



The Planning  
Inspectorate

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# **Report to the Association of Greater Manchester Authorities (AGMA)**

**by Andrew Mead BSc (Hons) MRTPI MIQ**

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

**Date: 18<sup>th</sup> January 2013**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **REPORT ON THE EXAMINATION INTO THE GREATER MANCHESTER JOINT MINERALS PLAN**

Document submitted for examination on 11 November 2011

Examination hearings held between 22 February and 21 November 2012

File Ref: B4215/429/8



## Abbreviations Used in this Report

¶	Paragraph
AGMA	Association of Greater Manchester Authorities
BGS	British Geological Survey
CS	Core Strategy
DPD	Development Plan Document
ha	hectare
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
LP	Local Plan
MM	Main Modification
MPS	Mineral Planning Statement
MSA	Mineral Safeguarding Area
mt	million tonnes
mtpa	million tonnes per annum
NPPF	National Planning Policy Framework
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RS	Regional Strategy
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SPA	Special Protection Area

## **Non-Technical Summary**

This report concludes that the Greater Manchester Joint Minerals Development Plan Document provides an appropriate basis for the planning of the Area over the next 15 years providing that a number of modifications are made to the plan. The Joint Councils have specifically requested that I recommend any modifications necessary to enable them to adopt the Plan. All of the modifications to address this were proposed by the Joint Councils and I have recommended their inclusion after full consideration of the representations from other parties on these issues.

The Modifications can be summarised as follows:

- MM1: Policy 2 – the introduction of the minimum landbank requirements for sand and gravel and crushed rock;
- MM2: Policy 12 – the deletion of the requirement for a financial guarantee to ensure restoration;
- MM3: Policy 7 – the inclusion within the policy of a section seeking prior extraction of minerals where appropriate outside Mineral Safeguarding Areas (MSAs);
- MM4: Policy 7 & related Maps – the deletion of Peat from MSAs; and
- MM5: New Policy 1 – the inclusion of a policy in favour of sustainable minerals development as advised on the Planning Portal

## Introduction

1. This report contains my assessment of the Greater Manchester Joint Minerals Plan Development Plan Document (DPD) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers whether the Local Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (¶182) makes clear that to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The Joint Minerals Plan was produced by the Association of Greater Manchester Authorities (AGMA) on behalf of the ten Greater Manchester Local Authorities: Bolton Council, Bury Council, Manchester City Council, Oldham Council, Rochdale Council, Salford City Council, Stockport Metropolitan Borough Council, Tameside Metropolitan Borough Council, Trafford Council and Wigan Council.
3. The starting point for the examination is the assumption that the local authorities have submitted what they consider to be a sound plan. The basis for my examination is the submitted DPD dated November 2011, which is the same as the document published for consultation in September 2011.
4. This report deals with the Main Modifications that are needed to make the Local Plan sound and legally compliant and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the Joint Councils requested that I should recommend any modifications needed to rectify matters that make the Plan unsound and legally compliant and thus incapable of being adopted. These Main Modifications are set out in the Appendix.
5. The Main Modifications that go to soundness have been subject to public consultation and, where necessary, Sustainability Appraisal (SA) and I have taken the consultation responses into account in writing this report.
6. Since the Local Plan was submitted before the relevant section of the Localism Act 2001 came into effect, Section 33A of the 2004 Act, relating to the Duty to Cooperate does not apply.
7. My approach to the Examination has been to work with the Joint Councils and other participants in a positive, pragmatic and proactive manner with the aim of resolving any elements of the unsoundness in the Plan. In doing so, I have considered all the points made in the representations and during the discussions at the hearing sessions.

## Assessment of Soundness

### Preamble

8. The National Planning Policy Framework (The Framework) was published in March 2012 during the examination of the Plan. The Framework cancelled most PPGs, PPSs and MPSs to which references are made in the Plan. Nevertheless, where the substance of the government advice has remained the same and only the title of the document has changed, the Councils have

proposed additional Modifications to the Plan to take into account the most of the updated references. There are other references to obsolete PPGs in the Plan which are not identified as additional modifications, but which no doubt will be dealt with by the Councils at the adoption of the Plan. Where the substance of the advice has changed in the Framework, the Councils have proposed Main Modifications (**MM**) to the Plan which are discussed below.

9. Hearing sessions were held on 22 and 23 February 2012 following which the Councils proposed five MMs which were subject to a round of publicity. Following the receipt of representations on the MMs, a further hearing session was held on 21 November 2012. I have taken all the later representations received about the Modifications into account in writing the report and making my recommendations. Unless otherwise stated, references to policies in the report are those in the Plan as submitted.

### **Main Issues**

10. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings, I have identified seven main issues upon which the soundness of the Plan depends.

### **Issue 1 – Whether the Plan reflects government advice on sustainable development**

11. The Plan recognises the importance of delivering sustainable development and there are numerous references in the section outlining the Aims and Objectives. The Framework (¶15) states that Local Plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. The Secretary of State has published working for a model policy to address this. Therefore, in order to ensure that the Plan demonstrates the presumption in favour of sustainable development, the Councils have proposed **MM5** which would be new Policy 1.
12. The policy would state: *"In line with the presumption in favour of sustainable development set out in the National Planning Policy Framework positive consideration will be given to minerals development which accords with the policies set out in this document and with all other relevant local plan (Local Development Framework) policies. Such development will be considered to be sustainable and will be permitted unless other material considerations indicate otherwise."*
13. However, representations claimed that the Plan as modified by the new policy would still be unsound in that reference should be made in the policy both to the precautionary principle and to climate change. I acknowledge that the precautionary principle is a term often referred to in environmental law but it is not used in the Framework as one of the criteria to assess either the soundness of a Local Plan or a proposal for mineral development. Therefore, it would constitute an additional test over and above those already set out in the Framework and I consider that to embed the precautionary principle in the Plan as part of a policy would not be consistent with national policy on mineral development. Therefore, the inclusion of the phrase as sought would result in an unsound policy and Plan.

14. So far as climate change is concerned, the Plan addresses mineral specific matters. General issues are dealt with in the Local Plans of the constituent Councils of Greater Manchester of which climate change is one, as explained at the hearing and illustrated in extracts from various Plans. Should any planning application be made and assessed against development plan policies, those dealing with climate change in the Local Plan of the respective Council will be a material consideration. As explained in the Plan (¶3.2), the development plan should be read as a whole, in conjunction with relevant adopted local planning policies. Accordingly, I do not consider that the absence of a reference to climate change in the new Policy 1 renders it unsound.
15. The text of the new Policy 1, or similar wording, may well appear in the Framework and elsewhere in local plan policies. However, the Secretary of State has clearly expressed his wish that a policy should be included in all local plans to properly and explicitly reflect national policy on sustainable development.

## **Issue 2 – Whether the Spatial Strategy reflects the geology of Greater Manchester and the balance of environmental considerations**

16. Minerals can only be worked where they are found. Therefore the geology of the Greater Manchester area is the key influence on the Spatial Strategy. In considering aggregates, the geological information was based on British Geological Survey (BGS) data, previous work for the 1989 Minerals Plan and the submissions from landowners and industry<sup>1,2</sup>. The Spatial Strategy also included the key themes of: places where there are opportunities to restore land beneficially; places without a sensitive natural or built environment; places accessible by sustainable modes of transport; and places close to the end user.
17. Previous mineral working has left a legacy of land which may be in need of restoration. This is particularly so for areas of former coal mining with the attendant colliery spoil tips. The Plan would support minerals working which would secure the restoration of such areas. An urban area is generally not compatible with mineral development and most of the land outside the urban area within Greater Manchester is designated Green Belt. However, mineral extraction need not conflict with the purposes of including land in Green Belts. There are a number of other environmental and historical designations that will influence where mineral working can take place. In addition, mineral extraction has the potential to cause an adverse impact on residents who live nearby. The Plan recognises these factors and makes provision in Policy 1 for them to be taken into account when assessing planning applications for mineral working.
18. The Plan recognises that in order to promote sustainable transport of minerals, new sites for wharfs and depots could be required and existing facilities should be maintained where necessary. Policy 8 states that developers will be encouraged to transport minerals by the most sustainable mode (i.e. rail or water) wherever possible. Moreover one of the aims of Policy

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<sup>1</sup> TD002 BGS Resource Map

<sup>2</sup> TD008 Mineral Resources in Greater Manchester

- 10 is to protect existing minerals infrastructure, including wharfs and depots.
19. The Plan identifies Areas of Search for sand, gravel and sandstone/gritstone. The mineral resources mapped by the BGS were used as a starting point together with the Areas of Search published in the 1989 Plan. These were then reviewed to fully reflect the updated environmental and heritage designations. Three separate layers of sieving were used in order to refine the broad locations into more detailed Areas of Search for this Plan. The first layer involved consideration of factors labelled Category 1 Constraints which are considered to be absolute constraints and which, in normal circumstances, would prevent mineral extraction. These included the urban area; SPAs and SACs, Scheduled Ancient Monuments, Grades 1 and 2 agricultural land, Country Parks, Registered Parks and Gardens, Public Open Space, Local Nature Reserves and other allocations for development in Core Strategies. Each of the Category 1 Constraints was given equal weighting.
  20. The second layer of sieving comprised Category 2 Constraints, where the mineral planning authorities would normally prefer mineral working not to take place, and comprised Grade 3a agricultural land, woodlands, river valleys and a buffer zone of 250m from the urban area. Each of these was given equal weighting. The final step of sieving involved the study of aerial photographs and examination on a case by case basis to identify areas where it was judged there would be little likelihood of mineral working taking place. The areas included playing fields attached to schools or colleges, other open spaces that may be of public value, "islands" of less than 2ha, eg, within an urban area, areas with landscape value, sand and gravel deposits less than 200m wide extending in to the urban area, sewage works and reservoirs.
  21. I have no disagreement with the choice of the constraints and how they are treated in the assessment process for the purposes of the Plan. The 250m buffer zone is a reasonable sift criterion to use for development planning purposes given that there is no stated intention to use the same threshold, or indeed any other distance, in assessing planning applications for mineral working. I would expect each case to be judged on its merits with the list of factors in Policy 1 being used in the evaluation.
  22. Similarly, I do not disagree with the use of the Sites of Biological Importance as a Category 1 Constraint, nor the use of Grade 3a agricultural land as a Category 2 Constraint. Should a planning application be made at a location where these factors would be relevant, the assessment would take into account the extent to which mitigation could overcome any harm which might otherwise arise. But the use of the constraints is a logical step in refining the choice and extent of the Areas of Search in the Plan.
  23. Economic factors were not used to discard mineral resources from potential Areas of Search, neither from information from the BGS mapping nor from the borehole data obtained as part of the survey for the 1989 plan. The aggregate minerals in Greater Manchester do not appear to be of the highest quality in that, despite the demand for construction materials from the conurbation, little interest has been shown by the industry in identifying areas for future extraction. Some of the Areas of Search may be of limited extent and include mineral of unknown quality, especially in the case of sand and gravel, but the viability of such Areas of Search would be assessed by the industry as part of



the consideration of whether a planning application should be submitted. What is not viable to one operator, may be so to another. Therefore, the Plan has been reasonable in not attempting to introduce viability into the assessment of Areas of Search.

24. The Areas of Search are confined to aggregate minerals. I consider that it would be unrealistic to pursue the approach for other minerals within Greater Manchester which are of far more limited occurrence. Policy 4 states that proposals for non aggregate mineral development will be permitted where the location accords with the Spatial Strategy. The Spatial Strategy is described in Section 4 of the Plan. A proposal for mineral working should aim to conform with the primary considerations listed in ¶4.45 of the Plan and where there would be a conflict with one of the factors in the list, the criteria in Policy 1 would provide a comprehensive assessment. Where those criteria are met, proposals for mineral working or the provision of minerals infrastructure will be permitted.
25. Accordingly, I consider that the assemblage of all the various factors to which reference was made in the Plan has resulted in Areas of Search for aggregate minerals which reflects the geology of the area overlain by the most significant environmental constraints and in my opinion has led to a Spatial Strategy which has been positively prepared, justified, effective and consistent with national policy. I also consider that the approach to dealing with non aggregate minerals in the Spatial Strategy is justified and effective and consistent with national policy.

### **Issue 3 – Whether the provision made in the Plan for the future supply of sand and gravel and crushed rock is appropriate**

26. Sand and gravel is produced from 4 active quarries in Greater Manchester and crushed rock produced from a further 4 quarries. Due to the relatively small number of operations in and around Greater Manchester and the need to protect commercial confidentiality, the production figures for development plan purposes have been grouped into a sub region comprising Greater Manchester, Merseyside, Halton and Warrington.
27. The Plan indicates that the sub-regional apportionment 2005 – 2020 is 21.1mt of crushed rock and 6.86mt of sand and gravel. The sub-regional annual requirement is 1.32mt of crushed rock and 0.43mt of sand and gravel. The Plan covers the period to 2026, by which time the reserves required to maintain a 7 year rolling landbank of sand and gravel from 2009 would be 10.75mt. The permitted reserves of sand and gravel at 2009 were 6.1mt. Therefore, the shortfall would be 4.65mt. The reserves of crushed rock required to maintain a 10 year landbank would be 36.96mt. The permitted reserves of crushed rock at 2009 were 17.23mt. Therefore, the shortfall would be 19.73mt.
28. The Framework (¶145) advises that minerals planning authorities should plan for a steady and adequate supply of aggregates by taking various steps which include preparing an annual Local Aggregate Assessment based on a rolling average of 10 years sales data and other relevant information. Further government guidance published in October 2012 stated that it was not expected or desirable that mineral planning authorities would simply take the

figure for each sub-national level and apportion it amongst constituent authorities<sup>3</sup>. However, in those areas where apportionment of the land-won element has already taken place, those figures may be used as an indicator as to how much should be planned for.

29. The Plan states that the average sand and gravel sales 1998 – 2009 were 0.37mtpa., 0.06mtpa less than the annual requirement indicated in the apportionment. If provision were to be based on average sales rather than apportionment, the quantity sought in the 18 yr period would be 6.66mt which would result in a shortfall of 0.56mt at the end of the plan period<sup>4</sup>.
30. With regards to crushed rock, the average crushed rock sales 1998 – 2009 were 1.29mtpa., 0.03mtpa less than the annual requirement indicated in the apportionment. If provision were to be based on average sales rather than apportionment, the quantity sought in the 18 year period would be 23.22mt which, when compared with permitted reserves in 2009 of 17.23mt, would result in a shortfall of 5.99mt at the end of the plan period<sup>5</sup>.
31. Although the currently permitted reserves of sand and gravel are due to be depleted by the end of the plan period, whether measured by apportionment or average annual sales, the 0.56mt shortfall as estimated by the latter method is so low as to be insignificant. The Plan indicates that there will be a need to replace existing reserves because one of the four quarries, Pilsworth South, was due to cease production in 2011 and extraction at two others may cease before the end of the plan period. However, planning applications for extensions or at new sites will be made and judged on the policies of the development plan. The Plan states that the recommended landbank for sand gravel and for crushed rock is 7 years and 10 years respectively. However this is not recognised in a policy, only in an Appendix of the Plan, and the Councils have proposed **MM1** which would add these landbank requirements to Policy 2, with the prefix of "at least ...". This modification would make this part of the Plan consistent with national policy.
32. There has been little apparent interest by the mineral industry or landowners in seeking allocations of sand and gravel in the Plan. This, together with the small shortfall when assessed against average sales and the modification **MM1** to Policy 2 lead me to conclude that the supply of sand and gravel should be steady and adequate for the foreseeable future.
33. The Plan states that only 4 of the 7 crushed rock quarries in Greater Manchester, one quarry in Merseyside and one in Warrington are currently active. Although the average annual crushed rock sales in the sub region were 1.29mtpa, the maximum permitted rate of extraction of the Greater Manchester active quarries is 1.52mtpa, suggesting that supplies are well able to meet demand. Indeed, the sales figures for 2009 were only 0.30mt. The Plan states that the reason for the low sales is that the material produced from crushed rock quarries in the sub region is generally low quality fill and that its competitors are secondary and recycled aggregate. The trend in sales has been decreasing and the Plan indicates that were they to continue at the present level, permitted reserves would last for 57 years.

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<sup>3</sup> ¶15 Guidance on the Managed Aggregate Supply System DCLG October 2012

<sup>4</sup> Tables 30 & 31: Greater Manchester Joint Minerals Plan

<sup>5</sup> Tables 32 & 33: Greater Manchester Joint Minerals Plan

34. Therefore, despite the shortfall assessment, I am confident that there will be a steady and adequate supply of crushed rock for the majority of the period of the plan, if not well beyond it. In the event of a particular quarry become depleted, a planning application for replenishment or extension would be expected to be within an Area of Search and assessed under the policies of the development plan, including Policy 2, as proposed to be modified.
35. Accordingly, I consider that the Plan provides for a steady and adequate supply of aggregate as advised in ¶145 of the Framework and that in this respect it is justified, effective and consistent with national policy.

**Issue 4 – Whether there should be a separate policy dealing with the extraction of shale gas by hydraulic fracturing (“fracking”)**

36. The Plan contains a section on unconventional gas resources which are those which cannot be extracted using standard drilling techniques and which are likely to include coal bed methane, coal mine methane and shale gas. Planning permission was granted for exploratory drilling of shale gas in Lancashire and the Plan includes this resource because the potential for extraction may also exist in Greater Manchester. Policy 5 states that applications for exploration and appraisal and production wells for unconventional gas resources will be permitted where the applicant can demonstrate, amongst other things, that the proposal is in accordance with the key planning and environmental criteria in Policy 1.
37. Representations sought the replacement of Policy 5 with a specific policy dealing with fracking which would specify three criteria which would have to be satisfied before planning permission could be granted for any shale gas operations, including test drilling and extraction. One criterion would be that the proposal should be environmentally acceptable. However, I consider that this phrase is too ambiguous and would prefer the certainty of the criteria already listed in Policy 1. A second criterion would state that the Council's duties in relation to climate change should not be compromised and I have already concluded in ¶14 above that the inclusion of such a factor would be unnecessary.
38. The third criterion would be “that the Council is satisfied that all reasonable scientific doubt that there is any risk of adverse impacts including groundwater contamination has been eliminated”. However, groundwater falls within the scope of “controlled waters” and therefore is already referred to within item I in the planning and environmental criteria in Policy 1. Consequently, I am satisfied that the plan already makes provision for the need to avoid groundwater contamination and there is no benefit in repeating the criterion.
39. The concept of the elimination of “... all reasonable scientific doubt...” is derived from the application of the precautionary approach under the Habitats Directive<sup>6</sup>. I can appreciate that, if an assessment is undertaken and “... it contains gaps and lacks complete precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the SPA ...”, it would not be regarded as

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<sup>6</sup> See Waddenzee judgement [2005] C-127/02 ¶ 44

appropriate for the purposes of applying the Habitats Directive<sup>7</sup>.

40. Nevertheless, this report is dealing with the soundness of a development plan and not the consideration of a planning application. If planning permission is sought for any form of development related to fracking and there is the possibility of an adverse effect on an internationally designated nature conservation site, the assessment process under the Habitats Regulations would be used to determine the likelihood and the significance. However, this would equally apply to any other proposal for shale gas extraction by unconventional means, any other mineral development or any non mineral development where an internationally designated nature conservation site might be affected.
41. Therefore, I see no reason to distinguish between development involving fracking and other development where the precautionary approach under the Habitats Regulations might be appropriate. The inclusion of the precautionary approach as an additional test for planning applications for development which would not affect internationally designated sites of nature conservation interest would not be in accordance with advice in the Framework and I conclude that Policy 5 as drafted is sound and that a separate policy which would cover proposals for fracking is unjustified.

**Issue 5 – Whether the policies in the Plan relating to peat are consistent with national guidance.**

42. The Plan has two policies which relate to peat extraction. Policy 6 states that planning permission for peat extraction will only be granted where the site has been previously worked for peat; and the removal of peat is physically required to facilitate restoration; and only peat physically required to implement that restoration is removed; and the site is to be restored to lowland bog. Policy 7 deals with Minerals Safeguarding Areas (MSA) and is considered below.
43. The Framework states that, in preparing local plans, local planning authorities should not identify new sites or extensions to existing sites for peat extraction<sup>8</sup>. This is given added emphasis by the subsequent statement that planning authorities should not grant planning permission for peat extraction from new or extended sites<sup>9</sup>.
44. It was claimed that Policy 6 should be altered to enable planning permission to be granted for an extension of time on sites that had previously been worked provided that the site is restored to lowland bog upon cessation of the extraction. There may be merit in enabling peat to continue be extracted at a site which has previously been worked according to the circumstances of that particular case. However, the implication of Policy 6 (2) is that the only "new" peat to be extracted should be that which would be required to facilitate and implement the restoration of a site previously worked. The suggested alteration would allow "new" peat to continue to be extracted, even if that peat was unrelated to the eventual restoration. I consider that this continuation of the active life of such an operation would be wholly contrary to

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<sup>7</sup> European Commission v Kingdom of Spain [2011] C-404/09 ¶100

<sup>8</sup> ¶143: NPPF

<sup>9</sup> ¶144: NPPF

the aims of national policy as expressed in the Framework. Therefore, it would render this part of the Plan unsound and I do not support such a modification.

45. I note the submissions about possible increases to climate change and the shift of demand to overseas peat deposits should the policy remain as drafted, but my concern is the soundness of Plan and I conclude that current Policy 6 is justified, conforms with national policy and so it is sound.

**Issue 6 – Whether the extent of the Mineral Safeguarding Areas (MSAs) and the provision for prior extraction of minerals in the Plan is appropriate**

46. MSAs are aimed at protecting known locations of specific mineral resources of local and national importance from needless sterilisation by non-mineral development, whilst not creating a presumption that resources so defined will be worked<sup>10</sup>. As the Plan explains, an MSA does not automatically preclude other forms of development. The intention is to alert prospective developers to the existence of mineral resources so that they can be taken into account at the earliest stage of a possible development.
47. The Plan identifies the following mineral resources which are either currently of economic importance or have the potential to become important in the future: glaciofluvial sand and gravel; Carboniferous Millstone Grit (sandstone); Brickclay with Surface Mined Coal (Shallow Coal) and Peat, which is qualified by the comment as “only of current economic importance”. Maps within Appendix 2 of the Plan delineate the land which would be included within each MSA.
48. The Councils have identified the extent of mineral resources in Greater Manchester in line with the British Geological Society (BGS) good practice guide and the more recently published advice<sup>11</sup>. Representations submit that the MSAs do not include adjoining land which may be included as “buffer zones” where development might encroach too close to the mineral resource and might prejudice its future extraction. This is reinforced in ¶22 of the Technical Guidance to the Framework. However, in the case of the aggregate minerals which are chosen for MSA designation, the delineated land for sandstone is so extensive and the implied resources are so great in comparison to current and foreseeable demands, that I consider there is little likelihood of aggregate minerals being needlessly sterilised by the proximity of non mineral related development<sup>12</sup>.
49. The situation with sand and gravel is slightly different in that the mineral resource is typically within lower lying land where there would be potentially more pressure for non mineral development. Nevertheless, the level of demand for sand and gravel does not appear to be high, as evidenced by the relative lack of interest by the industry in locating future workings. In my opinion, considering the sub region serves the conurbations of Greater Manchester and Merseyside, together with Warrington and Halton, production levels which average 0.37mtpa can be aptly described as low. Although the extent of the sand and gravel deposits is more limited than sandstone, I do

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<sup>10</sup> ¶143: NPPF

<sup>11</sup> Mineral Safeguarding in England: good practice advice; BGS: 2011

<sup>12</sup> Map 5: Mineral Safeguarding Area for Sandstone: Greater Manchester Joint Minerals Plan

not accept that an additional buffer zone should be placed around each of the deposits<sup>13</sup>. The additional area involved would increase the administrative burden on both developers and local planning authorities and, in my opinion, the marginal benefits involved would not be outweighed by the extra layer of consultations which would result. Therefore, I consider that the MSAs for sand and gravel and sandstone, as they are currently delineated, are justified and should be effective.

50. An MSA is also defined for peat<sup>14</sup>. However, in order to comply with the national policy expressed in the Framework, the Councils have proposed **MM4** which deletes the peat MSA and any references to it in the Plan. The Framework sets out the range of minerals which are locally and nationally important. Peat is not included within that range. Given that the Framework has stated that planning permission should not be granted for the extraction of peat on new or extended sites, I consider that it is no longer necessary or appropriate to safeguard peat resources from non mineral development. The Joint Councils also comment that there would be likely to be stability issues if built development were to take place on peat, in which case, the mineral would be extracted prior any work taking place. Therefore, it is highly unlikely that in those circumstances there would be any sterilisation of mineral. I have no reason to disagree with the Councils' view and support **MM4** which would be justified, consistent with national policy and ensure that Policy 7 is sound.
51. The MSAs in the Plan exclude the urban area as defined by each of the districts within Greater Manchester. Representations suggest that this approach was initially adopted in DPDs in Bristol, South Yorkshire and West Yorkshire, but the plans were subsequently modified so that urban areas were not excluded from MSAs. In addition, DPDs for conurbations in the north east and West Midlands have been drafted so as not to exclude the urban areas.
52. Brickclay with Surface Mined Coal and sand and gravel are the relevant mineral resources within the urban area. The Plan explains that the exclusion of the urban area does not mean that prior extraction of minerals is wholly unsuitable in these locations, but recognises that there have been few examples of developers seeking to extract minerals in the past. In my opinion, if a mineral resource is present in the urban area, whether coal or sand and gravel, and there is a proposal to extract it, the application can be assessed against the various development plan policies such as Policy 1 of this Plan. Should non mineral development be proposed on the same site, a prospective developer will be able to consider whether to undertake prior extraction of the mineral should it be viable. The proposal would still be judged against development plan policies.
53. Accordingly, the only difference between a site within or outside an MSA, whether in an urban area or not, is that applicants for non mineral development within an MSA are bound to consider prior extraction of minerals. Outside an MSA, it is a matter of choice, which has now been qualified by the Policy 7 amendment **MM3** to a location where some potential for prior extraction of mineral has been identified. The identification could be through a

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<sup>13</sup> Map 4: Mineral Safeguarding Area for Glaciofluvial Sand and Gravel: Greater Manchester Joint Minerals Plan

<sup>14</sup> Map 7: Mineral Safeguarding Area for Peat: Greater Manchester Joint Minerals Plan

Site Allocation DPD, other LDF documents or by the developer. The Framework advises that policies should be set out to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place. Therefore, I consider that **MM3** would be consistent with national policy and would be an effective means of delivering additional necessary supplies of minerals from land outside an MSA.

54. In both cases, whether within an MSA or outside, any mineral extraction component of the scheme would have to satisfy development plan policies including the environmental criteria of Policy 1. The Councils have submitted that only two sites of coal extraction have been permitted in the urban area of Greater Manchester in the last 60 years and that the urban area is so intensively developed that prior extraction of minerals would be likely to result in unacceptable environmental impacts. .
55. Therefore, balancing the possibility of the loss of any minerals by sterilisation by non mineral development against the additional administrative burden on potential developers in the urban area caused by Policy 7, I consider that the Plan is justified in maintaining the boundaries of the MSAs as they have been drafted in the Plan. This is especially so when, as submitted by the Councils, there is a need to attract inward investment and urban regeneration in the built up area. I note the treatment of MSAs in other conurbations but the advice in the BGS guidance states that in exceptional circumstances the definition of MSAs to include urban areas may not be justified. In this particular case, I consider that an adequate and steady supply of minerals will not be significantly prejudiced by the exclusion of the urban area from MSAs and that this aspect of the Plan is sound, subject to **MM3** and **MM4** as discussed above.

### **Issue 7 – Whether the restoration and aftercare policy in the Plan is compatible with government advice**

56. Policy 12 of the Plan states that applications for mineral extraction will be permitted where they are accompanied by appropriate proposals for site restoration and aftercare. Moreover, within an application, there should be certain submissions, including details of the financial provision to be put in place to guarantee restoration of the site.
57. The Framework indicates that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.
58. To ensure effective implementation of the planning policy set out in the Framework, Technical Guidance further advises that no payment of money nor other consideration can be required when granting planning permission except where there is specific statutory authority. Moreover, where exceptional circumstances apply, financial guarantees can only be secured through a voluntary agreement or planning obligation and even this should normally be unnecessary where an operator is contributing to an established mutual

funding scheme such as the Mineral Products Association Restoration Guarantee Fund<sup>15</sup>.

59. Therefore, even though there may be exceptional circumstances where a financial guarantee to help ensure restoration may be desirable, it is quite clear from government advice that this should only be secured voluntarily and so should not be an explicit requirement in a policy of the Plan. The Councils have proposed **MM2** which would delete that requirement from Policy 12 and so enable the policy to be consistent with national policy.
60. The removal of the clause from the policy does not mean that financial guarantees would never be appropriate. However, each case should be judged on its own merits without such a requirement being a precondition of mineral extraction as provided for in the policy. As the Councils indicate, even with the removal of the requirement for financial bonds from the policy, there remains an opportunity for the respective mineral planning authority to link restoration provision or the financial provision for its completion to the landownership through (voluntary) developer contributions.
61. A representation suggested the inclusion of the precautionary principle as an additional requirement within the policy. However, for the reasons given in ¶13 and ¶¶39 - 41 above, this would be contrary to national advice and would render the policy unsound. Therefore, I consider that **MM2** would make Policy 12 effective, justified, consistent with national policy and, therefore, sound.

### **Other Issues**

62. The Framework advises that local plans should safeguard existing, planned and potential rail heads, rail links to quarries, wharfage and associated storage and various other facilities, including those related to concrete batching and coated materials.
63. High quality material for road surfacing and concreting is imported into Greater Manchester from quarries in North Wales, Derbyshire, Lancashire, Cumbria, Staffordshire and Cheshire. The material is generally imported by road and to a lesser extent by rail. There are at least three existing rail linked aggregate depots in Greater Manchester, but no more were sought through the plan preparation process. Similarly no specific sites were nominated for depots on the Manchester Ship Canal. There has been no identified need for additional facilities for coated road stone or for additional sites for batching, handling, processing and distribution of secondary aggregate during the Plan period.
64. Planning considerations for new minerals related depots and wharfs will be the same as for other wharfs and depots. Applications will be assessed against development plan policies including those in this plan. The Plan includes Policy 8 which encourages the sustainable transport of minerals and Policy 10, which seeks to safeguard existing mineral sites and infrastructure. Therefore, despite the lack of identification of future sites for other minerals related development, policies in the Plan provide for those that exist to be safeguarded. Consequently, I am satisfied that this aspect of the Plan is

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<sup>15</sup> ¶¶49 – 51 Technical Guidance to the National Planning Policy Framework: DCLG March 2012



sound.

65. Accordingly, with the proposed Main Modifications, the proposed minerals strategy applies the principles of sustainable development to minerals and provides for the delivery of an adequate, steady and sustainable supply of minerals, whilst protecting the environment and securing the prudent use of natural resources. Therefore, it is soundly based, deliverable, effective and consistent with national policy.

## Assessment of Legal Compliance

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

<b>LEGAL REQUIREMENTS</b>	
Local Development Schemes (LDS)	The Greater Manchester Joint Minerals Plan is identified within the various approved LDS. The Plan's content and timing are compliant with the LDS.
Statements of Community Involvement (SCI) and relevant regulations	The SCIs were adopted between July 2006 and February 2011 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed Main Modifications
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations HRA has been carried out and is adequate.
National Policy	The Plan complies with national policy except where indicated and modifications are recommended.
Regional Strategy (RS)	The Plan is in general conformity with the RS.
Sustainable Community Strategies (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act (as amended) and 2012 Regulations	The Plan complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

67. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which means 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.

68. 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 Greater Manchester Joint Minerals Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the Framework.

*A Mead*

Inspector

This report is accompanied by the Appendix containing the Main Modifications

## Appendix – Main Modifications

The modifications below are expressed in the conventional form of ~~strikethrough~~ for deletions and specifying the modification in words in *italics*.

The page numbers and paragraph numbering below refer to the submission DPD, and do not take account of the deletion or addition of text.

Ref	Page	Policy/ paragraph	Main Modification
MM1	23	Policy 2	<p>Policy 2 to be modified as follows:</p> <p>Applications for the extraction and/or processing of sand, gravel or sandstone/gritstone within the Areas of Search identified on Map 2 within this Plan will be permitted where:</p> <ol style="list-style-type: none"> <li>1. The mineral is required to meet a <del>demonstrated need</del> <i>the required landbank of:</i> <ol style="list-style-type: none"> <li><i>i. at least 7 years for sand and gravel or</i></li> <li><i>ii at least 10 years for crushed rock;</i></li> </ol> </li> <li>and</li> <li>2. The site contains adequate reserves of the mineral, in terms of quality and quantity for extraction to take place; and</li> <li>3. The proposal is in accordance with the Key Planning and Environmental Criteria in Policy 1;</li> </ol>
MM2	47	Policy 12	<p>Policy 12 to be modified as follows:</p> <p>Applications for minerals extraction will be permitted where they are accompanied by appropriate proposals for site restoration and aftercare. This should include all of the following:</p> <ol style="list-style-type: none"> <li>1. Details of the final restoration scheme and proposed future land use;</li> <li>2. Details of timescales for completion of restoration including details of completion of individual phases of restoration where a progressive restoration scheme is proposed;</li> <li><del>3. Details of financial provision to be put in place to guarantee the restoration of the site;</del></li> <li>4. Details of aftercare arrangements that are to be put in place to ensure the maintenance and management of the site once restoration is complete;</li> <li>5. Details of community liaison measures to be put in place during the operation of the site including mineral extraction, restoration and final land use.</li> </ol> <p>In defining the future land use for the site, restoration should be geared towards</p>

Ref	Page	Policy/ paragraph	Main Modification
			<p>improvement of final landuse and should:</p> <ul style="list-style-type: none"> <li>i. Demonstrate to the satisfaction of the Local Planning Authority that the proposal is in accordance with the Key Planning and Environmental Criteria in Policy 1;</li> <li>ii. Reflect the requirements of the relevant Development Plan;</li> <li>iii. Take account of the pre-working character of the site and its landscape setting where appropriate;</li> <li>iv. Where land is to be restored for agricultural or forestry, use appropriate restoration techniques to ensure that the land is capable of supporting such uses in the long term;</li> <li>v. Provide for the enhancement of the quality of the landscape, biodiversity assets, local environment, European sites, ecological value of the site or the setting of historic assets to the benefit to the local or wider community.</li> </ul>
MM3	38	Policy 7	<p>Policy 7 to be modified as follows:</p> <p><b>Mineral Safeguarding Areas</b>  <b>Prior extraction of Mineral Resources</b></p> <p><b><i>Within Minerals Safeguarding Areas</i></b></p> <p>All non-mineral development proposals within the Mineral Safeguarding Area (see maps 4, 5, 6, 7 &amp; 8) should extract any viable mineral resources present in advance of construction. Proposals for prior extraction of minerals will be permitted provided the proposal is in accordance with Policy 1 'Key Planning and Environmental Criteria'.</p> <p>Proposals for non-mineral development within the Mineral Safeguarding Areas <del>which</del> <i>that</i> do not allow for the prior extraction of minerals will only be permitted where:</p> <ul style="list-style-type: none"> <li>1. The need for the development outweighs the need to extract the mineral;</li> <li>or</li> <li>2. It can be clearly demonstrated that it is not environmentally acceptable or economically viable to extract the mineral prior to non-mineral development taking place; or;</li> <li>3. It can be clearly demonstrated that the mineral is either not present or of no economic value or too deep to extract in relation to the proposed development; or;</li> </ul>

Ref	Page	Policy/ paragraph	Main Modification
			<p>4. The development is limited <sup>16</sup>or temporary and would not prevent minerals extraction taking place in the future.</p> <p><b>Exemptions</b></p> <p>This policy does not apply to the following:</p> <ul style="list-style-type: none"> <li>i. Applications for Householder development</li> <li>ii. Applications for extension to commercial developments similar in scale to householder developments</li> <li>iii. Applications for Conservation Area Consent</li> <li>iv. Applications for Listed Buildings Consent</li> <li>v. Applications for Advertisement Consent</li> <li>vi. Applications for Tree Works</li> <li>vii. Prior notifications (telecommunications; forestry/ agriculture; demolition); or</li> <li>viii. Certificates of Lawfulness of Existing or Proposed Use or Development (CLEUDs and CLOPUDs)</li> </ul> <p><b>Outside Mineral Safeguarding Areas</b></p> <p><i>All non-mineral development proposals outside the Mineral Safeguarding Areas where the potential for prior extraction to take place has been identified<sup>17</sup>, should seek to extract any viable mineral resources present in advance of construction. Proposals for prior extraction of minerals will be permitted provided the proposal is in accordance with Policy 1 'Key Planning and Environmental Criteria'.</i></p> <p><i>Proposals for non-mineral development outside the Mineral Safeguarding Areas as referred to in footnote that do not allow for the prior extraction of minerals will only be permitted where they accord with points 1 to 4 above.</i></p>
MM4	33	Paragraph 5.68	Delete paragraph
	35	Paragraph 6.4	Delete last bullet point: <del>Peat (only of current economic importance)</del>
		Map 7	Delete Map 7
		Map 11	Delete the Peat MSA from the Map and the Key

<sup>16</sup> "Limited" being proposals which retain existing infrastructure, such as foundations, buildings and utilities

<sup>17</sup> Either through Site Allocation DPDs or other LDF Documents or by the developer

Ref	Page	Policy/ paragraph	Main Modification
		Map 12	Delete the Peat MSA from the Map and the Key
		Map 13	Delete the Peat MSA from the Map and the Key
		Map 14	Delete the Peat MSA from the Map and the Key
		Map 15	Delete the Peat MSA from the Map and the Key
		Map 16	Delete the Peat MSA from the Map and the Key
		Map 17	Delete the Peat MSA from the Map and the Key
		Map 18	Delete the Peat MSA from the Map and the Key
		Map 19	Delete the Peat MSA from the Map and the Key
		Map 20	Delete the Peat MSA from the Map and the Key
MM5	21	Paragraph 5.1	<p>Additional policy to be included as Policy 1 as follows:</p> <p><b><i>Policy 1: The Presumption in favour of Sustainable Minerals Development</i></b></p> <p><i>In line with the presumption in favour of sustainable development set out in the National Planning Policy Framework positive consideration will be given to minerals development which accords with the policies set out in this document and with all other relevant local plan (Local Development Framework) policies. Such development will be considered to be sustainable and will be permitted unless other material considerations indicate otherwise.</i></p>