



Report to Leicestershire County Council

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

**REPORT ON THE EXAMINATION INTO THE
LEICESTERSHIRE MINERALS CORE STRATEGY AND
DEVELOPMENT CONTROL POLICIES
DEVELOPMENT PLAN DOCUMENT**

Document submitted for examination on 23 June 2008

Examination hearings held between 3 and 6 March 2009

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ABBREVIATIONS USED IN THE REPORT

AM	Annual monitoring
BGS	British Geological Survey
dpa	dwellings per annum
DPD	Development Plan Document
LCC	Documents in the series published by Leicestershire County Council (LCC 1, 2 etc)
LDF	Local development framework
m	million
MCD	Prefix for Minerals Core Documents (MCD 1, 2 etc)
MIN	Prefix for evidence base documents submitted with the Minerals Core Strategy and Development Control Policies DPD (MIN 1, 2 etc)
MoD	Ministry of Defence
MPA	Minerals Planning Authority
MPC	Prefix for Minerals Proposed Changes (MPC1, 2 etc)
MPS	Minerals Policy Statement
MPG	Mineral Planning Guidance note
MSA	Mineral safeguarding area
Mt	Million tonnes
ONS	Office for National Statistics
PPG	Planning Policy Guidance note
PPS	Planning Policy Statement
PUA	Principal Urban Area
RSS	Regional Spatial Strategy
SAC	Special Area of Conservation
SUE	Sustainable Urban Extension

INTRODUCTORY MATTERS

1 Introduction and Overall Conclusion

- 1.1 Under the terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), the purpose of the independent examination of a development plan document (DPD) is to determine:
- (a) whether it satisfies the requirements of Sections 19 and 24(1) of the 2004 Act, the regulations under Section 17(7) and any regulations under Section 36 relating to the preparation of the document; and
 - (b) whether it is sound.
- 1.2 This report contains my assessment of the Leicestershire Minerals Core Strategy and Development Control Policies DPD (MIN 1) in terms of the above matters along with my recommendations and the reasons for them as required by Section 20(7) of the 2004 Act. In this regard, I am satisfied that the DPD meets the requirements of the 2004 Act and the Town and Country Planning (Local Development) (England) Regulations 2004 ("the Regulations").
- 1.3 My role is also to consider the soundness of the submitted DPD against the three tests of soundness set out in Planning Policy Statement (PPS) 12, Paragraphs 4.51 - 4.52. In line with national policy, the starting point for the examination is the assumption that the local authority¹ has submitted what it considers to be a sound plan.
- 1.4 The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the legal requirements and/or the tests of soundness in PPS 12. None of these changes should materially alter the substance of the overall plan and its policies or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.5 My report firstly considers the legal requirements. It then deals with the relevant matters and issues considered during the examination in terms of testing justification, effectiveness and consistency with national policy. My overall conclusion is that the DPD is sound provided it is changed in the ways specified. The principal changes which are required are, in summary:
- including details of policies to be superseded by policies in the DPD;
 - amending the Spatial Vision;
 - amending and adding to The Objectives;

¹ The DPD is submitted by Leicestershire County Council acting as Minerals Planning Authority for the county excluding the area of Leicester City.

- including a commitment to a review of the Plan if and when there is no longer conformity with the Regional Spatial Strategy (RSS);
 - expanding references to the River Mease Special Area of Conservation, the National Forest, Charnwood Forest Regional Park, the County's landscape character, other aspects of green infrastructure and locally sourced building materials;
 - clarifying the extent of the Resource Areas for coal and fireclay;
 - clarifying considerations relevant to the extension of existing brick clay sites;
 - strengthening provisions for the future extraction of fireclay;
 - up-dating calculations relating to the provision of sand, gravel and crushed rock;
 - reflecting in the Plan provisions within the RSS with respect to Strategic River Corridors and Green Wedges;
 - strengthening provisions relating to land stability;
 - strengthening certain development control provisions;
 - tightening the monitoring provisions; and
 - making minor changes to the text in the interests of overall soundness.
- 1.6 The report (Annex A) sets out all the detailed changes required, including those suggested by the Council, to ensure that the Plan meets the legal requirements and the three tests of soundness. I formally endorse these changes. "Minor" soundness matters that have been accepted by the Council and reflected in its suggested proposed changes (LCC M13b) are not discussed in the report.

LEGISLATIVE MATTERS

2 Legal Requirements

- 2.1 The Leicestershire Minerals Core Strategy and Development Control Policies DPD is contained within the Council's Local Development Scheme. The updated version of Leicestershire County Council's Minerals and Waste Development Scheme (MIN 9) was approved on 27 April 2007. There, it is shown as having a submission date of June 2008.
- 2.2 In the Minerals and Waste Development Scheme, the date for the public hearing is recorded as January 2009. In the event, and with the agreement of the Planning Inspectorate, the hearings were held

at the beginning of March 2009. However, I am satisfied that this is not a significant variation. The DPD has been prepared in accordance with the Scheme and it is consistent with the content specified in the Scheme.

- 2.3 The Council's Statement of Community Involvement (MIN 5) has been found sound by the Secretary of State and was formally adopted by the Council before the examination hearings took place. It is evident from the documents submitted by the Council, including the Regulation 28 and 31 Statements and the Self Assessment Paper (MIN 6), that the Council has met the requirements as set out in the Regulations.
- 2.4 Alongside the preparation of the DPD it is evident that the Council has carried out a parallel process of sustainability appraisal.
- 2.5 With regard to the Habitats Directive, I am satisfied that as a result of the scoping exercise carried out (MIN 7 and Addendum) there is no need for an Appropriate Assessment. The results have been agreed with Natural England.
- 2.6 I am satisfied that the DPD has regard to national policies and guidance issued by the Secretary of State. Detailed issues regarding consistency with national policy are dealt with later in the report.
- 2.7 The opinion of the East Midlands Regional Assembly is that the DPD is in general conformity with the approved Regional Spatial Strategy (RSS 8, March 2009).² A similar view was expressed in respect of the former RSS (MIN 22) and the Secretary of State's proposed changes to that document (MCD 25). I am also satisfied as to general conformity. Detailed issues concerning consistency are dealt with below.
- 2.8 I am satisfied that the DPD has had regard to the sustainable community strategies for the area (MIN 11 to MIN 18).
- 2.9 I am satisfied that the DPD complies with the specific requirements of the 2004 Regulations including the requirements in relation to publication of the prescribed documents; availability of them for inspection and local advertisement; and notification of DPD bodies.
- 2.10 In terms of "saved" policies, Regulation 13(5) of the Regulations requires that, where a DPD contains a policy that is intended to supersede another policy, it must state that fact and identify the superseded policy. In this regard, Paragraph 1.1 of the DPD indicates that the existing Leicestershire Minerals Local Plan Review

² The version of RSS 8 now adopted (East Midlands Regional Plan, March 2009) was published during the preparation of this report. The report has been amended to reflect the new RSS. The DPD itself will need to be up-dated throughout to delete references to the draft RSS.

1995 (MIN 20) will be replaced under the Minerals Development Framework. However, the specific policies to be superseded by the DPD are not identified.

- 2.11 In order for the DPD to comply with the legislation, the superseded policies in the existing Minerals Local Plan must be identified. The Council has proposed that the policies should be identified in an appendix. Reference to the superseded policies and the appendix will also be necessary in the text of the DPD.
- 2.12 Subject to identification of the superseded policies, I am satisfied that the legal requirements have all been satisfied.
- 2.13 **In order for the DPD to comply with the legislation, insert an appendix listing the "saved" policies in the existing Minerals Local Plan that are intended to be superseded by policies in the DPD, with linking text, as set out in Annex A to my report (MPC4 and 91).**

SOUNDNESS MATTERS

3 Spatial Vision and Objectives

Key Issues – Whether the Spatial Vision and Objectives are sufficiently focussed, consistent with national policy, aligned to the RSS, spatial and locally distinctive; also whether they give adequate direction to the strategic policies.

- 3.1 The Spatial Vision and related objectives are set out in Section 3 of the Plan. Through the vision and objectives the Core Strategy aims to set the context for the provision of minerals sufficient to meet society's needs. These are to be provided in sustainable locations where the need to protect the natural and built environments from unacceptable effects can be addressed. In addition there is to be restoration to high standards and encouragement of the use of recycled and secondary materials.
- 3.2 The objectives reflect the community strategies of Leicestershire County Council (MIN 11) and the other districts or boroughs within the framework area (MIN 12-18). Key outcomes that have been captured including those relating to a reduction in the contribution to climate change; production of less waste; and an enhanced accessible natural environment with improved protection. However, this part of the Plan shows a marked lack of local distinctiveness. The "anywhere" objectives lack local focus.
- 3.3 In this regard, Paragraph 2.1 of PPS 12 (MCD 1) refers to spatial planning as a process of place shaping and delivery that, amongst other things, aims to produce a vision that responds to local distinctiveness. In my opinion, the objectives of the Plan do not adequately reflect this plank of Government policy.

- 3.4 There is reference later in the Plan (MIN 1, Para 4.93) to certain areas of the County that warrant special attention in the context of mineral extraction. These are listed as strategic river corridors, Charnwood Forest, the National Forest and Green Wedges. In addition, many of the houses in Leicestershire have been built of locally sourced building stone. However, none of these attributes enjoy specific mention amongst the Plan objectives.
- 3.5 I appreciate that the safeguarding of the above features would be covered by the generality of the objectives, for example, in "protecting the natural and built environment". However, green infrastructure projects such as the National Forest and Charnwood Forest Regional Park are deserving of special mention within the objectives; also the River Mease Special Area of Conservation (SAC), the only nature conservation site of European importance within the county.
- 3.6 The National Forest, Charnwood Forest and the River Mease SAC should be specifically referred to in the objectives, hence stressing important features of the County's distinctiveness. In addition, the text should make reference to the County's landscape character and local building materials.
- 3.7 **In order for the Core Strategy to be sound, amend the objectives and description of the spatial characteristics of the area to refer to:**
- **the River Mease SAC (Objective 5);**
 - **green infrastructure projects such as the National Forest and Charnwood Forest Regional Park (new objective);**
 - **the County's landscape character (Para 2.23); and**
 - **locally sourced building materials (Para 2.24),**
- all as set out in Annex A of my report (MPC7, 8, 11 and 93).**

4 Introductory, Background and Key Diagram Points

Key Issue – Whether the strategic and development control policies are adequately informed by the Introduction, Background and Key Diagrams.

- 4.1 At the examination hearings into the Plan, discussion under this heading focussed on the adequacy of the Key Diagrams. Some of the points were fairly minor. These included changes such as removing sustainable urban extensions and showing East Midlands Airport. Other matters were more controversial. These more substantial matters were the way in which the Coal Resource Area

is shown; the depiction of the River Mease catchment; and a failure to show the extent of reserves of fireclay.

- 4.2 In respect of the Coal Resource Area, industry representatives are concerned that the information shown on the Energy Mineral Spatial Map is meaningless. It is considered to be too general, at too small a scale and lacking in information regarding constraints. It is not possible to tell where coal extraction would be ruled out or, conversely, where it might be a possibility.
- 4.3 For my part, I appreciate that the information shown is at a small scale. However, there are a number of relevant considerations. First, the DPD is not concerned with site allocations. Secondly, it is to be expected that information on detailed constraints will be revealed through the development plan documents of the district planning authorities. Thirdly, the County Council does not have detailed information on reserves of coal such that areas of search for future coal working could be defined.
- 4.4 I am also aware that the Coal Resource Area as shown on the Key Diagram is intended to be coincident with the "Shallow Coal" area as defined on the British Geological Survey's Coal Resources Map of Britain. Clarity in this regard would aid interpretation of the small scale Key Diagram.
- 4.5 It should also be made clear that the Core Strategy is not attempting to define potential areas of future coal working. Shallow deposits will be identified in the Site Allocations DPD as part of the work on identifying Mineral Safeguarding Area (MSAs). The MSAs, along with areas of protection, would be shown on Ordnance Survey-based Proposal Maps.
- 4.6 On the matter of the River Mease, there is a potential discrepancy in that the Special Area of Conservation follows the course of the river whereas it is the catchment that is shown on the Key Diagrams.
- 4.7 For my part, I do not consider that undue focus would be placed on conservation interests in an area where there is also likely to be mineral extraction. As a site of European interest from a nature conservation point of view it is right that the protection of the area should not be overlooked. By identifying the catchment, attention is drawn to an area where secondary effects on the SAC should be considered. I do not consider that the Plan is unsound in this regard.
- 4.8 I now turn to the topic of fireclays. In this regard the deposits within Leicestershire are recognised as an important national source. In accordance with Government guidance in MPS 1 (MCD 2, Para 15) and the accompanying Practice Guide (MCD 3,

Para 37), there should be an indication within the Plan of the areas where future extraction is likely to take place.

4.9 Evidence before the examination hearings indicated that the reserves are principally associated with the Pottery Clays Formation within the upper seams of the Middle Coal Measures in North West Leicestershire. I would expect this fact to be stated in the text of the Plan. More particularly, a Fireclay Resource Area should be shown on the Key Diagram based on the information shown in the British Geological Survey's map of Mineral Resource Information in Support of National, Regional and Local Planning: Leicestershire (BGS, 2002).

4.10 **In order for the Core Strategy to be sound, amend the Plan by:**

- **making clear that the Coal Resource Area is coincident with the "Shallow Coal" area as defined on the British Geological Survey's Coal Resources Map of Britain;**
- **referring to forthcoming DPDs that will show Mineral Safeguarding Areas and areas of protection;**
- **referring to the formation where reserves of fireclay are principally to be found (Para 4.36); and**
- **showing a Fireclay Resource Area on the Key Diagram (Figure 2),**

all as set out in Annex A of my report (MPC23, 28 and 85).

4.11 There is a further introductory matter that is potentially controversial. As indicated in Paragraph 1.9 of the Plan, the core strategy and development control policies are intended to cover the period to the end of 2021. This is in circumstances where the RSS extends to 2026. In addition, PPS 12 (MCD 1) at Paragraph 4.13 states that the time horizon of the core strategy should be at least 15 years from the date of adoption.

4.12 The shorter time frame of the Plan has not been the subject of any particular representations. Indeed, in a sense, the Plan had been caught in the cleft of Government policy. For my part, I can see that very substantial delays would be caused if the time frame were now to be extended. Bearing in mind also the uncertainty regarding figures in the RSS for the period post-2020, the alternative of a future review of the Plan can be commended.

4.13 In my opinion, it would not be in the public interest to delay progression of the Core Strategy on this ground. I am also mindful of the fact that it has been possible to up-date some of the background information, information that will inform policy

consideration. In particular, information on future population growth to 2026, and the implications for urban expansion, is now available. However, there should be a commitment to a review of the Plan if and when it is no longer in general conformity with the RSS.

- 4.14 **In order for the Core Strategy to be sound, replace Paragraph 2.16 with a paragraph giving the latest position on population growth and the likely direction of urban expansion; also include a commitment to reviewing the Plan if and when it is no longer in general conformity with the RSS (Para 6.3), all as set out in Annex A of my report (MPC5 and 95).**

5 Supply: Minerals other than Aggregates

Key Issues – Whether there is clarity in matters relating to the adequacy of and supply of minerals to be extracted and the appropriateness of the source locations; also whether the proposals are justified.

- 5.1 I deal first with the matter of brick clay. The text of the submission version of the Plan together with Policy CS3 gives emphasis to the levels of investment that are associated with brick making. There is an indication that, to support the expenditure involved, 25 years of production should normally be allowed. However, to my mind, this is not an accurate and complete reflection of national policy.
- 5.2 A reading of MPS 1 (MCD 2, Annex 2, Para 3.4) indicates that there are two key considerations. First, there is the need to meet the likely level of demand for clay at each manufacturing plant. Secondly, there is a need to permit stocks of reserves that reflect necessary levels of investment. In this regard there is normally a 25-year pay-back period. However, whilst the pay-back period should be reflected in the planning permission, it does not appear to me that there should be a 25-year "rolling reserve".
- 5.3 For example, it may well be that, whilst an on-going supply of clay is needed, no further significant expenditure at an existing brick works would be required in connection with the extension of the related clay pit. In these circumstances, there would be no direct link with the initial investment and pay-back period or with the period of 25 years referred to in MPS 1.
- 5.4 In the light of the above, and in order to more accurately reflect national policy, Policy CS3 needs to be amended. The consideration would be meeting the likely demand for clay at a site's associated brick making plant whilst at the same time permitting stocks of reserves that reflect necessary levels of investment at the plant.

5.5 In order for the Core Strategy to be sound, amend Policy CS3 by making reference to:

- **meeting the likely demand for clay at a site's associated brick making plant (first bullet point);**
- **permitting stocks of reserves that reflect necessary levels of investment (first bullet point); and**
- **deleting reference to landbank capacity (second bullet point),**

all as set out in Annex A of my report (MPC21 and 22).

5.6 With regard to fireclay, I note that there are two strands to the strategy within the Plan. First, there is to be better husbandry of stockpiled reserves. Secondly, extraction would be acceptable in principle where the clays are required to meet a proven need including a need for particular qualities of clay that cannot be obtained from existing permitted reserves. However, the effectiveness of the strategy as set out in the Plan is questionable.

5.7 On the matter of stockpiles, the Plan refers to a site at Donington Island. It is stated that, as of the end of 2006, the site contained 1.7 million tonnes with a planning permission running to the end of 2012. However, it is not clear whether the figure of 1.7 million tonnes relates to reserves or stockpiles, whether the planning permission is for stockpiling or extraction and how rapidly the stockpile is being depleted. As such, there is no clear basis for the policy.

5.8 In terms of extraction to meet future need, I consider that there is a failure to recognise the importance of the resource within Leicestershire. In 2005, the County accounted for about 35% of total fireclay sales in England. This is in circumstances where permitted reserves would be insufficient to maintain, over the Plan period, the historic level of sales. In addition, it is unlikely that proposals for the extraction of fireclay on their own would be forthcoming. The mineral would only be won in conjunction with coal extraction.

5.9 To my mind, in order for the Plan to be sound, the position on stockpiles needs to be clarified. In addition, greater emphasis needs to be given to opportunities for fireclay extraction. In this regard, fireclay should be explicitly mentioned in the context of minerals deserving of prior extraction; also coal working. Further, notwithstanding a reference to "other material planning benefits", the national need for fireclay should be listed as a consideration in relation to coal extraction proposals.

- 5.10 **In order for the Core Strategy to be sound, amend the Plan by:**
- **clarifying the facts relating to the stockpiling of fireclay at Donington Island (Para 4.37);**
 - **making clear that future proposals for the extraction of fireclay are likely to be associated with coal extraction (Para 4.41);**
 - **referring in the text to the potential for fireclay extraction alongside coal working (after Para 4.65);**
 - **referring to fireclay in the context of the prior extraction of minerals (Para 4.84); and**
 - **including the national need for fireclay as a specific consideration in Policy CS7,**
- all as set out in Annex A of my report (MPC24, 25, 27, 31 and 94).**
- 5.11 On the matter of building and roofing stone, I have referred above to the importance of locally won materials in the vernacular architecture of the County. This is a matter deserving of particular mention in the context of local distinctiveness. As such I have recommended additions to that part of Section 2 of the Plan dealing with the spatial characteristics of the area.
- 5.12 In terms of future policy, it is of course difficult to estimate future requirements. However, English Heritage is carrying out a major five-year study of England's building and roofing stone resources. The results of the study will assist in the identification of the location of these minerals and inform safeguarding. As something that will affect on-going policy formulation, specific reference to English Heritage's study should be made within the Plan.
- 5.13 In addition to the above, the need to safeguard building and roofing stone should also be listed in Policy CS10 on resource management. The listing of important sources of the materials should be an integral element of the policy.
- 5.14 **In order for the Core Strategy to be sound, refer to English Heritage's "Strategic Stone Study" (Para 4.83); also identify building and roofing stone as a resource to be safeguarded and listed (Policy CS10), all as set out in Annex A of my report (MPC30, 33 and 34).**
- 5.15 Finally, I consider the core strategy provisions in respect of coal. Coal was the subject of much discussion at the examination hearings. However, the principal matters are discussed above in

relation to the Key Diagrams. Appropriate amendments have been recommended. There are no additional matters that affect the soundness of the Plan.

6 Supply: General Matters and Aggregates

Key Issues – Whether there is clarity in matters relating to the adequacy of and supply of minerals to be extracted and the appropriateness of the source locations; also whether the proposals are justified.

- 6.1 In considering whether the provisions in respect of aggregates are justified, it is necessary to have regard to the evidence base. Certain revisions are needed to the calculations of sand and gravel provision, and the provision of crushed rock, so as to present a reasonably accurate and up-to-date baseline.
- 6.2 The main adjustment that is necessary to the calculation of sand and gravel provision is to take into account the latest figure for permitted reserves at Brooksby (3,140,000 tonnes, down from 3,450,000 tonnes). The total "shortfall" at 2021 thus becomes 6m tonnes, the equivalent of 4.8 years of supply at 2021.
- 6.3 There are also adjustments to be made to the figures relating to crushed rock provision. The requirement for the framework area is a slight reduction on the figure quoted in the Regional Spatial Strategy. This is to take account of provision within Rutland. In addition, the permitted reserves figures need to be adjusted as a result of reassessment of the reserves at Cliffe Hill, Cloud Hill and Croft Quarries. The net result is an estimated surplus, at 2021, of 147 million tonnes of crushed rock.
- 6.4 There are concerns that, despite the large "surplus", some of the reserves are in the wrong location. In addition, the landbank indicators of at least 7 years for sand and gravel and at least 10 years for crushed rock referred to in MPS 1 (MCD 2, Annex 1, Para 4.1) would not be met.
- 6.5 I note that MPS 1 continues by saying (MCD 2, Annex 1, Para 4.2) that MPAs should consider and report on the need to review policies as part of their annual monitoring. This should be done in time for action before the remaining provision falls below the agreed apportionment level. "If review and updating takes place regularly then maintaining a landbank beyond the end of the plan period is not an issue."
- 6.6 In the present case, Policy CS2 makes provision for the maintenance of landbanks for sand and gravel and crushed rock in line with national and regional policy. There is also provision for releasing reserves of crushed rock and allowing new aggregate extraction in appropriate circumstances. Bearing in mind also the

proposed monitoring provisions, I am satisfied that there are no related soundness issues.

- 6.7 **In order for the Core Strategy to be sound, amend the Plan by:**
- **referring in Para 4.19 to reserves of 6Mt, equating to 4.8 years of supply;**
 - **updating the figure in Box 1 to reflect the reduced reserves figure for Brooksby;**
 - **referring in Para 4.26 to the adjustment to be made in respect of Rutland;**
 - **updating the figures in Box 2 to reflect the Rutland adjustment and reassessed reserves; and**
 - **revising the sub-regional apportionment figure in Policy CS2,**
- all as set out in Annex A of my report (MPC16 to 20).**

6.8 In the light of the foregoing discussion, I am satisfied that provision would be made to meet the on-going quantitative requirement for the supply of aggregates and the permitting of appropriate reserves. There remains the question, however, of whether the spatial strategy set out in the Plan is the most appropriate. In particular, should extension in certain environmentally sensitive locations be ruled out; and, given the importance of alternatives to road transport, should aggregate railheads be protected?

6.9 In terms of environmentally sensitive locations, attention has focussed on Croft Quarry and Bardon Quarry. I was told that Croft Hill is a Site of Special Scientific Interest and an Area of Local Landscape Value. It is the dominant landscape feature in this part of the Soar Valley and is enjoyed by many residents as a valuable amenity. Bardon Hill is similarly valued. It is a beautiful area that contains a Site of Scientific Interest. It is a local landmark and the highest point in Leicestershire. Expansion here would mean a considerable reduction in residents' quality of life.

6.10 For my part, I recognise that there is a tension between environmental concerns and the "priority to the extension of existing sites" that would be afforded by Policy CS1. Proposals for expansion at either Croft or Bardon are likely to face an uphill task. Nevertheless, the Plan contains a raft of policies concerned with environmental protection. In addition, Policy CS2 itself indicates that proposals would only be allowed "where they will not cause unacceptable harm to the environment or communities." In the circumstances, I do not consider that the strategy is unsound.

- 6.11 On the question of protecting aggregate railheads, I am mindful of the advice in MPS 1 (MCD 2, Para 13). This make clear that an element of national policy is to safeguard existing, planned and potential railheads, wharfage and associated storage, handling and processing facilities for the bulk storage by rail, sea or inland waterways of minerals, particularly coal and aggregates, including recycled, secondary and marine-dredged materials. I consider that relevant aspects of this policy should be incorporated in the Plan.
- 6.12 **In order for the Core Strategy to be sound, make reference in the text (after Para 4.84) and in the policies (Policy CS10 and DC8) to safeguarding infrastructure such as rail linked facilities, all as set out in Annex A of my report (MPC32, 33 and 65).**

7 Environmental Matters

Key Issues – Whether the strategy would secure adequate environmental and landscape protection; support for the objectives of the National Forest and Charnwood Forest; and provide new habitats, increased biodiversity and other green infrastructure.

- 7.1 In the above discussion on the Spatial Vision and Objectives, attention focussed on various aspects of green infrastructure including the National Forest, Charnwood Forest and the River Mease SAC. In this regard there are a number of related policies. Policy CS11 covers protection of the natural (and built) environment; Policy CS13 addresses land within or adjacent to Charnwood Forest; and Policy CS14 concerns the National Forest.
- 7.2 I have already determined that The Objectives in the Plan should be amended to refer to these specific features of the green infrastructure. However, the question remains as to whether other parts of the Plan need to be changed in order to give appropriate recognition to these matters.
- 7.3 I am generally satisfied that the Core Strategy, amended as discussed above, would make adequate reference to the National Forest, Charnwood Forest and the River Mease SAC. However, there are certain amendments that should be made for the provisions to be effective. First, reference should be made in the supporting text to the overall vision and overarching aim of the National Forest Strategy. Secondly, regard should be paid to cultural heritage as well as conservation sensitivities and opportunities. Thirdly, reflecting the National Forest Strategy should be at the heart of Policy CS14.
- 7.4 **In order for the Core Strategy and Development Control Policies to be sound, amend the DPD by:**

- **referring to the overall vision and overarching aim of the National Forest Strategy (Para 4.100);**
- **including reference to cultural heritage sensitivities and opportunities (Para 4.102); and**
- **placing reflection of the National Forest Strategy at the heart of Policy CS14,**

all as set out in Annex A of my report (MPC39, 42, and 43).

- 7.5 With regard to strategic river corridors, I note that this is a matter addressed in the Regional Spatial Strategy (Policy 33). The corridors are indicated on a map of natural assets (Diagram 3) and, within Leicestershire, can be discerned as those of the rivers Trent, Soar, Welland and Wreake. The key tributaries would be the rivers Eye, Mease and Sence. The information within the Plan (Para 4.95) does not strictly accord with the evidence base in this regard. Revisions to the text are necessary.
- 7.6 **In order for the Core Strategy to be sound, amend the DPD by reflecting, within Paragraph 4.95, the details of strategic river corridors from the RSS as set out in Annex A of my report (MPC37).**
- 7.7 On the matter of Green Wedges, the submission version of the Plan draws a parallel with Green Belt policy and the Government's policy on mineral extraction within Green Belts. However, this is a matter that is referred to in the Regional Spatial Strategy³ at Para 4.2.18. It is confirmed that Green Wedges are not supported by Government policy in the same way as Green Belts. Paragraph 4.104 of the Core Strategy does not reflect national or regional policy. Deletion of the paragraph would be appropriate.
- 7.8 Also on the matter of Green Wedges, Paragraph 4.103 of the Plan and Policy CS15 both refer to minimising severance and adverse effects on amenity. However, these requirements do not stem from the RSS. In the RSS, Green Wedges are recognised as serving useful strategic functions in preventing the merging of settlements, guiding development form, providing a "green lung" into urban areas and acting as a recreational resource.
- 7.9 I consider that the Plan should be aligned to the RSS. In addition, the DPD should recognise that minerals development within Green Wedges would be appropriate provided that appropriate measures are taken to ensure that the strategic planning function is not adversely affected.
- 7.10 **In order for the Core Strategy to be sound, amend the DPD by:**

³ East Midlands Regional Plan (RSS 8), March 2009

- **deleting Paragraph 4.104 with its comparisons to Green Belts;**
- **referring in Paragraph 4.103 and in Policy CS15 to the role of Green Wedges as identified in Paragraph 4.2.18 of RSS 8; and**
- **recognising in Paragraph 4.103 the circumstances where minerals development would be appropriate in Green Wedges,**

all as set out in Annex A of my report (MPC44 to 47).

7.11 Before leave environmental matters, I turn to the topic of reclamation. A number of related amendments are necessary. First, in order to better reflect national policy, additional reference needs to be made to the importance of the historic environment and the setting of historic assets. Secondly, and as part of a necessary strengthening of the Plan's provisions, linking with green infrastructure needs specific mention. Thirdly, in recognition of the on-going work of the Coal Authority, the need for minewater treatment schemes should be stated.

7.12 There is also the matter of land stability. PPG 14 on unstable land⁴ refers in Paragraph 26 to the opportunity to set out strategic policies for the use of unstable land. This is not a matter that is dealt with in any detail within the DPD. The text and the policy should cover the need to assess and deal with the stability of land as part of reclamation proposals. This is to ensure that, following restoration, members of the public are not exposed to any unnecessary risk.

7.13 **In order for the Core Strategy to be sound, amend the DPD by:**

- **including in Paragraph 4.112 and Policy CS17 reference to the historic environment, landscape character and the setting of historic assets;**
- **referring to links with existing green infrastructure (Para 4.118 and Policy CS17);**
- **stating the need for minewater treatment schemes (after Para 4.117); and**
- **adding reference to land stability issues and necessary action (Para 4.112 and Policy CS17),**

all as set out in Annex A of my report (MPC48, 49, 51, 52, 53, 54 and 55).

⁴ Planning Policy Guidance note 14, Development on Unstable Land, Department of the Environment, 1990

8 Development Control Policies

Key Issue – Whether there are clear and appropriate development control policies that, amongst other things, accord with and do not repeat or reformulate national policy and regional policy.

- 8.1 Planning Policy Statement 12 (MCD 1, Para 4.30) is clear in stating that the core strategy should not repeat or reformulate national or regional policy. The same stricture also applies to development control DPDs (See Para 5.2 of PPS 12).
- 8.2 National planning policy is set out in a series of Planning Policy Statements. If it is the intention of a minerals planning authority simply to apply national and regional policy in its decisions it does not need to reiterate it in its DPDs in order to do so; nor reformulate it by devising a similar kind of wording that achieves the same result. Plan making resources are scarce and need to be concentrated on the tasks which only the core strategy can achieve.
- 8.3 In this regard, Paragraphs 10 to 19 of MPS 1 (MCD 2) provide a useful summary of national policies for minerals planning. There is concern that various policies in the Plan repeat this guidance or duplicate national policy in other planning policy statements or planning policy guidance notes. Attention has focussed on Plan Policies CS11 (Environmental Protection), DC1 (Sustainable Mineral Development), DC3 (Sites of National Historic Importance), DC5 (Countryside), DC7 (Archaeology), DC10 (Agricultural Land), DC11 (The Water Environment), DC12 (Health and Amenity), DC13 (Cumulative Impact), DC15 (Public Rights of Way) and DC16 (Air Safeguarding).
- 8.4 I have examined the various policies by reference to national (and regional) policy. In some cases, the policies in the Plan come perilously close to a repetition or reformulation of national policy. For example, Policy DC7 on archaeology, as well as lacking in local distinctiveness, adds little to Government policy in PPGs 15 and 16 (MCD 30). Nevertheless, it satisfies the requirement (PPG 16, Para 15) of including policies on protection, enhancement and preservation. Furthermore, through additions to the text, the provisions would be locally distinctive and explain how sites of potential archaeological interest would be identified.
- 8.5 Policy DC13 on Cumulative Effects has also been the subject of particular criticism. It is stated that no general areas vulnerable to such effects have been identified. In addition, there are assessment difficulties. For my part, I recognise that the policy is not locally distinctive, for example, in identifying locations vulnerable to cumulative effects. Nevertheless, it is legitimate to flag up as a potential issue the fact that too much minerals

development in any particular area could be unacceptable; also that the sum total of different impacts could be significantly detrimental.

- 8.6 In this regard, I appreciate that there have been past difficulties in evaluating cumulative effects.⁵ However, to my mind, it is an established and necessary technique, for example, in the field of environmental assessment. I conclude that the policy on cumulative effects does not affect the soundness of the Plan.
- 8.7 There is one further detailed matter that needs to be addressed. This relates to Policy DC3 on Sites of National Historic Importance. The policy, as written, does not accurately reflect Government guidance. The main consideration should be significant adverse effects on sites of national historic importance or on their character, appearance or setting. In addition, where there are significant adverse effects, development should only be allowed where there are overriding reasons of national importance that clearly outweigh the likely impacts.
- 8.8 It is likely that, if starting again, the development control policies and text could be radically simplified so as to avoid unnecessary content. Other local planning authorities would do well to adopt such an approach. However, to do so now in the present case would be counter-productive and would lead to further expenditure of scarce resources.
- 8.9 In all cases I have been able to distinguish the policies set out in the Plan from the precise guidance in Government policy. I can see that the Council's aim has been to clarify how relevant considerations will be taken onto account in Leicestershire. Taking all matters into consideration I am satisfied that the soundness of the Plan has not been compromised.
- 8.10 A further area where compliance with national policy has been questioned is in relation to Policies DC17 (Information in Support of Planning Applications), DC18 (Planning Conditions) and DC19 (Planning Obligations).
- 8.11 On the matter of information in support of planning applications, and post-dating the drafting of the Plan, I note that Circular 02/2008 has been published by the Department for Communities and Local Government.⁶ Amongst other things, the Circular provides that local planning authorities can set out local requirements as to the information that should accompany planning applications. However, applications for mining operations or the use of land for mineral-working deposits are not covered by the circular (Para 8).

⁵ Leicestershire County Council v Secretary of State for Communities and Local Government and UK Coal Mining Limited, [2007] EWHC 1427 (Admin)

⁶ Circular 02/2008, Standard Application Form and Validation, 12 March 2008

- 8.12 In any event, Policy DC17 gives greater clarity to applicants on the information that is likely to be required in support of planning applications. In that regard, it is also a useful vehicle for emphasising aspects of local distinctiveness. Additions to Box 3 would be appropriate, for example, in relation to flood risk, ground stability and the appropriate assessment of any development having an impact on the River Mease SAC.
- 8.13 Similarly, appropriate amendments to Box 7 (Reclamation Matters for Inclusion in Planning Applications) would include ground stability and contribution of the development to green infrastructure.
- 8.14 In respect of Policy DC18 (Planning Conditions) and Policy DC19 (Planning Obligations), related provisions are to be found respectively in Circulars 11/95⁷ and 05/2005.⁸ However, I do not consider that national policy is being repeated or reformulated. In this regard, there is clear value in including the matters set out in Boxes 4 and 5.
- 8.15 **In order for the DPD to be sound, amend the Development Control Policies by:**
- **explaining how sites of archaeological interest would be identified (Para 5.24);**
 - **correcting the provisions in respect of Sites of National Historic Importance (Policy DC3); and**
 - **making additions and amendments to Boxes 3 and 7,**
- all as set out in Annex A of my report (MPC60, 64, 73, 75, 76, 81 and 82).**

9 Monitoring

Key Issue – Whether there are clear arrangements for managing and monitoring the delivery of the strategy.

- 9.1 Following the changes and additions to The Objectives, it will be necessary to reflect those amendments in the monitoring tables where the objectives are listed. The main changes are to give particular emphasis to the National Forest, Charnwood Forest Regional Park and the River Mease SAC. I would expect these features to be monitored under existing indicators that cover Sites of Importance.
- 9.2 In addition, there are occasions when targets could be achieved too easily and are unlikely to drive forward the provisions of the Plan.

⁷ Circular 11/95, The Use of Conditions in Planning Permissions, 20 July 1995

⁸ Circular 05/2005, Planning Obligations, 18 July 2005

In particular, and in respect of the location of new aggregate recycling facilities, all facilities at minerals sites should be located in accordance with the requirements of Policy DC22.

- 9.3 **In order for the DPD to be sound, amend the monitoring provisions by:**
- **making additions and amendments to the objectives listed in the monitoring tables; and**
 - **increasing the target in respect of the location of new aggregate recycling facilities,**
- both as set out in Annex A of my report (WPC86 and 96).**

OTHER CHANGES

10 Minor Changes

- 10.1 The Council wishes to make several minor changes to the submitted DPD in order to clarify, correct and update various parts of the text. Although these changes do not go to the heart of the soundness of the DPD, they will assist in understanding the operation and application of the policies and the underlying strategy. I endorse them in the interests of clarity, accuracy, consistency and general soundness. In a few cases, I have made minor changes to ensure clarity and consistency. These changes are included in Annex A.
- 10.2 **In order for the DPD to be sound, I endorse the remaining minor changes to the policies and text of the DPD, as suggested by the Council and included in Annex A of my report, in the interests of clarity, consistency and accuracy. Any further consequential changes made to the DPD by the Council should be limited to alterations to spellings and paragraph or page numbers.**

OVERALL CONCLUSION

11 Conclusion

- 11.1 I conclude that, with the amendments I recommend, the Leicestershire Minerals Core Strategy and Development Control Policies DPD satisfies the requirements of Section 20(5) of the 2004 Act and meets the tests of soundness in Planning Policy Statement 12.

Andrew S Freeman

INSPECTOR

Annex A: Schedule of Required Changes