opportunities for restoration to agricultural land, habitat creation, recreation and public access.'*

### **Responses to the Preferred Options Consultation 2007<sup>32</sup>**

8.6 Many respondents either supported or conditionally supported preferred options 7 and 8 and noted that long term management agreements are vital in ensuring successful restoration opportunities.

8.7 Some respondents noted that restoration of sites should be given more weight so that the site selection process should be based primarily on those sites where there is greatest opportunity for constructive restoration.

8.8 Respondents also noted that available quantities of inert fill should be targeted as far as possible to enhance biodiversity in Conservation Target Areas in recognition of the fact that the amount of inert waste available for restoration is reducing as more is recycled.

8.9 In response to this consultation, the Government Office for the South East advised that the Core Strategy did not take a sufficiently spatial approach and that the strategy was not clearly set out or explained in a Key Diagram and that consequently the Core Strategy was at risk of being found unsound. Further

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<sup>31</sup> [Minerals and Waste Core Strategy - Preferred Options Consultation Paper. February 2007](#)

<sup>32</sup> [Mineral and Waste Core Strategy - Preferred Options Consultation. February 2007 - Summary of Responses](#)

work needed to be done on the options, and the responses that were made to the 2007 consultation also needed to be taken into account.

### **Publication of Revised National Planning Policy, June 2008**

- 8.10 In June 2008, the Government issued a revised Planning Policy Statement 12<sup>33</sup> which updated Government guidance on the preparation of Local Development Frameworks. PPS 12 introduced some changes to the plan preparation process, particularly by placing an emphasis on the spatial nature of the plan, on the importance of compiling the evidence base and on identification of strategic sites which are crucial to the delivery of the plan. In 2009, the Council resumed the process of developing options for the minerals strategy.
- 8.11 In 2010, a series of stakeholder workshops was held, primarily to discuss the draft spatial strategies for where sand and gravel, soft sand and crushed rock working should take place over the plan period. The issue of restoration was discussed at the workshops. Stakeholders thought that a strategy to concentrate sand and gravel working in any one area could lead to the creation of an extensive area of lakes when restoration takes place. It was felt that it would be easier for communities to take an active part in plans for restoring smaller, local quarries although it was recognised that a dispersal strategy would be less likely to enable planned large scale habitat creation to be implemented.

### **Consultation on Minerals Planning Strategy Consultation Draft 2011<sup>34</sup>**

- 8.12 The policy on minerals restoration in the draft minerals strategy developed from the preferred options from the 2007 consultation and was informed by national and regional policy and stakeholder feedback.
- 8.13 Paragraph 4.37 of the supporting text stated that:  
'Proposals for restoration, aftercare and after-use should be submitted with applications for mineral working (and) should include provision for long-term maintenance of the after-use and enhancement of the environment
- 8.14 Paragraph 4.38 suggested that;  
'consideration should first be given to restoration to the original land-use, but this may not be practical and other forms of restoration may be equally acceptable or beneficial.'
- 8.15 **Minerals Planning Strategy Consultation Draft 2011 - Policy M6:  
Restoration of mineral workings**  
*Minerals workings should be restored to a high quality as quickly as possible and in a phased manner to an after-use appropriate to the location and the capacity of the transport network and which is sympathetic to the character of the surrounding landscape and the amenity of local communities.*

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<sup>33</sup> Planning Policy Statement 12 – Local Spatial Planning (CLG, June 2008)

<sup>34</sup> [Minerals and Waste Core Strategy - Minerals Planning Strategy Consultation Draft. September 2011](#)

***Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use, including the means of securing them in the long term.***

***Where mineral working is proposed on best and most versatile agricultural land, the restoration should be back to agricultural land if this is practicable.***

***Where restoration could assist or achieve the creation of priority habitats and/or Oxfordshire Biodiversity Action Plan targets, the relevant biodiversity after-use should be incorporated within the restoration scheme.***

***Where restoration could protect geodiversity and improve educational opportunities this should be incorporated into the proposed restoration scheme, such as by providing for important geological faces to be left exposed and enabling access to the faces.***

***Where a mineral working site has the potential to provide for local amenity uses, including appropriate sport and recreational uses, these uses should be incorporated into the restoration scheme.***

***Where appropriate, operators and landowners will be expected to contribute towards the management of restored mineral workings for an extended period beyond any formal aftercare period.***

- 8.16 Paragraph 4.41 of the supporting text to Policy M6 noted that;  
'because of the generally high water table and a local shortage of inert waste material for infilling, most new sand and gravel workings in the river valleys of Oxfordshire will have to be restored to water bodies.'
- 8.17 Other policies in the draft minerals strategy also made reference to restoration of minerals sites. Policy C4 on Biodiversity and Geodiversity stated that:

***The County Council will seek the enhancement of Conservation Target Areas to implement Oxfordshire Biodiversity Action Plan (BAP) targets within and close to areas of mineral working. Mineral extraction will not be permitted unless the long term maintenance of BAP Priority Habitats and appropriate contributions to Oxfordshire BAP targets through the Conservation Target Area approach have been secured.***

- 8.18 Paragraph 5.37 of the supporting text to Policy C8 noted that;  
'proposals to enhance, promote and improve the Rights of Way network and to increase access to the countryside should be encouraged as part of restoration plans for mineral workings. Operators and landowners will be expected to contribute to an extended period of after-care and management of Rights of Way.'

**Relevant excerpt from Policy C8: Public Rights of Way**

***Improvements and enhancements to the Rights of Way network will be encouraged and public access will be sought to restored mineral***



***workings, especially if this can be linked to the provision of wider provision of Green Infrastructure.***

**Responses to the Minerals Planning Strategy Consultation Draft 2011<sup>35</sup>**

Policy M6

- 8.19 Some respondents objected to the requirement to fund restoration and after-care and long term maintenance of the site. They noted that the Plan does not provide a mechanism for how such a requirement would be implemented and that it should specify the period meant by 'long term'. They also noted that the policy takes no account of site circumstances.
- 8.20 Some respondents objected to the supporting text which said that: 'Consideration should first be given to restoration to the original land-use'. They noted that restoration provides an opportunity for habitat creation and to maximise net gains in biodiversity which could represent an improvement on the original land use.
- 8.21 The RSPB suggested that references to 'water-bodies' is changed to 'wetlands' and that restoration schemes with a primary end-use should be promoted to ensure that a mix of after-uses is achieved across the county, not on each site. It also noted that any restoration scheme should be able to incorporate and achieve small amounts of biodiversity gain, such as creation of ponds, species-rich grasslands, species-rich hedgerows.
- 8.22 Some respondents objected to the part of the policy which said that where mineral working is proposed on Best and Most Versatile (BMV) Agricultural land, restoration should be back to agricultural land if this is practicable. The objection was on the grounds that BMV land is a finite resource and should be protected as such and not worked for minerals development in the first place.

Policy C8

- 8.23 Some respondents said that the requirement on landowners to designate new rights of way across their land and then to fund the management of Rights of Way for an extended period was too onerous.
- 8.24 Officers reviewed the consultation responses and made the following changes to the policy and its supporting text which became the proposed submission document:
- The policy on minerals restoration was re-numbered from M6 in the Minerals Planning Strategy consultation draft to M7 in the proposed submission document.

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<sup>35</sup> [Minerals and Waste Core Strategy Summary of Responses to Consultation Draft Minerals Planning Strategy, September 2011 and County Council Responses, May 2012](#)

- References to ‘water bodies’ in the supporting text to Policy M7 were amended to refer instead to ‘wetlands’ to incorporate reed-bed and other associated land uses.
- The reference in the draft strategy to the first consideration for restoration being given to the original land use was deleted from the policy in the draft submission plan.
- Policy M7 in the proposed submission document was amended to refer to the potential for restoration of sand and gravel workings in the flood plain to create flood storage facilities.
- Amendments were made to the supporting text to provide a cross reference to policy W7 to ensure that the use of inert waste is prioritised for mineral restoration
- Amendments were made to the supporting text to specify that the County Council expects landowners and operators to contribute to maintenance of restored sites for a 20 year period beyond the 5 year statutory period required.
- A new policy on agricultural land and soils was added to ensure that agricultural land is given proper policy protection in line with NPPF policies in the submission Plan and to introduce a sequential test to protect best and most versatile agricultural land.
- Policy C9 (previously C8) was amended to introduce a requirement for landowners to contribute to the provision of rights of way as part of a minerals restoration strategy and the supporting text in paragraph 6.50 was amended accordingly.

### **Core Strategy Proposed Submission Document May 2012<sup>36</sup>**

#### **8.25 Policy M7: Restoration of Mineral Workings**

***Minerals workings should be restored to a high quality and in a timely and phased manner to an after-use appropriate to the location and the capacity of the transport network and which is sympathetic to the character of the surrounding landscape and the amenity of local communities. Restoration and afteruse should accord with any restoration strategy for the area concerned in a site allocations development plan document.***

***Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including the means of securing them in the long term. Where appropriate, operators and landowners will be expected to make provision for the management of restored mineral workings for an extended period, beyond any aftercare period required by condition, including making appropriate financial contributions.***

***Where mineral working is proposed on best and most versatile agricultural land, the restoration should be back to agricultural land if this is practicable.***

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<sup>36</sup> [Minerals and Waste Core Strategy Proposed Submission Document. May 2012.](#)

***Within the floodplain, restoration of mineral workings should where possible include provision for increased flood storage capacity to reduce the risk of flooding elsewhere.***

***Where restoration could assist or achieve priority habitat or species targets and/or Biodiversity Action Plan targets, the relevant biodiversity after-use should be incorporated within the restoration scheme.***

***Where restoration could protect and/or improve geodiversity and improve educational opportunities this should be incorporated into the proposed restoration scheme, such as by providing for important geological faces to be left exposed and enabling access to the faces.***

***Where a mineral working site has the potential to provide for local amenity uses, including appropriate sport and recreational uses, these uses should be incorporated into the restoration scheme.***

#### **Policy C4: Agricultural land and soils**

***Proposals for minerals and waste development should demonstrate that they take into account the presence of any best and most versatile agricultural land.***

***Best and most versatile agricultural land should only be used where it can be shown that there is a need for the development which cannot reasonably be met using lower grade land, taking into account other relevant considerations.***

***Development proposals should make provision for the management and use of soils in order to maintain soil quality, including making a positive contribution to the long-term conservation of soils in any restoration.***

#### **Relevant excerpt from Policy C5 (Biodiversity and geodiversity):**

***Proposals for mineral working and landfill should demonstrate that the development will make an appropriate contribution to the maintenance and enhancement of local habitats, biodiversity and geodiversity. Where mineral working or landfill is located in or close to a Conservation Target Area, developers will be expected to make an appropriate contribution to the achievement of Biodiversity Action Plan targets through the maintenance and enhancement of the Conservation Target Area and relevant Biodiversity Action Plan priority habitats.***

#### **Policy C9: Rights of way**

***The integrity of the rights of way network should be maintained and if possible retained in situ in safe and useable condition. Diversions should be safe, attractive and convenient and, if temporary, should be reinstated as soon as possible. If permanent diversions are required, these should seek to enhance and improve the public rights of way network.***

***Improvements and enhancements to the rights of way network will generally be encouraged and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be***

***expected to make provision for this as part of the restoration scheme, including making appropriate financial contributions.***

**Responses to the Proposed Submission Document (May 2012)<sup>37</sup>**

Responses to C9 and paragraph 6.50:

- 8.26 Respondents noted that maintaining newly created Rights of Way can be onerous and expensive for landowners and the reference in the policy to financial contributions should be deleted.
- 8.27 Conversely, it was noted that increased public access should not be just encouraged; it should be a routine requirement of any after-care scheme and should be included in the policy.

Responses to Policy C5:

- 8.28 The enhancement of local habitats should not be a pre-requisite to allowing development as habitat enhancement may not always be possible. Financial contributions to after-care and management may not be appropriate.

Responses to policy C4:

- 8.29 'The Core Strategy seeks to apply a sequential test with a view to ensuring that sites involving Best and Most Versatile agricultural land are not worked for minerals unless sites involving lower grade soils are not available. There is no support for this in the NPPF.

Responses to Policy M7:

- 8.30 The approach to restoration is too inflexible to some people but is not sufficiently prescriptive for others.
- 8.31 Requiring long term management of a site beyond that which is required by a planning condition is neither fair nor appropriate and goes beyond the requirements set out in the NPPF.
- 8.32 Communities should be able to reasonably claim from the disruption they have suffered over a period of time and can expect improved public access and/or community ownership of land.

**Submission Document October 2012<sup>38</sup>**

- 8.33 The October 2012 submission document remained unchanged from the May 2012 proposed submission document.

**Withdrawal of the Submitted Minerals and Waste Core Strategy July 2013**

- 8.34 Due to significant issues regarding the soundness of the submitted Minerals and Waste Core Strategy, the Council resolved to withdraw it in July 2013<sup>39</sup>.

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<sup>37</sup> [Submission of Oxfordshire Minerals and Waste Core Strategy October 2012. Statement on Consultation and Representations. Appendix 8](#)

<sup>38</sup> [Minerals and Waste Core Strategy Submission Document. October 2012.](#)

<sup>39</sup> [Oxfordshire Minerals and Waste Plan Minerals and Waste Core Strategy. Report by Deputy Director for Environment and Economy. 09 July 2013.](#)

### **Core Strategy Consultation Draft February 2014<sup>40</sup>**

8.35 Following withdrawal of the Minerals and Waste Core, work commenced on a revised plan. Taking into consideration the representations from the May 2012 consultation exercise, the following changes were made to the restoration of mineral workings policy:

- The policy on minerals restoration was re-numbered from M7 in the May 2012 proposed submission document to M8 in the new consultation draft.
- The reference to financial contributions was removed from paragraph 2 of the policy and instead covered within the supporting text
- The reference in M8 to agricultural land was removed; restoration of sites on BMV agricultural land is now comprehensively covered by the agricultural land and soils policy which has changed from C4 to C6.

8.36 The February 2014 consultation draft policies (or relevant excerpts) on restoration, agricultural land and soils, biodiversity, and rights of way are as follows:

#### **Policy M8: Restoration of Mineral Workings**

***Mineral workings shall be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and aims to provide for a net gain in biodiversity, taking into account:***

- ***the characteristics of the site prior to mineral working;***
- ***the character of the surrounding landscape;***
- ***the amenity of local communities including opportunities to provide for local amenity uses;***
- ***the capacity of the local transport network;***
- ***flood risk and opportunities for increased flood storage capacity;***
- ***bird strike risk and aviation safety;***
- ***the conservation and enhancement of biodiversity appropriate to the local area; and***
- ***opportunities to protect and/or improve geodiversity.***

***Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including where necessary the means of securing them in the longer term.***

#### **Policy C6: Agricultural Land and Soils**

***Proposals for minerals and waste development shall demonstrate that they take into account the presence of any best and most versatile agricultural land.***

***The permanent loss of best and most versatile agricultural land will only be permitted where it can be shown that there is a need for the development which cannot reasonably be met using lower grade land, taking into account other relevant considerations.***

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<sup>40</sup> [Minerals and Waste Local Plan Core Strategy. Consultation Draft February 2014.](#)

***Development proposals should make provision for the management and use of soils in order to maintain soil quality, including making a positive contribution to the long-term conservation of soils in any restoration.***

**Policy C7: Biodiversity and Geodiversity (relevant excerpt)**

***All proposals for mineral working and landfill shall demonstrate how the development will make an appropriate contribution to the maintenance and enhancement of local habitats, biodiversity or geodiversity (including fossil remains and trace fossils), including contributing to the objectives of the Conservation Target Areas wherever possible. Satisfactory long-term management arrangements for restored sites shall be clearly set out and included in proposals. These should include a commitment to ecological monitoring and remediation (should habitat creation and/or mitigation prove unsuccessful).***

**Policy C11: Rights of Way (relevant excerpt)**

***Improvements and enhancements to the rights of way network will generally be encouraged and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be expected to make provision for this as part of the restoration and aftercare scheme.***

**Responses to the Consultation Draft (February 2014)<sup>41</sup>**

**8.37 Responses to Policy M8**

- Greater provision for landscape scale and biodiversity-led restoration should be provided for.
- Opportunities for the historic environment should be provided for in restoration proposals.
- Concern that the policy no longer required proposals to accord with the restoration strategy for the area, the provision for an extended period of management for restored mineral workings had been removed, the policy does not include provision for the community to be consulted on the proposed afteruse, and it does not provide for increased flood storage capacity nor require restoration to best and most versatile agricultural land.

**Responses to Policy C6**

- 8.38** Responses were generally in support of the approach of policy C6. Some industry representations wanted the temporary loss of best and most versatile (BMV) agricultural land to be explicitly permitted where the restoration to BMV land could be demonstrated. It was also noted that the presence of BMV land did not mean that it should explicitly be returned to agriculture, rather that the BMV potential of the land would not be lost.

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<sup>41</sup> [Minerals and Waste Core Strategy Proposed Submission Document. Consultation Statement Annex 2. Summary of Comments made in responses to the Minerals and Waste Local Plan: Core Strategy Consultation Draft, February 2014 and County Council Responses. August 2015.](#)

### Responses to Policy C7

8.39 Some submissions requested changes to this policy to make it more in line with the NPPF and to include stronger provision for proposals to deliver a net gain in biodiversity. Some thought the policy was too restrictive.

### Responses to Policy C11

8.40 These included requests for the policy to provide for horse riders to be provided for with equestrian rights of way and for amenity uses to be considered.

8.41 The comments made in the responses to the consultation draft core strategy were reviewed, and the following changes to the policy were made.

- The policy on restoration of mineral workings was re-numbered from M8 in the Minerals Planning Strategy consultation draft to M10 in the proposed submission document.
- The introductory paragraph included the requirement for restoration to deliver a net gain in biodiversity.
- An addition to the bullet point regarding landscape to take into account the enhancement of the local landscape character.
- An addition to the bullet point regarding the amenity of local communities to include opportunities to enhance green infrastructure provision.
- Re-inserting the bullet point requiring restoration to take the quality of agricultural land quality to be taken into account.
- Re-wording of the bullet point regarding the conservation and enhancement of biodiversity to include reference to establishing a resilient ecological network through landscape-scale creation of priority habitat.
- A new bullet point regarding the conservation and enhancement of the historic environment.
- An additional paragraph was added to the policy requiring that proposals for restoration must not be likely to lead to any increase in recreational pressure on a Special Area of Conservation. This was included in order to support the conclusion of the Habitats Regulation Assessment that there would be no likely significant effect on a European site as a result of implementing the Core Strategy.
- Changes to the supporting text were made to include requirements for a biodiversity-led restoration strategy.

### **Core Strategy Proposed Submission Document August 2015<sup>42</sup>**

8.42 The Core Strategy proposed submission document was approved by the County Council on 24 March 2015 for publication for a further round of consultation prior to submission to the Secretary of State for independent examination. It was published in August 2015. The relevant policies and excerpts are as follows:

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<sup>42</sup> [Minerals and Waste Local Plan Part 1 – Core Strategy. Proposed Submission Document. August 2015.](#)

### **Policy M10: Restoration of mineral workings**

***Mineral workings shall be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and delivers a net gain in biodiversity. The restoration of mineral workings must take into account:***

- ***the characteristics of the site prior to mineral working;***
- ***the character of the surrounding landscape and the enhancement of local landscape character;***
- ***the amenity of local communities, including opportunities to enhance green infrastructure provision and provide for local amenity uses and recreation;***
- ***the capacity of the local transport network;***
- ***the quality of any agricultural land affected;***
- ***flood risk and opportunities for increased flood storage capacity;***
- ***bird strike risk and aviation safety;***
- ***any environmental enhancement objectives for the area;***
- ***the conservation and enhancement of biodiversity appropriate to the local area, supporting the establishment of a coherent and resilient ecological network through the landscape-scale creation of priority habitat;***
- ***the conservation and enhancement of geodiversity; and***
- ***the conservation and enhancement of the historic environment.***

***Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including where necessary the means of securing them in the longer term.***

***Proposals for restoration must not be likely to lead to any increase in recreational pressure on a Special Area of Conservation.***

### **Policy C6: Agricultural land and soils**

***Proposals for minerals and waste development shall demonstrate that they take into account the presence of any best and most versatile agricultural land.***

***The permanent loss of best and most versatile agricultural land will only be permitted where it can be shown that there is a need for the development which cannot reasonably be met using lower grade land, taking into account other relevant considerations.***

***Development proposals should make provision for the management and use of soils in order to maintain soil quality, including making a positive contribution to the long-term conservation of soils in any restoration.***

### **Policy C7: Biodiversity and Geodiversity (relevant excerpt)**

***All proposals for mineral working and landfill shall demonstrate how the development will make an appropriate contribution to the maintenance***



***and enhancement of local habitats, biodiversity or geodiversity (including fossil remains and trace fossils), including contributing to the objectives of the Conservation Target Areas wherever possible. Satisfactory long-term management arrangements for restored sites shall be clearly set out and included in proposals. These should include a commitment to ecological monitoring and remediation (should habitat creation and/or mitigation prove unsuccessful).***

**Policy C11: Rights of Way (relevant excerpt)**

***The integrity and amenity value of the rights of way network shall be maintained and if possible it shall be retained in situ in safe and useable condition. Diversions should be safe, attractive and convenient and, if temporary, shall be reinstated as soon as possible. If permanent diversions are required, these should seek to enhance and improve the public rights of way network.***

***Improvements and enhancements to the rights of way network will generally be encouraged and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be expected to make provision for this as part of the restoration and aftercare scheme.***

**Submitted Core Strategy December 2015**

- 8.43 The Core Strategy as submitted in December 2015 remained unchanged from the August 2015 proposed submission document.