Report to Northamptonshire County Council

by Jonathan G King BA(Hons) Dip TP MRTP

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 15 August 2014

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO THE NORTHAMPTONSHIRE MINERALS AND WASTE LOCAL PLAN

(Northamptonshire Minerals & Waste Development Framework Partial Review)

Document submitted for examination on 26th November 2013

Examination hearings held between 7th and 9th April 2014

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Abbreviations Used in this Report

AA  Appropriate Assessment
AM  Additional Modification (followed by reference)
AMS Aggregate Minerals Survey
ARJDPD Aggregates Recycling Joint Development Plan Document
BAT  Best Available Technique
BCC Buckinghamshire County Council
C,D & E Construction, Demolition & Excavation (waste)
CBC/BBC Central Bedfordshire and Bedford Borough Councils
CMDDPD Control and Management of Development DPD
CS  Core Strategy
DECC Department of Energy and Climate Change
DPD Development Plan Document
DLC Duty to Co-operate
EH  English Heritage
EMAWP East Midlands Aggregates Working Party
ENRMF East Northamptonshire Resource Management Facility
HRA  Habitats Regulation Assessment
JMWMS Joint Municipal Waste Management Strategy
LAA Local Aggregates Assessment
LDS Local Development Scheme
LMDDPD Locations for Minerals Development DPD
LP  Local Plan
LLW Low Level (Radioactive) Waste
LWDPD Locations for Waste Development DPD
MM  Main Modification (followed by reference)
MWDF Minerals & Waste Development Framework
NCC Northamptonshire County Council
NLWP North London Waste Planning Unit
NMWLP Northamptonshire Minerals & Waste Local Plan
NNJCS North Northamptonshire Joint Core Strategy
NPPF National Planning Policy Framework
NuLeaf Nuclear Legacy Advisory Forum
(M)tpa (Million) tonnes per annum
PPG Planning Practice Guidance
PPS Planning Policy Statement
RS  Regional Strategy
SA  Sustainability Appraisal
SCI Statement of Community Involvement
SCS Sustainable Community Strategy
SUE  Sustainable Urban Extension
VLLW Very Low Level (Radioactive) Waste
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<tr>
<th>Acronym</th>
<th>Description</th>
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<tr>
<td>WMP</td>
<td>Waste Management Plan</td>
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<td>WNA</td>
<td>Waste Needs Assessment</td>
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<td>WRAP</td>
<td>Waste &amp; Resources Action Plan</td>
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Non-Technical Summary

This report concludes that the Northamptonshire Minerals and Waste Local Plan provides an appropriate basis for the planning of the county with respect to minerals and waste development, providing a number of modifications are made to it. The Northamptonshire County Council has specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

All of the modifications to address this were proposed by the Council and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- To broaden the scope of Policy 21 to include radioactive waste management, not simply disposal;

- To bring Policy 21 into consistency with national policy and in order to avoid duplication with other legislative regimes; and

- To bring Policy 26 (Historic environment) into consistency with national policy.
Introduction

1. This report contains my assessment of the Northamptonshire Minerals and Waste Local Plan (also known as the Northamptonshire Minerals and Waste Development Framework Partial Review) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended).

2. The Minerals and Waste Local Plan (“the Plan” or NMWL) represents the partial review and amalgamation of the various adopted elements of the Minerals and Waste Development Framework (MWDF) into a single document. These comprise: the Core Strategy (CS); the Locations for Minerals Development DPD (LMDDPD); the Locations for Waste Development DPD (LWDDPD); and the Control and Management of Development DPD (CMDDPD), respectively adopted in May 2010, March 2011, March 2011 and June 2011. The Plan period has been rolled forward 5 years to end in 2031; and, though the underlying spatial strategies have not been changed, forecasts for minerals production and waste management have been revised: in the case of sand and gravel, very significantly. The opportunity has also been taken to combine policies dealing with the same topics from the different DPDs. Many remain wholly or mainly unaltered. The review is described as partial principally because the site allocations included in the earlier plans are carried forward unchanged.

3. Since the adopted DPDs were written, the Regional Strategy for the East Midlands (RS) has been revoked and the National Planning Policy Framework (NPPF) has been published. The content of the Local Plan seeks to take account of these changes.

4. Shortly before the commencement of the Hearings, the Planning Practice Guidance (PPG) was published, replacing most of what remained extant of the former suite of Planning Policy Statements (PPS), Planning Policy Guidance and Minerals Policy Guidance together with numerous other policy documents. Although much of the material submitted in relation to the Examination referred to the superseded guidance, the Hearings took place in the context of the new PPG. In the event, there was little significant difference that had a bearing on the matters discussed.

5. The starting point for the Examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted draft plan dated November 2013. In this report I refer to Northamptonshire County Council as “NCC” or “the Council”.

Main Issues

6. In view of the fact that the submitted Plan is essentially a review of DPDs that have been adopted recently, I have generally assumed that those parts which have not been altered remain sound unless evidence suggests otherwise. Therefore, other than where it is essential to the consideration of the soundness of the Plan as a whole, I have not sought to examine those parts in any detail. Consequently, this report is limited in its scope.

7. Taking account of all the representations and my reading of the Plan, I
identified 8 main subjects upon which I consider the acceptability of the Plan depends in terms of soundness, and by reference to compliance with legal and procedural requirements.

8. Under these broad topic headings I identified numerous detailed issues on which I sought submissions from the Council and representors. Following receipt of the written evidence and the discussions that took place at the Examination Hearings, I am satisfied that some do not bear significantly on the question of soundness. Consequently, not all of these issues are addressed individually in detail in the report, and others are subsumed within general discussion.

9. The report considers first whether the Plan’s preparation has complied with the Duty to Co-operate (DtC), in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound, and finally whether it is compliant with the legal requirements. The NPPF (paragraph 182) makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy. I have had regard to these tests in drawing my conclusions.

**Modifications**

10. My report deals with the Main Modifications that are needed to make the Plan sound and legally compliant and they are identified in bold (MM). In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. These modifications are set out in the Appendix.

11. The Main Modifications that are necessary for soundness all relate to matters that were discussed at the Examination Hearings. Following these discussions, the Council prepared a schedule of proposed modifications and this schedule was subject to public consultation for six weeks, ending 23rd June 2014. I have taken account of the consultation responses in coming to my conclusions in this report.

**Assessment of the Duty to Co-operate**

12. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty (being the DtC) imposed on them by section 33A in relation to the Plan’s preparation.

13. This Duty is considered first because, unlike matters relating to soundness and other aspects of legal compliance, the Act does not contain any provisions to rectify a failure to comply. Consequently, if I were to find such a failure, it would be fatal to the Plan.

14. The Duty requires LPAs to engage constructively, actively and on an ongoing basis. NCC commenced work on the partial review of its DPDs in May 2012. At that time and throughout the period of preparation it was aware it would be subject to the Duty but, other than the formal requirements and the limited information contained in the NPPF, there was little published guidance
available to it with respect to the approach to be taken. The PPG, which provides a substantial amount of information about the Duty and how it should be examined, was not available until after the submission of the Plan and could not have been taken into account by the council during its preparation.

15. While ideally one would hope that co-operation and engagement would lead to a very high degree of consistency of approach between authorities, the Duty does not require agreement to be reached. It is the evidence of a genuine intention to engage which is the important factor in assessing whether it has been met, not necessarily the outcome, which may in part be outside the Council’s hands, but which may nonetheless be assessed under the tests of soundness.

16. Although co-operation with adjoining authorities and other bodies is clearly desirable with respect to any matter in a Plan which may have a bearing on their interests, the formal Duty applies to strategic matters. Strategic matters are defined as sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas. In 2-tier areas such as Northamptonshire, development or use of land which is a “county matter” or has or would have a significant impact on a county matter are specifically defined as strategic matters under subsection (4)(b) of S33A. Minerals and waste development fall into the category of county matters so are caught by the Duty.

17. As written, by virtue of subsection (4)(b), there is no requirement for a county matter to have a “significant impact on at least 2 planning areas” for it to be regarded as a “strategic matter”. In this it may be distinguished from other forms of development. Consequently, all county matters, irrespective of the significance of their impact, engage the Duty. That notwithstanding, I agree generally with the Council’s approach that, although the Duty is engaged, it should be carried out in a proportionate manner. This has a bearing on my approach to some of the representations made on this matter.

18. The Duty does not apply to co-operation with individuals, developers, operators or other bodies not defined in law. Although some suggestions were made that consultation with the private sector was insufficiently positive, this is not something to be addressed under the formal Duty. In that connection, I am satisfied that NCC followed its obligations for consultation under its Statement of Community Involvement (SCI).

19. The PPG says that evidence relating to the Duty should include details about who the authority has co-operated with, the nature and timing of the co-operation and how it has influenced the local plan. NCC has produced a Statement of Engagement and Consultation, as required by Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations.

20. At the initial (Issues and Options) stage of preparing the Plan, the Council sought comments on its “Way Forward” document between 28th June and 23rd August 2012. The consultation identified 9 issues on which views were
sought, including relating to the reduction in the aggregates provision figure, which is the most contentious element of the Plan. The Council also sought opinions on the Local Aggregates Assessment (LAA) and the Waste Needs Assessment (WNA) that contain supporting evidence, and which were published alongside. Specific questions were asked in relation to these matters. As part of this exercise, 70 authorities were identified as “Duty to Co-operate Authorities” and these were individually contacted by letter. They included most minerals and waste planning authorities (or joint planning organisations where appropriate) in England and Wales, and the Mayor of London. The letter specifically drew attention to the fact that the consultation was being made having regard to the Duty.

21. A similar exercise was carried out at Draft Plan stage, between 17th January and 14th March 2013; and finally representations on the proposed submission document (the Final Draft Plan) were sought between 5th September and 31st October 2013.

22. Although the PPG says that the maximisation of the effectiveness of strategic policies is unlikely to be satisfied by consultation alone, I consider that the manner in which these exercises were carried out was constructive and active, appropriately targeted and sufficiently focused. Three opportunities were given for observations to be made over a fairly short period of about 16 months. Responses were made to the observations, where appropriate; and these were included in schedules and made available on the Council’s website.

23. In parallel, NCC engaged with the East Midlands Aggregates Working Party (EMAWP) and the East Midlands Strategic Waste Advisory Group (EMSWAG). I consider that these meetings are an essential component of the DtC, allowing continuous and periodic, formal and informal contact to be maintained with other minerals and waste authorities falling within the former East Midlands regional groupings. The evidence shows that these fora provided an opportunity to discuss matters of common interest, notably the preparation of LAAs, data handling and the Duty. With respect to the last, at the EMSWAG meeting in February 2012, a DtC proposed protocol paper was discussed; and it was agreed that the group should meet 3 times a year.

24. NCC submitted its LAA to the EMAWP and engaged in dialogue with the Secretary. The formal responses expressed some concern about the reduction of the aggregates provision compared to the figure included in the Core Strategy, particularly in the context of anticipated growth in Northamptonshire, but did not recommend any alternative figure.

25. The numbers of responses to the 3 consultation exercises were not great (respectively 30, 39 and 33); few were from “DtC authorities” or related to strategic cross-boundary issues.

26. A number of the matters raised by respondents were incapable of resolution: for example concern from Essex and Norfolk County Councils about valuable hazardous waste facilities at King’s Cliffe being used for disposal of radioactive waste. Permission has been granted for that purpose; and the Plan simply recognises the fact. Some other matters were addressed by NCC by making detailed alterations to the draft plan. An example is the
introduction of a specific radioactive waste policy, something raised by Lancashire County Council. Further engagement beyond the normal consultation process was unnecessary, in my view.

27. Leicestershire County Council, Lincolnshire County Council and the Bedfordshire Joint Planning Unit raised the issue of whether aggregates provision should be greater than the 10 years annual average sales; and both Bedfordshire and Lincolnshire noted that the adopted CS referenced the county as a growth area in that context. These are clearly strategic matters which could be capable of having cross-border effects, but the approach addressed in the LAA was endorsed in general terms by the AWP, of which Leicestershire and Lincolnshire are both members. Further more detailed engagement with those authorities would have been unnecessary and in the event, they made no representations to the submitted Plan.

28. Failure to comply with the Duty to co-operate is alleged by Buckinghamshire County Council (BCC), the Central Bedfordshire and Bedford Borough Councils (CBC / BBC), who made identical representations, and the North London Waste Planning Unit (NLWP).

29. As an adjoining minerals planning authority, BCC had been invited to comment on the Plan and the LAA in June 2012. However, neither at that stage nor at the second, draft stage did it choose to do so. Only at the proposed submission stage did it raise matters of concern. Although the Duty binds on the plan-making authority, consultees also have a responsibility to engage with the process at the appropriate time. It was not unreasonable for NCC to assume that, had BCC had any serious concerns about the Plan or its underpinnings, it would have responded to the earlier consultations. I take the view that NCC could have been more active in its approach, for example by seeking confirmation that BCC did not wish to become involved in the process in the early stages. Nonetheless, it continued to include that authority in its consultations.

30. BCC’s main concerns relate to the failure of the supporting text in the Plan to identify planning areas from which aggregate may be imported in the event that Northamptonshire does not provide sufficient from its own resources; and a failure to identify and address issues affecting production in the county. To a large extent, these arguments appear to relate to the content of the Plan rather than a failure to carry out the Duty. The question of the provision to be made for aggregates is considered in detail elsewhere in this report and will not be repeated here. Nonetheless, BCC queries the extent to which NCC has sought to engage with, discuss and agree any future provision with other authorities.

31. As set out above, NCC has engaged with other authorities in the former East Midlands region through the EMAWP. I am satisfied that, together with the wider consultation exercise, that is sufficient to show compliance with the Duty for those authorities. The LAA shows that the bulk of cross-border movements of aggregate have historically (AMS 2009) been with other parts of that region. In contrast, cross-border flows (of both sand and gravel and crushed rock) between Northamptonshire and the former South East Region, which includes Buckinghamshire, have been very small. Moreover, such movements were all exports from Northamptonshire. Even though 2009
represents the lowest sales of aggregate from the county, I take the view that there is little reason to suppose that in the future there would be a significant cross-border impact. BCC has provided no evidence to show that this pattern would be likely to change or that, even if Northamptonshire were to require significantly greater importation of aggregate, it would be likely to be sourced from that county or from elsewhere outside the East Midlands.

32. NCC did not contact BCC to seek clarity or resolution of the matters raised. Nonetheless, it did take the opportunity to explain its position in writing. I take the view that more could have been done to fulfil the requirement for engagement to be active and ongoing but that, in the absence of any evidence of actual or potential significant impact on Buckinghamshire or other authorities outside the East Midlands, there would have been little practical benefit in so doing. The Duty should be carried out proportionately; and, notwithstanding that all county matters engage the Duty, the extent of the co-operation must reasonably have regard to the significance of the impact on the planning areas concerned.

33. CBC/BBC raised a number of matters in a detailed response to the initial consultation. While noting that Northamptonshire currently exports significantly more sand and gravel aggregate than it imports, they expressed some concern that the Plan may make inadequate aggregates provision which could impact on other authorities.

34. A meeting between officers of the councils took place at the request of the Bedfordshire authorities; and there was a further meeting in October 2012. However, I understand that the focus was on the CBC/BBC Plans and no discussions took place in relation to the NMWLP, though clearly there would have been the opportunity to do so. After that, it appears that contact was not maintained; and CBC/BBC made no representations to the draft Plan consultation. At the Hearings, they acknowledged that this was probably due to pressure of other work. NCC cannot be held responsible for the failure of consultees to respond.

35. At submission stage, CBC/BBC made numerous detailed observations, some of which have prompted NCC to propose Additional Modifications. This suggests to me that NCC did indeed engage positively. CBC/BBC also suggest that NCC should be prepared to accept a proportion of post-treated residual waste from London, as not doing so would place greater pressure on other authorities. I consider the representations of NLWP below but, while it is in some respects critical of NCC’s approach, it does not seek any such provision. Moreover, CBC/BBC has provided no evidence to demonstrate a need for Northamptonshire to make waste provision for other authorities or that a failure to make such provision would place significant pressure on other authorities.

36. CBC/BBC also express concern that NCC did not enter into discussions with the constituent councils concerning the import and export of sand and gravel with those planning areas. But, as NCC point out, CBC/BBC had been given a number of opportunities to raise such matters: at the commencement of the Plan, at draft Plan stage, in the context of the draft LAA (June 2012) and the further LAA (January 2013) and at meetings, including the Minerals and Waste Learning Project meetings where officers of NCC and CBC/BBC were
present. But no indication of concern had been given.

37. In any event, CBC/BBC and the former East of England region within which they lie have historically been net importers of both sand and gravel and crushed rock from Northamptonshire; and, as with Buckinghamshire, the quantities have been fairly small. The same issues apply. NCC explained its position at length in its responses to the representations. I have no evidence on which to conclude that the provisions of the Plan would be likely to result in any significant cross-border impact on the Bedfordshire authorities.

38. Against that background, I find no failure on the part of NCC sufficient for me to conclude that the Duty was not complied with in respect of co-operation with CBC/BBC and BCC.

39. The North London Waste Planning authorities (NLWP) also claim that NCC had not complied with the Duty in the context of disposal of London waste in Northamptonshire. However, in addition to the general consultations, there were informal discussions between officers of NCC and NLWP in late 2012 about co-operation on plans in both areas. NCC provided information at that time concerning landfill; and NLWP said that it would be “in touch” when it had a clearer overview of landfill requirements. It was agreed that there was no need for a formal mechanism to share information.

40. NLWP made no response to the “Way Forward”, but responded to the draft Plan consultation, principally criticising the approach of seeking to impose catchment areas for waste facilities, saying that the Plan took no account of the ability of or the progress by London to develop facilities that would enable it to take responsibility for its own waste produced.

41. A similar response was made at the submission stage, alleging a failure to engage under the Duty with respect to how the objective to achieve self-sufficiency through catchment areas will affect cross-boundary waste movements. NCC responded in writing through its schedule of representations. Finally, in its statement in response to my matters and issues for examination, NLWP indicated that they did not feel there had been constructive, active and ongoing engagement throughout the plan–making process, nor a continuous process of engagement from initial thinking through to implementation. It stated that after initial correspondence on waste movements in late 2012, the only contact has been consultation on draft versions of the Plan; and that NCC had not responded to NLWP’s “Duty to Co-operate letter” concerning its own waste plan.

42. Substantive issues relating to waste disposal provision are considered elsewhere in this report and are not repeated here.

43. I have some sympathy with NLWP, especially as it has itself been criticised for a failure to comply with the Duty in relation to its own waste plan. There is no doubt that there are flows of waste between North London and Northamptonshire; and that, at least in principle, the potential exists for there to be significant impacts on other planning areas arising from Northamptonshire’s Plan. North London does not have provision for landfill and so is reliant on other planning areas making the provision.

44. But, while it is true that NCC has principally relied on formal consultation as
the means of engaging with other authorities, I believe NLWP has overstated its case. First, at the end of October 2012, its lead officer thanked NCC for sharing information (about landfill and hazardous waste) in the spirit of the Duty and NCC’s view that there was no need to carry out the DtC between the authorities through any formal mechanism, but to rely on information sharing and further discussion, if required. In April 2013, NCC responded briefly to an initial approach from NLWP concerning the production of the North London Waste Plan; and requested, in the context of existing and future landfill provision in Northamptonshire, that NLWP provide confirmation as to where landfill waste is being exported and what contracts are in place. NLWP replied in May 2013 that it would be likely to be in contact again on the specifics of waste flows after research had been carried out. In response to the consultation on NCC’s draft submission Plan (autumn 2013), NLWP indicated that consultants were preparing a waste data study for its new waste plan, but no quantitative detail of waste flows were provided. Nonetheless, it said that it would be likely that there will be a shortfall in hazardous and non-hazardous landfill capacity over the whole plan period.

45. It is clear that there was contact between the authorities. Moreover, NCC did not fail to respond to a consultation on the NLWP Waste Plan in January 2014, as alleged. In fact, it had been sent to the wrong organisation (the Northamptonshire Waste Partnership Officer), and had not been forwarded.

46. Overall, I conclude that NCC did sufficient to meet the requirements of the Duty and that no body with which NCC were obliged to co-operate were materially disadvantaged. In so saying I have in mind the advice of the PPG that it is important to adopt a pragmatic approach in deciding the area over which co-operation is needed and who to work with.

47. NCC acknowledged during the Hearings that, with hindsight, the approach it took to the DtC should not be regarded as a model for the future. I agree. It did not establish any formal protocols for carrying out the Duty or any mechanisms for ensuring compliance. Its record keeping could also have been improved. While this criticism does not imply any failure to comply with the Duty as established in law, I would urge the Council to review its procedures for the future, not least so that it will more easily be able to demonstrate compliance by reference to evidence compiled throughout the process.

Assessment of Soundness

The provision to be met for minerals

48. The single most important change made to the suite of adopted DPDs – and the most contentious - relates to the overall quantity of the provision of aggregates over the Plan period.

49. The adopted CS made provision based on the apportionment contained in the former RS for the period 2001-2016. It was set at 0.97 million tonnes per annum (Mtpa) of sand and gravel and 0.39 Mpta of crushed rock. In the absence of any clear justification for any other figures, the CS planned for the remaining years of the Plan using the same quantities.
50. Revised national and regional guidelines for aggregates apportionment were issued by the Department for Communities and Local Government in June 2009 and, at the end of that year, apportionments were agreed by the EMAWP. For Northamptonshire, the apportionments were reduced to 0.78Mtpa and 0.3Mtpa for sand and gravel and crushed rock respectively. The intention was to incorporate the revised figures into the regional plan system. However, that has now been abolished. The RS has been revoked and no longer forms part of the development plan; and the proposed 2009 apportionments have never been formally adopted.

51. A modified national policy for arriving at aggregates provision is now contained in the NPPF. Technical guidance was also published on the Managed Aggregate Supply System (MASS) which, amongst other things, described the way in which LAAs should be produced. But this has now been superseded (though not significantly changed) by the PPG. Although that was published after submission of the Plan, it is relevant to my consideration.

52. Amongst other things, the NPPF says that Minerals Planning Authorities should plan for a steady and a adequate supply of aggregates by preparing an annual LAA, based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options.

10-year rolling average

53. NCC’s LAA is based on the 10-year rolling average of sales data covering the years 2001-2010. This produces a figure of 0.5Mtpa for sand and gravel, which has been used as the proposed production level in the Plan. For crushed rock, the LAA figure is 0.33Mtpa, but NCC has decided to retain the slightly higher CS figure of 0.39Mtpa. These translate into overall provision of 10 million tonnes of sand and gravel and 7.8 million tonnes of crushed rock over the Plan period of 2011 - 2031.

54. The figure for crushed rock was not the subject of dispute in this Examination: it remains at the CS level and higher than the 2009 EMAWP level. I am satisfied that the Plan makes adequate provision. I therefore intend to concentrate on the figures for sand and gravel.

55. It has been pointed out by a number of representors that the years 2001-2010 on which the provision figure has been estimated include a period of deep economic recession and could therefore underestimate the amount of sand and gravel required. However, it may reasonably be considered that taking an average over a period as long as 10 years provides sufficient opportunity to take account of peaks and troughs in sales. Moreover, NCC have erred on the side of caution by choosing 2001-2010 rather than 2002-2011 – for which figures are available – because the later period produces an even lower average for sand and gravel: 0.45Mtpa. There is no proper basis on which to choose a different time period as a starting point, as has been suggested: for example 2001-2005, which are the 5 most productive years between 2001 and 2011 (giving an average annual production of 0.71Mtpa). That would unreasonably skew the figure compared to using a 10 year average. I am satisfied that NCC’s calculation of the 10-year rolling average approach is compliant with national policy.
56. The PPG says that LAAs must also look ahead at possible future demand rather than rely solely on past sales. It suggests looking at sales over the last 3 years in particular to identify the general trend of demand as part of the consideration of whether it might be appropriate to increase supply. But the last 3 years for which I have seen figures (2009-2011) represent the lowest sales across the 11 years analysed by the Council: an average of 0.21Mtpa for sand and gravel and 0.20 for crushed rock. The data must therefore be treated with caution as an indicator for the future. Nonetheless, there is a steadily rising trend of sales over those years: for sand and gravel from 0.171Mtpa to 0.237Mtpa (38.6%); and for crushed rock, from 0.181Mtpa to 0.242Mtpa (33.7%). As the economy of the UK is recovering from the recession, it may reasonably be expected that the upward trend may carry on, at least for a period.

57. Northamptonshire is an area which has experienced significant growth and this is expected to continue, even though planned housing development has been scaled back to some extent in draft local plans. My attention was drawn to the Northamptonshire Enterprise Partnership’s “10-point Plan”, described as Northamptonshire’s strategic plan, which includes the aspiration for very significant levels of development in the county: creating 70,000 new jobs over the next 15 years (from 2013) and providing the infrastructure that could potentially release over 80,000 new homes. However, despite being supported by the county council, officers urged caution in the use of such figures. The plan is not part of the development plan and has not been subject to the kind of testing to which a development plan would be put. Indeed, the Council’s planners were not even consulted in its production. It is essentially a bid document and is optimistic in its aspirations. I therefore accord it little weight.

58. It was agreed between NCC and the Mineral Products Association (MPA) that no direct links can be made between the quantity of development in an administrative area and overall aggregate provision from that area. For example, in 2009 (the year of lowest production in the county) 91% of Northamptonshire’s production was exported, while a greater quantity was imported. Proximity to the development location would appear to be the principal determinant of source, having regard to the fact that aggregate is a high-volume, low-value product. A further example of the risks attached to using growth as a predictor of demand is the fact that, although about 24 kilometres of the proposed HS2 rail line would pass through Northamptonshire, NCC understand from HS2 Ltd, the promoters, that no aggregates would be sought from within the county in connection with that major infrastructure project.

59. In view of the very low base figures, representing the depth of the recent recession, the recent rising production trend and national and local forecasts for continued economic growth, it is possible that demand for aggregates will continue to rise for some time and may remain at a higher level than in recent years. What cannot be predicted with any precision is the period over which it will rise; the level likely to be reached and the duration of higher production. The past is not always a good predictor of the future. Moreover, as recent experience at national level has shown, it is impossible to predict...
economic growth with any accuracy.

60. The upward trend in production indicated from the 3 year analysis would have to accelerate very markedly and continuously to suggest an annual average in excess of the 0.5Mtpa proposed in the Plan. For example, if a 10 year rolling average of that amount were to be predicted from 2017 (ie based on the years 2007-2016), the average production for the second half of that period (2012 -2016) would have to be in excess of 0.75Mtpa. That figure has only been exceeded in 2 years out of the 10-year period used to produce the proposed figure; and would require unprecedented rates of growth in production.

61. When considering the potential for production to rise and the extent of any such rise, it is worth noting that, before the recession, production of sand and gravel in Northamptonshire was in any case reducing: it fell from 0.905Mtpa in 2002 every year to 2007 (0.360Mtpa). The decline continued into the recession years of 2008 and 2009 at approximately the same rate. The subsequent rising trend must be seen in that context. It may be unrealistic to expect production to return to the levels of production experienced in the first half of the 2000’s.

62. The NPPF requires minerals planning authorities to take account of published National and Sub National Guidelines on future provision and to use them when planning for the future demand for and supply of aggregates. The most recent are the EMAWP 2009 figures. In the absence of anything more recent, these are still a material consideration. But as they were based on production before the recession and within a different policy context, it would not be prudent to accord them very significant weight. The proposed provision figure for sand and gravel would represent approximately two-thirds of the EMAWP 2009 figure – a significant reduction, but one to be applied to a period commencing with low economic growth, thereby reducing the requirement, at least in the early years.

63. The NPPF also says that minerals planning authorities should participate in the operation of an Aggregate Working Party and take the advice of that Party into account when preparing their LAA and in their local plans.

64. NCC has engaged with the EMAWP with respect to its LAA. The Working Party considers that the use of the last 10 year average sales is acceptable as the basis for determining future provision. However, it considers that this should be subject to appropriate monitoring and review procedures, not reliant on a formal review, being put in place, and included in the Minerals Local Plan to ensure that an early response can be made to unanticipated increases in demand brought about by higher rates of growth. It says that this is necessary to ensure that a lack of supply is not a material constraint to growth or that undue reliance is placed on imports, to the detriment of neighbouring areas. This is a pragmatic response which recognises the limitations of the 10 year rolling average approach and the uncertainty about the future. But it stops short of recommending higher production figures.

65. The comments of the EMAWP reflect the various concerns of its constituent authorities. It does not necessarily express a consensus. However, none of those authorities have individually objected to the level of the proposed
Aggregates Provision

66. The NPPF states that aggregates provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate. The Plan gives preference first to allocated sites and then, under Policy 2, to non-allocated sites on the county’s pre-glacial and glacial deposits, together with the reserves from the valleys of the River Nene west of Wellingborough and the Great Ouse, repeating the policy of the Core Strategy. These policies are carried over practically unaltered from the adopted DPDs.

67. Although the Plan expects that imports will be required in order to fulfil the demands of growth, it makes provision based on the approach that any shortfall between provision and demand should firstly look to within the county in line with these policies and only then to imports from other authorities. This is in contrast to the CS, which says that any shortfall will continue to be met by imports (my emphasis). From this, I understand that the proposed provision figures should not be regarded as maxima, beyond which further extraction would be restricted. As the comments of the EMAWP indicate, this will require careful monitoring.

Aggregates Commitments

68. For crushed rock, provision exists in 3 consented or allocated sites totalling 8.13Mt, greater than the 7.02Mt required for the remainder of the Plan period. A further 6.75Mt is available for extraction at the Wakerley site beyond 2031. Consequently, I am satisfied that the Plan does not need to make any site allocations for crushed rock.

69. At the beginning of the Plan period (2011) sand and gravel sites, both active and inactive, possessed combined reserves of 4.87Mt. Since then, a further permission with reserves of 0.39Mt has been granted. At the beginning of 2013, estimated committed reserves stood at 5.26Mt, representing a landbank of approximately 10.5 years at the rate of production proposed, thereby meeting the NPPF requirement to maintain a landbank of at least 7 years for sand and gravel. Indeed, the committed reserves would represent a 7 year landbank at a rate of 0.75Mtpa, very close to the EMAWP 2009 figures which have been urged on me by some representors.

70. There is some evidence from the minerals industry to show that the potential exists for production in the county to increase through the development of currently inactive sites or on those where permissions have not been commenced. For example, Passenham quarry, which presently processes only material imported from across the county border in Milton Keynes (and which consequently does not count towards the Northamptonshire provision) may commence local extraction; and development may start at Earls Barton, provided the demand justifies the capital outlay; and at Earls Barton Spinney. All of which would have the potential to reduce imports substantially.

71. However, in order to meet the proposed provision for the whole of the plan period set out in Policy 1, new sources of sand and gravel production for a
further 3.74Mt will be required, together with sufficient for a further 7 years to maintain the required landbank at the end of the period (3.5Mt), acknowledged by the Plan. Therefore a total of 7.24Mt of new reserves will be required.

72. I therefore turn to the opportunities for delivering this level of provision.

Allocated Sand & gravel sites

73. The Council took the decision at the outset that the review of its DPDs should be partial, and in particular that it would not review the sites which had been allocated in the LMDDPD. As that had been found sound and adopted recently, the Council decided that there was no need to review them at this time; and that they should remain in the new Plan.

74. The allocations reflect the level of provision set out in the Core Strategy, nearly twice what is proposed in the draft Plan. Seven sites are allocated, with an estimated combined production capacity of 11.1Mt. Taking into account the need to maintain a landbank of 7 years at the end of the period, it amounts to a potential overprovision of 3.86Mt (11.1Mt less the required additional provision of 7.24 Mt).

75. Some representors have expressed doubt about whether a number of the sites would in fact come forward especially considering that several have been identified for a long time and have still not been developed. The Plan pragmatically recognises that, for commercial reasons, the possibility exists that some may not become operational during the Plan period, or may not be developed even if permission is obtained. However, it is not unreasonable for it to allocate sites where development may not take place for several years, provided that there is sufficient confidence of their availability and viability.

76. NCC is confident that interest remains within small scale operations and that production at the planned provision level could be maintained and exceeded in the event of increased demand. However, in the event of a production shortfall emerging in the short term, it does not believe that the larger operators would be attracted to Northamptonshire. At present, some operators import quantities of material even though they hold reserves in the county. Evidence from the industry suggests that new quarries are not being set up not because the sites are inherently unsuitable, but because of the state of the market (low demand and low prices) and the difficulty in accessing capital. It is simply cheaper for them to import rather than to set up new local production. There is little that the development plan system can do in such circumstances other than to identify viable sites.

77. No applications have been submitted or are pending on any of the 7 allocated sites but, in view of the recent severe economic downturn and consequential reduction in demand for aggregates, no implications may be drawn from this fact alone. Sites will not be developed if demand is insufficient, not least because quarries need to maintain a minimum output of material to be a viable commercial proposition. By the same token, if demand were to increase to the extent that some representors predict, sites that would not be viable at low production levels could become so and may consequently be
brought forward.

78. The allocations were found sound following the Examination into the LMDDPD at the end of 2010. At that time, the Inspector stated that none of the representations seriously challenged the methodology used to identify the sites; and that, on the balance of probabilities, the identified sites would be deliverable during the plan period. At that stage, he found there was no need to identify a reserve or fall-back list of sites to demonstrate that the requirements of the Core Strategy could be met. Having found the allocations sound, he drew no conclusions on alternative sites put forward by representors.

79. Owing to NCC’s explicit decision to omit the sites from the Review of its DPDs, few representations were made on the subject; and little hard evidence of viability or availability was available to the Examination from either the Council or representors. Mostly it consisted of local knowledge gleaned from liaison meetings and other contact with existing operators. Nonetheless, in preparation for the Hearings, NCC sought to gain additional information. Each site was therefore considered by reference to the limited information available.

80. The retention of these site allocations in principle provides a very substantial amount of flexibility for the Plan in the event that demand for aggregates exceeds the reduced provision made. But the flexibility afforded by such over-allocation would exist in practice only if the sites remain viable propositions and available. Against that background, I consider that it would have been prudent for the Council to have reviewed the sites in the context of this Plan, in order to demonstrate deliverability. That said, it would have been difficult for the Council to assess viability confidently during the adverse economic climate which existed during the preparation period of the Plan.

**MA1 – Dodford**

81. This site benefits from having been subject to a borehole survey and has an estimated capacity of approximately 2.4 million tonnes. Continued extraction is linked to the development of the Daventry South East Sustainable Urban Extension (SUE). If the SUE comes forward it is likely to be in the latter part of the plan period, but NCC is encouraging the operators to develop the quarry as a standalone venture even if it does not.

**MA2 – Milton Malsor**

82. This site also benefits from having been subject to a borehole survey, with an estimated capacity of approximately 1.2 million tonnes. The operator submitted lengthy supporting representations to the Plan and is keen for the site to come forward. Access is dependent upon the agreement to the use of an existing bridge over railway lines. Lengthy discussions with Network Rail have been ongoing, but these are close to resolution. Once completed it is likely an application will come forward. Output of around 100,000tpa of soft sand may be envisaged over a 10 – 12 year period.

**MA3 – Bozeat extension**
83. Excavated mineral on the present Bozeat quarry is currently moved to a site at Earls Barton by conveyor for processing. Lack of investigation regarding the quality or extent of the remaining mineral in the allocated extension area casts some doubt over this site, which has an allocated capacity of approximately 1.5 million tonnes. Bozeat Parish Council suggests that housing sites have been identified in the Strategic Housing Land Availability Assessment for the North Northamptonshire Joint Core Strategy (NNJCS) would bring development closer to the site, potentially creating demand for the mineral. But NCC suggests the site isn’t in a preferred growth location as the NNJCS seeks to direct development to SUEs. The landowner has expressed continued support for development in a letter of March 2014, but the current operator is not showing particular interest. NCC suggests this is the weakest of the sites and the one least likely to come forward.

MA5 – Earls Barton West Extension

84. Borehole surveys have been carried out and the mineral quality verified for this site, and EIA scoping has previously been sought by the agents. The land is owned by Anglian Water and has an estimated capacity of approximately 3 million tonnes. The Council is confident it will come forward in the medium term.

MA6 – Wollaston West

85. This is a small site with an estimated capacity of just 0.2 million tonnes. Recently there has been some confusion regarding the landowner’s aspirations. Nonetheless, NCC is confident the site will come forward, probably in the longer term, but with minimal overall yield.

MA7 – Passenham South

86. This site has an estimated capacity of approximately 1.4 million tonnes. The Council understands from liaison with the landowners that there may be plans to reopen the site (following the departure of the former operator). New plant would be installed; and the worked area in Milton Keynes Borough would be backfilled in advance of moving into the Northamptonshire section of the site.

Unallocated sites

87. Policy 2 seeks to focus extraction on the pre-glacial and glacial deposits and the river valleys. No preference is given to one location over any other. Although, under Policy 28, sites for extraction in the river valleys should not be restored to predominantly open water, I do not regard that as a serious disincentive to potential operators. It does not preclude all restoration involving water. Flood attenuation schemes and the creation of wildlife areas, for example reedbeds, would be acceptable. I am satisfied that there is no need to alter this policy in order to encourage mineral extraction.

88. Policy 3 maintains the development criteria for mineral extraction from the CMDDPD unchanged, other than replacing the reference to the sub-regional apportionment.
Aggregates provision - conclusions

89. I am satisfied that the starting point for identifying aggregates provision should be the 10-year rolling average from 2001-2010, which includes periods of both good economic performance and recession. While accepting that Northamptonshire has been, and will continue to be an area of growth, there is no convincing evidence that the proposed level of provision should be increased, though careful monitoring will be required.

90. Neither the provision set out in the Core Strategy, nor the EMAWP 2009 figures have been justified as alternatives. The identification of a greater level of provision in the interests of catering for growth would be no more than aspirational. Based on past experience of fluctuating rates of provision in Northamptonshire, I have little confidence that identifying a higher rate would have any significant influence on the actual rate of production. In the event that demand exceeds the planned provision, the Plan is sufficiently flexible, both in its site allocations and policies for unallocated sites, to respond, subject to interest being shown by the minerals industry. The provision figure is not a cap on production. The Plan will look first to the county and only then to imports in the event of a shortfall. There is no evidence to suggest that imports, should they be required, would place any unreasonable burdens on any other mineral producing area.

91. If the rising trend of demand and production were to continue for a prolonged period; or if production were to achieve levels significantly higher than the proposed provision; and if that were to be maintained for a prolonged period, then I accept that it is unlikely that the provision made in the Plan would be adequate. However, while I have some sympathy with those who urge a higher annual average figure in the interests of making adequate provision for growth and to limit imports into the county, there is no firm evidential basis on which to arrive at an alternative figure.

92. Currently permitted reserves are in principle sufficient in the short to medium term to provide the proposed level of production, even factoring the likelihood of higher levels of growth. Adequate landbanks exist at the proposed rates of production.

93. I conclude that the Plan is sound with respect to the level of aggregates provision proposed.

94. In the absence of detailed up-to-date and verifiable information, firm conclusions with respect to the likely viability and availability of allocated sites are difficult to reach. The likelihood of the sites coming forward depends substantially on the commercial decisions of prospective operators. From the evidence available, I am satisfied that the allocated sites are deliverable and provide sufficient certainty that the proposed level of provision can be met. I have no reason to believe that the Plan is anything other than sound with respect to its allocations. But that conclusion is explicitly subject to an early review, as NCC propose.

95. There is no justification for making additional or alternative allocations, and none have been suggested. The Council proposes to undertake a sites review no later than the end of 2015. That is sufficiently early for it to make
any changes that may be necessary to secure an adequate and continuous
supply of mineral and for the industry to respond; but at the same time it
allows time to obtain proper up-to-date information from monitoring of
demand and output within the rising economy. In the meantime, and
notwithstanding the uncertainties that surround some of the allocations and
the time-consuming technical complexities and long lead-in times that
characterise minerals development, there appears to be sufficient flexibility
and choice in the Plan to react to changing markets or unforeseen
circumstances over the next few years until that review takes place. I
conclude that the Plan is sound with respect to providing a steady and
adequate supply of aggregates.

The provision to be met for waste management

96. The Plan is underpinned by the WNA that considers local needs; makes
projections for future arisings by reference to different waste types; and
identifies the capacity gaps and the requirement for facilities.

97. Need is assessed for the following waste streams: Municipal Solid (MSW);
Commercial & Industrial (C&I); Construction, Demolition & Excavation
(CD&E); Hazardous; Agricultural and Radioactive, divided into Low Level
(LLW) and Very Low Level (VLLW). I am satisfied that this covers all of the
main waste streams. The quantity of waste falling within the 3 main streams
(MSW, C&I and CD&E) in 2011 was lower than predicted in the CS; and
although the total amount of these wastes managed is predicted to rise
slightly (from 2.77Mtpa in 2011 to 2.96Mtpa in 2031 (the end of the plan
period), this is significantly less than what was predicted in the CS – where
as much as 3.951Mtpa was estimated for 2025. Separate consideration of
agricultural and radioactive wastes was not undertaken in the MWDF.

Arisings

98. Forecasts for MSW arisings are in line with the Joint Municipal Waste
Management Strategy (JMWMS) and are more reliable than for the other
major waste streams. They are predicted to rise from 0.36Mtpa in 2011 to
0.47Mtpa in 2031. The quantity presently disposed to non-inert landfill is
0.18Mtpa but this is set to reduce significantly from 2016, when new
advanced treatment comes on stream, to just 0.02Mtpa. However, there
would be a consequent rise in the disposal of residual waste from 0.01Mtpa
to 0.05Mtpa.

99. C&I waste is predicted to rise over the same period from 1.06Mtpa to
1.14Mtpa, with the proportion going to non-inert landfill staying roughly
proportionate (rising from 0.29Mtpa to 0.31Mtpa). Owing to reliance on
information dating from 2009 and a number of statistical assumptions, these
figures are, at best, approximate.

100. Data for the quantity of CD&E waste is also poor. Using a Waste and
Resources Action Plan (WRAP) national survey, a figure for Northamptonshire
of 1.35Mtpa has been arrived at for 2010 but, in view of the method of
calculation, this cannot be used with any great confidence. The amount
going to landfill is estimated at 0.34Mtpa, but this includes material used for
backfilling at quarries and for landfill engineering. The Council assumes a
“no-growth” scenario, following the advice of the Companion Guide to PPS10. It is an entirely reasonable approach in the absence of more robust data. Although CD&E arisings could increase with economic recovery, I agree with the Council that there is not a linear correlation, especially in the context of the national drive to “de-couple” the two. The “no-growth” scenario also assumes no decrease in the proportion of waste being set to non-inert landfill. That may prove to be pessimistic.

101. Hazardous waste production is assumed to be linked approximately to the growth profile for C&I wastes, the Plan assumes a small rise from 51,000tpa in 2011 to 54,000tpa in 2031. The county is a net importer of waste by a considerable margin, as it hosts the East Northamptonshire Resource Management Facility (ENRMF) at Kings Cliffe, which has a national catchment.

102. Only a small amount of agricultural wastes are classified as “non-natural” and are required to be managed off the farm. Most are thought to enter the MSW or C&I waste streams.

103. Northamptonshire does not produce radioactive waste from the nuclear industry, but gives rise to a small amount of Low Activity Low Level Waste (LALLW), estimated at 34 cubic metres in 2018. The ENRMF is permitted to receive this type of waste, along with hazardous wastes and contaminated soils.

104. The need for sewage and waste water treatment capacity has not been assessed in the Plan, nor have any sites for the purpose been allocated. Nonetheless, I agree with NCC that there is no pressing need for a specific policy to address the issue, as sufficient direction exists through supporting text (paras 5.74-5.77); the Local Planning Considerations policies of the Plan (Nos 22-34) that derive from policies in the Control and Management of Development DPD; and through national guidance.

105. I am satisfied overall that the waste arisings predictions, though they may not in every case be especially accurate, are probably the best that can be reasonably calculated in the circumstances. The Plan is sound in this respect.

Waste management provision

106. The intention of the Plan is that the county should achieve net self-sufficiency – that is, while it both imports and exports waste, it should be capable of managing a quantity equal to that which it produces. This is consistent with the statement in PPS10 that communities should take more responsibility for their own waste and that sufficient and timely provision of waste management facilities should be made to meet the needs.

107. Based on the predicted arisings, Policy 11 includes indicative waste management capacity requirements for 2021 and 2031. However, it is divided not by type of waste, but by the general type of management: recycling (inert, non-inert and hazardous); composting and anaerobic digestion; advanced treatment; hazardous treatment; and inert fill or recovery. Given the overlap between waste types, this is appropriate. In addition, Policy 18 gives indicative capacity requirements for landfill, divided into the categories of non-inert fill; inert fill or recovery; and hazardous
landfill.

108. The Council concludes that the permitted capacity for waste management and disposal is sufficient to meet present requirements, with the exception of non-inert landfill and advanced treatment. As the Plan period progresses, capacity gaps emerge for other forms of treatment and disposal, so that, without new capacity coming forward, by 2031 they would also exist for inert recycling, hazardous recycling, inert landfill and hazardous landfill. Sufficient capacity already exists up to the end of the period for non-inert recycling, biological processing and hazardous treatment.

109. In order to estimate the additional provision that may be required, capacity gaps have been calculated, being the difference between the capacity at facilities with permission (at the end of 2012) and the capacity required at the end of the plan period. But the result must be regarded as no more than approximate, because permitted capacity is acknowledged by the Council to be higher than the actual operational capacity. Not all permissions have been implemented and not all facilities operate at maximum capacity. Moreover, the calculation does not take account of the potential for the capacity of the permitted facilities to change over time, for example through closure. Indeed, during the Hearings, it was pointed out that some of the facilities listed in the appendices to the Plan are no longer available. However, I regard the list as a “snapshot” in time. In view of the dynamic nature of the waste industry, there would be little benefit in updating it.

110. Given the practical inability of the Council to obtain firm information about operators’ intentions or to predict them with any accuracy, it has used the end date of the planning permissions, where they have been imposed, to guide its analysis of existing provision. While not a perfect proxy, there is probably no better alternative.

111. PPS10 requires waste planning authorities to demonstrate through their DPDs how capacity equivalent to at least 10 years could be provided. When written, this requirement related to annual rates set out in RS, but now may be regarded as being in relation to the rates set out in the local plan. The Council is confident that this can be met. The required capacity up to 2021 is already sufficient with respect to non-inert preparing for re-use and recycling; biological processing; inert recovery / landfill; hazardous treatment and hazardous landfill.

112. Sufficient sites and locations have been allocated to provide the necessary capacity with respect to advanced treatment and inert recycling. There is, however, some uncertainty concerning non-inert landfill and hazardous recycling capacity.

Site Allocations

113. The Plan proposes to provide the necessary additional capacity by means of identifying specific sites and through criteria-based policies. The former takes forward all 37 identified sites for waste management unchanged from the adopted LWMDPD, divided into those for integrated waste management facilities (Policy 14); those in or adjacent to urban areas (Policy 15); industrial area locations (Policy 16); and those in rural areas (Policy 17).
114. The 3 Policy 14 sites together are estimated to have the potential to provide around 0.4 Mtpa of capacity for a mix of one or more advanced and preliminary treatment facilities. The 6 allocated under Policy 15 could produce a combined total of 0.3 Mtpa. 21 industrial areas are identified in principle under Policy 16; and 3 rural sites under Policy 17. No evidence has been brought forward to show that any site should not continue to be identified; and I have no reason to consider that they are anything other than sound. As the waste management industry and its processes are developing rapidly, the capacity assessments can be no more than approximate. Though some doubt has been expressed about their likely accuracy, there is no evidence to show that the Council’s assessments are significantly flawed or that the allocated sites would not have sufficient potential to bridge the 2031 capacity gaps for inert recycling (0.31Mtpa); hazardous recycling (0.02Mtpa); and advanced treatment (0.53Mtpa).

115. No representations were made with regard to individual waste management site allocations. No evidence has been brought to my attention to demonstrate that there have been any significant changes in circumstances since the suite of DPDs were adopted to suggest that either individually or collectively the allocations require any alteration. I have no reason to believe that the Plan is anything other than sound with respect to them. No modifications have been suggested or put forward; and I make no recommendations for change. I find the site allocations sound.

Non-inert landfill

116. No sites have been identified to provide additional landfill (non-inert / non-hazardous, inert and hazardous), for which capacity gaps have been identified. Policy 18 updates the quantitative requirement from the CS, and Policy 19 carries forward the criteria-based policy from the CMDDPD.

117. The Plan makes clear that disposal of waste is the least preferred option, but one that must be adequately catered for within the overall context of seeking to drive waste up the hierarchy. This is in line with national guidance and sufficiently recognises that waste should so far as possible be treated as a resource. I am satisfied that the Plan does not seek to rely on unsustainable landfill. Sufficient capacity exists for non-inert waste recycling for the whole of the Plan period at predicted rates; and opportunities exist to make further provision, if required, at the allocated sites and areas.

118. The strategy for waste disposal – both for inert and non-inert wastes – is carried over unchanged from the CS, other than with respect to updating and carrying forward the requirement. No site-specific allocations for non-inert landfill are made in the Plan. Instead it relies on the criteria in Policy 18, which gives preference to the extension of existing sites, and on careful monitoring to enable sites to be identified at the right time. At the time of examining the CS, it was recognised that insufficient landfill capacity existed to last the Plan period. That was found acceptable, subject to a more rigorous monitoring framework being put in place. It was also on the assumption that specific provision would be identified in the LWDDPD. In the event, no sites were allocated.

119. The available non-inert landfill capacity (at the end of 2011), was
approximately 8.13Mt, considerably greater than the 5.55Mt estimated during the CS Examination in 2009. This compares to a disposal requirement over the Plan period of between 13.48Mt and 16.79Mt, depending on the quantity of residual waste arisings – a substantial capacity gap of between 5.35Mt and 8.66Mt. The Council’s WNA shows a stepped decline in capacity from 2016, leading to total exhaustion by the end of 2030.

120. NCC estimates that by 2021 the annual capacity gap would be some 0.22Mt – 0.39Mt, or 0.45Mt – 0.62Mt if 2 sites are “mothballed” in 2018, as the operators are considering. A decision to mothball these 2 sites would on the one hand further reduce the available capacity. But, on the other, it could suggest that waste arisings are lower than predicted. Moreover, the quantity of the waste requiring landfill (other than residual) has been assumed to remain steady, whereas it is quite possible that improved technologies could increase the proportion being re-used, recycled or managed by other means.

121. At present, the Plan assumes that approximately a quarter of CD&E arisings are landfilled and, pessimistically, that no increase in recycling will take place during the Plan period. Though there is no certainty in the matter, there is the possibility that the available capacity may last longer than presently predicted.

122. PPS10 advises against over-provision of disposal options where these would undermine movement up the waste hierarchy. That is clearly not the position in Northamptonshire. Nonetheless, in view of the fact that disposal is the least sustainable option, it would not be appropriate to make large-scale provision, thereby risking discouraging more sustainable options. A balance has to be achieved between providing sufficient capacity at the right time and seeking to reduce the amount of waste landfilled. This Plan barely achieves that balance. Whether it succeeds in bridging the estimated capacity gaps, and whether provision will be made at the right time will depend on carrying out very careful monitoring, and appropriate action being taken. Consistent with the CS, the Plan identifies the overall requirement for non-inert fill capacity. It also emphasises the need for monitoring. The monitoring framework includes a target to maintain capacity sufficient for 10 years’ requirement and a trigger point for action if less than 4 years capacity remains (proposed to be altered from 2 years by way of an Additional Modification to maintain consistency with the approach in the CS).

123. I share the concerns expressed by some representors that the Plan provides insufficient certainty regarding the provision of non-inert landfill capacity to last the first 10 years of the Plan period to 2021. However, having regard to the possible over-estimate of the requirement deriving from CD&E waste; the potential for increased diversion of wastes from landfill; the positive encouragement of the extension of existing sites in the event of more capacity being needed; and the commitment to careful monitoring, I am reasonably confident that the approach is sound.

124. In reaching that conclusion, I am also taking into account the Council’s intention, stated during the Hearings, to undertake an early review of the site allocations in the Plan, as they were expressly excluded from the present exercise. If by that time the capacity gap has fallen to less than 4 years, it would be essential for a site or sites to be identified for the purpose. This
action would, I believe, effectively be triggered by the monitoring framework.

**Hazardous recycling**

125. The capacity gap of 0.02Mtpa for hazardous recycling is small. Indeed, it could be too small for a facility solely serving Northamptonshire to be viable. I agree with some representors who urge such waste to be treated at source. But, if it cannot be, then I am satisfied that the allocated sites and areas provide sufficient opportunities and that Policy 13 – unaltered from the CMDDPD – is adequate to guide such development.

**Other waste matters**

**Hazardous waste**

126. The Plan recognises that the ENMRF at Kings Cliffe is a specialist facility requiring a wide catchment area. It has permission until 2026, before the end of the plan period, but comfortably making provision for the first 10 years. Proposals for any future provision for hazardous waste management or disposal would be considered against Policies 13 and 19, both of which are carried over unchanged from the CMDDPD. Supporting text states that it should not be assumed that because a particular area has hosted, or hosts, waste disposal facilities that it is appropriate to add to these or extend their life. This does not amount to a presumption against further hazardous waste facilities, or those with a wide catchment. It is clear that decisions will be taken having regard to the development criteria in the policies. With respect to the ENMRF, the Plan states that its current specialisms in hazardous waste should be maintained. Any future decisions regarding its retention or extension would naturally be within that context. There is no inconsistency in the Plan’s approach.

**London Waste**

127. The Plan recognises that some waste is imported into the county from London, as it has been for many years. While no specific provision is made for such waste, the ability of Northamptonshire to manage it within existing facilities is not constrained. Any proposals for future facilities would be subject to the Plan’s catchment areas approach, which is consistent with the concept of waste being managed at the nearest appropriate installation, and net self-sufficiency, in line with PPS10. Waste exports from the north London Boroughs to Northamptonshire consist mainly of hazardous waste to the ENMRF, amounting to 10,768 tonnes in 2012. This is consistent with the national role of that facility. There is no evidence to show that there is any other actual or potential cross-border impact of significance relating to waste from London.

**Radioactive waste policy**

128. The Local Plan includes one policy that is completely new compared to the earlier DPDs: Policy 21 _Development criteria for radioactive waste disposal_. As submitted, it comprised 2 sections: the first sets out 5 matters that must be demonstrated by proposals for the disposal of radioactive waste. The second includes 2 further requirements where proposals come forward as a consequence of operations at a nuclear licensed site and/or relating to their
decommissioning. As submitted, the policy is unsound for a number of reasons.

129. First, the policy relates solely to disposal. This is inadequate and does not provide any basis for assessing management by other means. It does not encourage the management of waste at a more sustainable level in the waste hierarchy and is consequently at odds with national policy in PPS10. In response, NCC have put forward a Main Modification [MM1] widening the scope of the policy and the supporting text to cover radioactive waste management generally.

130. Next, the first bullet point requires disposal (or management under MM1) to be the "last available management option". Although this is intended to emphasise the position of disposal as the least sustainable option in the waste hierarchy, it is poorly expressed and does not sit well within the widened scope of the policy. In any event, the third bullet point already requires compliance with the principles of the waste hierarchy. Moreover, it is redundant, as waste management plans (WMP) are in any event required to be prepared by producers of Low Level Waste (LLW) by reason of the government’s Policy for the long-term management of solid low level radioactive waste in the United Kingdom (DECC, 2007). Amongst other things, WMPs are based on a risk-informed approach; the minimisation of waste arisings; forecasting of future waste arisings; and appropriate consideration of the proximity principle and waste transport issues. Further, the waste producer / consignor must undertake a Best Available Technique (BAT) review before transfer takes place. The BAT review includes consideration of disposal options that cannot be managed higher up the waste hierarchy, including identification of the nearest appropriate installation. There is no benefit in duplicating these requirements; and to do so risks inconsistency and uncertainty. The only critical issue is whether the disposal / management option is the most appropriate. NCC has put forward a Main Modification to reflect that wording [MM2].

131. Similarly, the second bullet point requires options for disposal to be rigorously assessed with clear justification as to why the (rejected) option is impracticable. NCC also accept that this would duplicate the WMP / BAT process. MM2 deletes this part of the point.

132. The third bullet point, regarding the need for sustainable transport, also fails to take account of the fact that the consignment of radioactive wastes is already subject to detailed control by parallel legislation and that WMPs are better suited and more flexible in application than planning controls in identifying the most appropriate transport option. Radioactive waste management is likely to have a national catchment and as Policy 23 already deals with the subject, this too was agreed to be unnecessary duplication. Reference to transport is therefore proposed to be deleted under MM2.

133. The remaining bullet points in the first section of the policy are acceptable, though in the last it should be made explicit that reference to co-location refers to an operational or committed waste disposal site. For simplicity, this is also included in MM2.

134. Policy 21 is supported by text in paragraph 5.98. Amongst other things, this
requires radioactive waste disposal to deliver local, social and economic benefits. This goes further than the general requirement in Policy 29 Implementation that, where appropriate, planning obligations should be provided amongst other things to compensate the local community affected by the development. I consider that the requirement – albeit not included in the policy – is unreasonable, in that it would be practically impossible for many forms of development to comply. It is entirely unclear, for example, how any form of radioactive waste management could provide local social benefits. The Council has accepted these criticisms and seeks to re-word the paragraph to remove the requirement and to reflect the various changes to the Policy under MM1 and MM2, including widening its scope.

135. The second set of bullet points in Policy 21 applies only to proposals that come forward as a consequence of operations at, and/or decommissioning of nuclear licensed sites. But the Council has provided no good reason why separate requirements should apply on the basis of the source of the waste. The first point seeks to apply a detailed sequential approach, which is redundant in view of the acceptance that the form of waste management chosen should be the most appropriate, as determined by the BAT process. The second point, concerning community consultation and engagement, is equally unnecessary, in view of the normal requirements that would apply under the SCI. It would not be possible for the WMP to be subject to consultation at the planning application stage, as it would not exist at that time.

136. In view of the above, under MM2, NCC proposes to delete the second set of bullet points in Policy 21.

137. In response to the publicity given to the Main Modifications, the Nuclear Legacy Advisory Forum (NuLeaf) considered them to be appropriate and welcomed the strengthening and clarification of the approach to radioactive waste management.

138. Subject to the Main Modifications recommended, I am satisfied that Policy 21 is sound.

Implementation and Monitoring

139. The Council has amalgamated the Implementation and Monitoring sections of the four adopted MWDF documents. The opportunity has been taken to correct a number of minor errors and to introduce more consistency in the approach. Where the quantities of mineral to be provided for have been changed in the policies of the Plan compared to the adopted Plans, these are reflected in revised targets.

140. At the Hearing on this topic, a number of further minor alterations to the text, notably to the targets and indicators were proposed by the Council in the interests of clarity and effectiveness; and these are included within its schedule of Additional Modifications. None go to the question of soundness; and I am content that these matters should be dealt with in this way.

141. I am satisfied that this section of the Plan is sound.
Other issues

142. The consistency of the Plan with current national policy and guidance is largely addressed within the context of the individual topics above.

143. The Local Planning Considerations Policies (Nos 22-34) derive principally from the CS and the CMDDPD, where necessary combining policies that cover the same subject. Several have only minor amendment, and others, including Policies 32 and 33 (Minerals Safeguarding Areas and Safeguarding minerals and waste related development from alternative uses) are unamended.

144. Policy 22 Addressing the impact of proposed minerals and waste development is an over-arching policy. To some extent this duplicates what is in other, more detailed policies. But I am content that they are consistent and complementary. The requirement for site-specific management plans is explicitly “where applicable”. It is not unreasonable or unjustified. The “key environmental designations” are defined in Box 3, and do not need to be repeated in the policy itself.

145. Other than in respect of Policy 26, which I address separately below, all of the Local Planning Considerations Policies are sound.

146. At submission, the Council identified an error in the Plan which had been brought to its attention by English Heritage (EH) during the consultation period, but which through an oversight had not been rectified. This relates to the first part of Policy 26 Historic Environment that, as drafted, is unsound because it does not reflect current national policy. Whereas the NPPF says that the significance of a heritage asset should be taken into account when considering the impact of a proposal upon it, the underlying policy of conserving and enhancing heritage assets is not restricted to those of significance, as the Plan as submitted indicates. A revised form of wording has been agreed with EH and has been proposed by the Council in a Main Modification [MM3]. I am satisfied that, with this modification, the policy is sound, and I recommend accordingly.

147. The Key Diagram is unchanged from that included in the adopted CS.

148. On adoption, the Plan will supersede all of the DPDs that make up the Northamptonshire MWDF. Its Appendix 7 includes a schedule setting out the superseded policies and those that replace them.

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Assessment of Legal Compliance

149. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

<table>
<thead>
<tr>
<th>LEGAL REQUIREMENTS</th>
<th>Details</th>
</tr>
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<tbody>
<tr>
<td>Minerals and Waste Development Scheme (MWDS)</td>
<td>The Local Plan is identified within the approved MWDS of May 2012 which sets out an expected adoption date of September 2014. The Local Plan’s content and timing are compliant with the MWDS.</td>
</tr>
<tr>
<td>Statement of Community Involvement (SCI) and relevant regulations</td>
<td>The SCI was adopted in November 2012 and consultation has been compliant with the requirements therein.</td>
</tr>
<tr>
<td>Sustainability Appraisal (SA)</td>
<td>SA has been carried out and is adequate.</td>
</tr>
<tr>
<td>Appropriate Assessment (AA)</td>
<td>The Habitats Regulations AA Screening Report of March 2013 sets out why AA is not necessary.</td>
</tr>
<tr>
<td>National Policy</td>
<td>The Local Plan complies with national policy except where indicated and modifications are recommended.</td>
</tr>
<tr>
<td>Sustainable Community Strategy (SCS)</td>
<td>Satisfactory regard has been paid to the SCS.</td>
</tr>
<tr>
<td>Public Sector Equality Duty</td>
<td>The Local Plan complies with the Duty.</td>
</tr>
<tr>
<td>2004 Act (as amended) and 2012 Regulations.</td>
<td>The Northamptonshire Minerals and Waste Local Plan complies with the Act and the Regulations.</td>
</tr>
</tbody>
</table>

Overall Conclusion and Recommendation

150. The Plan has a small number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the main issues set out above.

151. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that, with the recommended Main Modifications set out in the Appendix, the Northamptonshire Minerals and Waste Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Jonathan G King

Inspector

This report is accompanied by the Appendix containing the Main Modifications.
## APPENDIX

**Main Modifications**

<table>
<thead>
<tr>
<th>Part</th>
<th>Proposed Main Modification</th>
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<tbody>
<tr>
<td>MM 1</td>
<td>Amend title of Policy 21 to: 'Development criteria for radioactive waste management'.</td>
</tr>
</tbody>
</table>
| MM 2 | Amend Policy 21 to read: Proposals for the management of radioactive waste, including disposal, must demonstrate that:  
- It represents the most appropriate management option.  
- It is in line with the principle that communities take more responsibility for their own waste enabling the waste to be managed in one of the nearest appropriate installations.  
- It complies with national guidance and the principles of sustainable waste management including the waste hierarchy. In doing so it should identify the intended catchment area.  
- Any adverse impacts can be mitigated to an acceptable level.  
- It will not prejudice the existing use where the proposal is for disposal involving co-location on an operational or committed waste disposal site. |
| MM 3 | Amend first part of Policy 26 to read: 'Where heritage assets are identified, proposals should seek to conserve and enhance Northamptonshire’s historic environment through:' |

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