

1 Response Paper – Policy S8: Safeguarding mineral resources and mineral reserves

Purpose of Policy S8

- 1.1 Minerals are a finite natural resource and can only be worked where they are found. As such best use needs to be made of them to secure their long-term conservation. The NPPF requires the development of a mineral safeguarding policy to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place. Mineral safeguarding aims to avoid the unnecessary sterilisation of this resource, with sterilisation defined as where non-mineral development is established on or in proximity to mineral bearing land which effectively prevents the extraction of the underlying mineral.
- 1.2 Policy S8 sets out the MWPA's approach to the safeguarding of mineral resources that are potentially viable to extract. The approach is based on designating Mineral Safeguarding Areas (MSA) across all land considered to contain minerals of a nature determined as having an economic use by the British Geological Survey (BGS).
- 1.3 MSAs are supported by Mineral Consultation Areas (MCA) which are land use designations extending to 100m from the MSA. MCAs recognise that mineral can be sterilised not only by development taking place upon it, but also if sensitive development is located close to where mineral extraction could take place.
- 1.4 Policy S8 is based on a number of thresholds and qualifying criteria in order to bring an element of proportionality to the approach. The MWPA recognises that an overly restrictive approach to safeguarding cannot be a barrier to growth, but at the same time, the NPPF places great weight on a sustainable use of minerals. The thresholds aim to strike a balance between the competing objectives.
- 1.5 Unlike all other policy response papers, which were drafted in August 2022, this response paper was drafted in January 2024. It was originally intended for the safeguarding policy approach to be informed by an additional project. However, the MWPA were unsuccessful in procuring this package of work. Therefore the originally intended approach was further amended due to the absence of evidence that the MWPA considered crucial to maintaining some of the intended principles,

Summary of Position Prior to March 2021 Regulation 18 (Reg 18) Consultation

- Policy S8 was considered that the general MLP approach to mineral safeguarding is considered to be compliant with the latest iteration of the NPPF, however, a number of amendments and additional detail needed to be provided to ensure full conformity with national policy, raise the profile of mineral sterilisation and to address issues surrounding the clarity of operation and efficacy of Policy S8.

- It was proposed to amend Policy S8 such that it applies to safeguarding matters as they relate to the resource only, whilst all safeguarding matters as they relate to mineral infrastructure are to be moved into a recalibrated Policy S9
- Intentions for Policy S8 to make explicit reference to the BGS criteria through which MSAs were originally designated to make it clear that these are the starting point of any assessment into mineral viability.
- Proposed amendments to formalise the issues to be addressed within a Minerals Resource Assessment in an appendix to the MLP along with the addition of further text to further clarify expectations for such a document.
- The need to give ‘consideration’ to prior mineral extraction was proposed to be deleted from Policy S8 and replaced with a clear need to assess the potential for prior extraction in terms of its practicality and environmental feasibility, and reference to the ‘economic significance’ or similar of a mineral are proposed to be removed such that the policy more closely adheres to the NPPF.
- Appendix 5 was intended to be modified to accommodate the proposed changes to MSAs and MCAs and further expanded to include more detail with regards to the application of Policy S8, including the incorporation of supporting text that was previously in Policy S8.
- Amendments to clarify that land covered by an MSA designation is considered to potentially hold a mineral of local importance by sole virtue of the land being designated as an MSA.
- Two new sections were proposed to be introduced into the Plan, one covering further details around Mineral Resource Assessments, which also flags the additional detail added to Appendix 5, as well as a new section on the benefits that can be realised through a well-designed and timely scheme for prior extraction.

Impact of Revisions to NPPF

The first public consultation in March – April 2021 was informed by the February 2019 iteration of the NPPF. This document was since updated again in 2019, and further in 2021 and three times in 2023. None of these updates significantly impact on the approach to safeguarding.

Summary of Issues Raised through March 2021 Reg 18 Consultation

- 1.6 Support was received across a number of aspects of the safeguarding approach. Whilst also attracting disagreement, support was received for the threshold approach to sand and gravel safeguarding. It was agreed that it increases the potential that prior extraction would be practicable at any given site and is also a more realistic requirement to impose, as opposed to a 3-hectare threshold which represents the minimum that industry had previously identified as having the potential for prior extraction during informal engagement which informed the currently adopted MLP 2014.
- 1.7 Support was also received for MRA to be undertaken as soon as practical and that the need for a MRA should be included in the Validation Checklist of each Local Planning Authority. It was considered that this approach will help

to ensure that a consideration of minerals is made at the earliest stage possible to ensure a more integrated approach to mineral safeguarding in a two-tier authority area. Other areas of support included those passages relating to the benefits of prior extraction, which have been slightly amended and now form Paragraph 3.153 – 3.158 of the emerging MLP, and the recognition of the importance of the Agent of Change principle. Specific attention was drawn to the fact that the onus is on the proposed non-development to demonstrate that if it is in proximity to active operations, it will not be affected by the development and any mitigation required is the responsibility of and must be secured by the agent of change/new development.

- 1.8 Support was further given to the previously proposed approach to assessing viability as a part of the practicability of prior extraction. However, in respect of this, the proposed approach has changed to assessing the benefits and disbenefits of the activity in the context of the proposed non-minerals development, rather than directly against the viability of the non-mineral development itself. This is addressed in more detail below.
- 1.9 Through the consultation, a number of objections, clarifications and other proposed amendments were suggested. The following issues were raised:
 - The scale of mineral resources in the County and the need for a proportionate approach to mineral safeguarding.
 - A review of Mineral Safeguarding Areas should be undertaken to consider the practicality of the mineral being worked in the future.
 - The MLP does not provide a rounded examination of mineral safeguarding.
 - Perceived conflict between Policy S6 and Policy S8, and limiting mineral extraction on non-allocated sites.
 - The need for protections to be in place to ensure that prior extraction does not take place under the pretence of non-mineral development.
 - The need to make clear that mineral safeguarding is a consideration at the site allocation stage and not just the planning application stage.
 - Changes to the way that the financial viability of prior extraction is to be assessed.
 - The role of safeguarding thresholds, their application and whether these are undermined by including all development under the provisions of Policy S8.
 - The appropriateness of the 100m buffer for calculating the area of mineral bearing land potentially sterilised by non-mineral development.
 - The BGS Mineral Assessment Reports are old and perhaps do not reflect a realistic assessment of viable mineral workings.
 - The need to justify or amend supporting text of Policy S8 in relation to the role of Minerals Resource Assessment, mitigation and the approach to consultation.
 - The appropriateness of grouping minerals alongside the conservation of heritage and ecological assets.
 - To ensure its best use, mineral raised through prior extraction may need to be exported to existing processing plant at other sites.

- The potential for long-term impacts and cumulative impact, and how this is to be addressed
- Progress with a safeguarding database.
- Prior extraction offers an opportunity to introduce flood alleviation measures.
- Issues relating to a proposed flood scheme in Coggeshall.

Addressing Issues Arising from March 2021 Reg 18 Consultation

1.10 This section acts to address the issues raised through the March 2021 Regulation 18 Consultation in relation to this policy, as set out above, and subsequently details any changes in approach made through their consideration. These changes of approach will be incorporated within The Draft Essex Minerals Local Plan 2025-2040 Regulation 18 document which will again be subjected to a Regulation 18 public consultation. There now follows a discussion of each of the main issues raised during the March 2021 Reg18 Consultation in relation to this Plan section:

The scale of mineral resources in the County and the need for a proportionate approach to mineral safeguarding

- 1.11 A response was received stating that whilst it is acknowledged that the NPPF refers to the long-term conservation of mineral resources, and that it is accepted that mineral resources are finite, but based on the scale of the safeguarding particularly for sand and gravel within the County, the resource available over the long term is significant. It was further stated that the scale of mineral resource that would ever likely to be lost over the longer term to non-mineral development is low compared to the overall resource size (particularly for sand and gravel). It was subsequently argued that it is in this context that the implementation of the safeguarding policy by the MWPA needs to be proportionate.
- 1.12 The MWPA notes however that the NPPF contains no indication that the spatial extent of mineral resources that are present in any given area is to have an impact on the application of mineral safeguarding policy. As such, this is considered immaterial. However, the MWPA consider its approach proportionate given the use of thresholds which are also not set out in the NPPF.
- 1.13 The current approach is considered to be ‘appropriate’ given the growth pressures in Essex and the fact that mineral-bearing land covers much of the north and middle of the County. The MWPA recognises that an overly restrictive approach to safeguarding cannot be a barrier to growth and has therefore adopted a range of thresholds which determine the proposed approach to the application of safeguarding policy.

A review of Mineral Safeguarding Areas should be undertaken to consider the practicality of the mineral being worked in the future

- 1.14 It was noted that it is evident from the adopted Policies Map that MSAs cover extensive areas of land across the County, with sand and gravel deposits accounting for the majority of the safeguarded areas. It was accepted that it

was important to protect minerals deposits to ensure an adequate supply of primary minerals to meet future needs. However, it was considered that a review of current MSAs should be undertaken to consider the practicality of the minerals being worked in the future. This should have regard to the scale of safeguarded areas, physical constraints and the proximity of existing sensitive uses.

- 1.15 It was further stated that the adopted Minerals Local Plan acknowledges that mineral development can be an environmentally intrusive activity which can have a significant effect on the environment and the quality of life of nearby communities. It is appropriate therefore that the review considers whether MSAs should be retained as currently shown on the Policies Map or if these should be reduced in area, or even removed, where the environmental and amenity impacts of working the minerals could be significant and make extraction impracticable or unfeasible.
- 1.16 Reference was then made to two sites under the control of the respondent that had MSA implications but were considered to be unworkable for minerals due to, for example, the fact that they were already subject to residential development. Instead of safeguarding blanket areas with a theoretical resource, it was considered sensible for MSAs to be reviewed in terms of their ability to contribute to future minerals supply, based on deliverable, workable minerals sites. Where it is evident that sites are unable to contribute to short or long-term supplies as a result of environmental constraints and existing development, it would be prudent for MSAs to be removed.
- 1.17 The MWPA accepts the logic but given the spatial extent of MSAs, it would be a resource intensive exercise to attempt to establish the practicality of mineral working across the full extent of the County. Outside of where the resource is clearly already sterilised, any further modification of MSAs would need to be based on unsubstantiated high-level assumptions which may act to unfairly preclude mineral sourcing opportunities. More importantly, the output of that exercise would only ever relate to that moment in time, with any development permitted after its production that wasn't already in an urban location not then being taken account of. For this output to be able to be subsequently used, it would need to be continually updated with all developments made across the County, leading to hundreds if not potentially thousands of minor amendments. The MWPA currently screen potential non-mineral development sites which meet safeguarding thresholds against regularly updated Ordinance Survey maps through the use of GIS. This allows the MWPA to assess at a high level whether prior extraction is in theory practical. This is undertaken at a site promoter's request and can therefore be done at project initiation. Unless the MSA mapping was to be continually modified, this bespoke search would need to take place in any event.
- 1.18 As such, with respect to the sites mentioned, should an application come forward, this will be screened to assess to what degree mineral safeguarding policy should be applied. Where mineral bearing land is also designated for amenity, ecological and/or historical purposes, or in close proximity to sensitive uses, the MWPA would then exclude these areas when calculating

the area of mineral potentially sterilised. If it is considered that the MWPA has erred in its calculation, the MWPA would welcome discussions with the site promoter or a justification being mounted in a Minerals Resource Assessment.

- 1.19 It is important to note that thresholds set for the safeguarding processes do not automatically preclude non-mineral development, nor do they act to require prior extraction where this is not practicable or environmentally feasible.

The MLP does not provide a rounded examination of mineral safeguarding

- 1.20 A respondent drew attention to a section of the MLP entitled 'Benefits of prior extraction' (Paragraph 3.153 – 3.158) and stated that it presents an overly positive and one-sided account of the impacts of prior extraction. Whilst it was acknowledged that the challenges of prior extraction are alluded to in Appendix Two of the MLP, it was considered that the technical constraints on prior extraction should be noted in the highlighted section, which should be re-written to provide balanced information on the impacts of and opportunities associated with prior extraction. The respondent did not dispute that prior extraction can present opportunities but undertaking mineral extraction on a site to be ultimately developed for something else present significant technical and economic issues.
- 1.21 In addition, it was noted that no mention is made of prior extraction that would lead to the creation of permanent water bodies at restoration which is especially common where sand and gravel deposits lie within the water table. Similarly, it was stated that no mention is made of the need to import fill material to allow part of the prior extracted area to be used for built development. It was considered by the respondent that it was rare that a site can be turned over to an alternative form of built development following mineral extraction without the need to import material to make the contours and landform of the site usable. This was said to be a particularly acute problem for sand and gravel sites which are generally on low lying areas close to the water table.
- 1.22 Whilst the MWPA does not disagree that prior extraction creates both issues and opportunities, it is not considered that there is a requirement to redraft the highlighted section. The Minerals section of PPG states that '*Mineral planning authorities should adopt a systematic approach for safeguarding mineral resources, which adopts clear development management policies which set out how proposals for non-minerals development in Minerals Safeguarding Areas will be handled, and what action applicants for development should take to address the risk of losing the ability to extract the resource. This may include policies that encourage the prior extraction of minerals, where practicable, if it is necessary for non-mineral development to take place in Minerals Safeguarding Areas and to prevent the unnecessary sterilisation of minerals.*'
- 1.23 Mineral safeguarding is a conservation measure and therefore inherently sustainable. Therefore the MWPA, in line with the NPPF and PPG, seeks to include an encouraging approach to mineral safeguarding, albeit one that is proportionate, hence the use of thresholds when determining how to apply

the policy. The referred to section of the MLP is therefore not required to be 'balanced' as it directly addresses part of the PPG. As mentioned, Appendix Two contains further guidance on how mineral safeguarding policy is proposed to be applied, with a Minerals Resource Assessment to address barriers to prior extraction through its assessment of the practicality and environmental feasibility of prior extraction.

Perceived conflict between Policy S6 and Policy S8, and limiting mineral extraction on non-allocated sites

- 1.24 A reference was made to Paragraph 4.108 of the Rationale Report accompanying the Regulation 18 consultation in March 2021, which outlines a situation where prior extraction is involved and appellants have argued that there is a conflict with Policy S6 because Policy S6 seeks to restrict mineral extraction on non-allocated sites whereas Policy S8 encourages the maximisation of extraction where mineral resources would otherwise be sterilised irrespective of whether the site in question is allocated or not. It was noted by the respondent that the Rationale Report disagrees that there is conflict as Policy S6 applies to applications where mineral extraction is the primary purpose of the development. The Rationale Report further states that if the primary purpose of a development is for something else (and mineral extraction is secondary), then Policy S8 applies and this requires carrying out a Minerals Resource Assessment to establish whether prior extraction is practical and environmentally feasible is the next stage. It was concluded that there appears to be no indication of whether this could result in too much extraction taking place because the whole purpose of this strand of enquiry is to establish that extraction should take place.
- 1.25 The MWPA does not agree with this interpretation. Policy S6 seeks to maintain a plan-led system by requiring applications for mineral extraction on non-allocated sites to demonstrate an over-riding justification or benefit for why extraction needs to take place. Unless linked to an unmet need for mineral in the county, mineral extraction for the sake of mineral extraction for commercial reasons, would, without prejudice, unlikely satisfy the need to demonstrate an over-riding justification.
- 1.26 That said, for there to be an over-riding justification or benefit for mineral extraction, mineral extraction would likely be to facilitate a different purpose, such as for engineering a flood alleviation scheme or to provide a very localised source of mineral for a Nationally Significant Infrastructure Project to avoid longer mineral transportation distances. Where mineral extraction is undertaken to facilitate another type of development, the emerging Policy S6 includes a clause requiring that 'The scale of the extraction is no more than the minimum essential for the purpose of the proposal'. The MWPA can attach conditions to any mineral extraction activities approved under this route which limit the amount of sand and gravel that can leave the site, or require that the mineral is only raised for used in a single development.
- 1.27 It was also stated by the respondent that in the usual situation where built development on top of minerals is proposed, the incentive is to avoid prior extraction or minimise extraction. This is agreed with, hence the need to include Policy S8, which requires that minerals are prior extracted ahead of

non-mineral development when it is practical and environmentally feasible to do so, such that they are not unnecessarily sterilised. Faced with their permanent loss, the MWPA seeks through Policy S8 to maximise prior extraction opportunities. It is noted that this distinction is already made in supporting text at Paragraph 3.100 of the MLP.

The need for protections to be in place to ensure that prior extraction does not take place under the pretence of non-mineral development

- 1.28 Through the Regulation 18 consultation in March 2021, it was questioned whether Policy S8 acted to introduce a loophole to Policy S6. It was stated that if a landowner is more interested in extracting the minerals rather than completing surface development, then there was no deterrent for increasing the extraction. It was considered that this introduced a loophole, whereby if an applicant wanted to extract minerals from a non-allocated site, they could propose a non-minerals development (eg a flood storage area) and use it to trigger prior minerals extraction.
- 1.29 The MWPA notes that where mineral extraction is undertaken to facilitate another type of development, the emerging Policy S6 includes a clause stating that '*The scale of the extraction is no more than the minimum essential for the purpose of the proposal*'. The MWPA can attach conditions to any mineral extraction activities approved under this route which limit the amount of sand and gravel that can leave the site or require that the mineral is only used in a single development.
- 1.30 Further, all planning applications are required to contain a restoration scheme setting out how the site will be restored following mineral extraction. Where extraction is permitted to take place to allow for the creation of a flood storage area or housing development, the restoration scheme will be to a flood alleviation scheme or housing development. A planning permission granted for this application for development will have conditions attached requiring that the site is restored in accordance with its restoration scheme. These can be legally secured.

The need to ensure that mineral safeguarding is a consideration at the site allocation stage and not just the planning application stage

- 1.31 Changes to the policy and supporting text regarding mineral safeguarding are noted. The policy and text appear mainly focussed on the need to implement the safeguarding process when potentially sterilising development is proposed at the project stage, however this is equally an important consideration at the plan making stage i.e., it is important that the need to safeguard mineral resources and infrastructure is considered when lower tier authorities are allocating sites in local plans. It is suggested that the text be reviewed to ensure that appropriate emphasis has been given to mineral safeguarding considerations at the plan making stage. For example, a change along the following lines to the second sentence of paragraph 3.136 is suggested (suggested addition from Medway Council in capitals):

- 1.32 The MPA requires an MRA to be undertaken as soon as practical, and at such a time that it can shape and inform the early stages of a Local Plan/Master Plan/planning application.
- 1.33 The MWPA agrees with the suggestion. Paragraph 3.144 of the MLP, and elsewhere in the document, now states that where the tests for MRA are met, '*whether it be development proposed through the preparation of a DPD, Masterplan or planning application, the need for an MRA is expected to form part of early engagement, including pre-application discussions, between the relevant LPA, the prospective developer and/or the MWPA as relevant. The MWPA requires an MRA to be undertaken as soon as practical and for it to demonstrate that it was prepared at such a time that there was at least the potential for it to have shaped and informed the early stages of the design of the proposed development.*' A similar requirement is set out in Table 7 of the MLP which details the issues for an MRA to address.

Changes to the way that the financial viability of prior extraction is to be assessed

- 1.34 A respondent expressed strong disagreement with the proposal that prior extraction should not be ruled out on the grounds that the extraction activity itself would not generate a profit. It was considered that this could have a distortive effect on the aggregates supply market whereby otherwise uneconomic deposits of minerals are forcibly extracted as a result of decisions by planning authorities to enable the development that is subject to the mineral safeguarding constraint (e.g. residential), and the extraction activity is effectively cross subsidised by the value uplift from the resultant development.
- 1.35 It was further argued that in such a scenario, the imperative would be to complete the extraction activity as quickly as possible with no regard for the effect on the wider aggregate market. This could have a highly distortive and deflationary effect on pricing which would harm existing mineral producers at operational and allocated sites who rely on profitability to sustain their operations. The principle of prior extraction was supported where it is viable to do so but only where the extraction itself is able to generate a profit. In other circumstances it was argued that the whole concept of sustainable plan led supply is undermined, and the effects of delays to housing delivery (housing in itself being a scarce resource) should also be considered. It was concluded that the purpose of safeguarding is to ensure that viable mineral deposits are available to supply the construction demands of the future, and this can only be achieved by a sustainable and solvent minerals developer.
- 1.36 The MWPA notes that maximising prior extraction opportunities would have a positive impact on conserving mineral for future use. With regards to the role of a mineral developer, there is the potential to enter into partnerships with the developers of major, long-term housing projects such that there is a synergy between minerals and housing development.
- 1.37 With regards to the central issue of how to assess viability as part of the consideration of whether prior extraction is practical, the MWPA attempted to commission a piece of work around this topic but was unsuccessful. Therefore, ECC no longer proposes amending the approach towards assessing viability as previously stated.

- 1.38 The MWPA respects that matters relating to the viability of non-mineral projects are largely resolved in discussions with the LPA during the formation of their Local Plans and so a full financial appraisal of the viability of the non-mineral development is no longer expected.
- 1.39 However, the need for a financial appraisal of prior extraction is still proposed to remain. The NPPF-derived tests for prior extraction are that it should be encouraged where practical and environmentally feasible. Practicality is to be based on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefits / disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development. The NPPF does not state that prior extraction is required to be profit making.
- 1.40 It is therefore proposed that it will remain the case that the practicality of prior extraction needs to be considered in the context of, for example, housing delivery, but this context does not need to revisit the financial viability of the non-mineral development. The MWPA were however finding that prior extraction was being considered as a standalone commercial activity, and benefits such as using the extracted mineral on-site as part of the housing development were not being considered.

The role of safeguarding thresholds, their application and whether these are undermined by including all development under the provisions of Policy S8

- 1.41 The role of safeguarding thresholds, their application and whether these are undermined by including all development under the provisions of Policy S8 was a common theme through the presentation. A number of respondents disagreed with the application of thresholds in their entirety, noting that the NPPF does not define any area limits for the application of the safeguarding approach. This is acknowledged by the MWPA and proposed amendments to Policy S8 now require the application of safeguarding policy, where relevant, irrespective of the area of a development site that falls within an MSA and/or MCA. However, a degree of proportionality is still considered to be required and as such, area-based thresholds within the policy have been maintained. The difference is that these thresholds now apply to the type of evidence that is required to be submitted to address safeguarding issues and whether the MWPA is to be specifically consulted, rather than whether the policy is applied.
- 1.42 Attention was also drawn to a proposed amendment to Appendix Two which stated 'Unless excluded under Appendix Two of this Plan, development proposals within an MSA and/or within an MCA, which have the potential to sterilise land within an MSA below the relevant thresholds as set out above will be expected to assess the practicality of prior extraction to support the development being applied for.' It was suggested that this paragraph makes the thresholds set out in Table 4 redundant and is contradictory to the text in Part A of Appendix Two which
- 1.43 It was also suggested that Part A of Appendix Two contradicts the above statement, as follows 'Whilst it is recognised that developments below these thresholds have the potential to sterilise mineral, the MPA wish to avoid imposing unrealistic requirements on developers to undertake detailed geological borehole and site investigation work on proposals or allocations

for small scale development close or indeed below the minimum site threshold considered to be potentially viable to support prior extraction.’

- 1.44 It was considered that clarification was required to understand what information would be required in instances when applications fall below the stated thresholds but have the potential to sterilise land, and what types of development this could include.
- 1.45 The MWPA accepts the risk of contradiction and lack of clarity. Elements of Policy S8, its supporting text and Appendix Two have been redrafted following consultation to improve understanding. The MWPA still propose that safeguarding policy should be a material planning consideration for all planning applications for developments of a type not excluded by Table 6 of the MLP. This is because the application of the guiding principles of safeguarding as set out within the NPPF are not restricted to applications greater than any stated area threshold.
- 1.46 Table 3 of the MLP sets out a calculation methodology to determine the area of mineral bearing land potentially sterilised, and the area thresholds for each mineral type. Exceedance of these would require the application to be accompanied by a Minerals Resource Assessment (MRA), as defined through Table 7.
- 1.47 Table 4 sets out four scenarios to guide LPAs to the intended approach for the application of safeguarding policy. For applications not requiring an MRA, Table 4 sets out that the determining authority are to consider mineral sterilisation as part of the planning balance, which the site promoter should still address in evidence, although the MWPA is not required to be consulted. In these instances, a full MRA is not explicitly requested in order to bring proportionality to the application of this element of the Development Plan and concentrate the need for MRA on those larger sites with greater potential for prior extraction.
- 1.48 With regards to applications below the mineral thresholds, the MWPA accepts that prior extraction at this scale is unlikely to be practical, but the impact of long-term sterilisation of a small part of the wider Mineral Safeguarding Area should still be considered in terms of its potential to impact future working, as set out in the NPPF.
- 1.49 Comments were also received which advocated the use of thresholds, which were seen as useful. It was however considered that the policy does not then set out any criteria where an exemption from the presumption to safeguard can be invoked through evidence presented in the MRA. The respondent noted that the NPPF does require policies in local plans to encourage prior extraction of such resources to avoid needless sterilisation. However, for good planning reasons this may not always be possible. An approach incorporating exemption criteria would assist in the assessment of proposals where it is being argued that a departure from the presumption from safeguarding is justified. It was suggested that it may be more appropriate to detail mineral safeguarding exemption criteria in a separate policy alongside Policy S8.
- 1.50 The MWPA takes the position that there is no exemption from applying safeguarding policy, rather there are a number of qualifying tests that

determine how the policy is applied. Where a proposal meets the relevant tests, the practicality and environmental feasibility of prior extraction ahead of the non-mineral development taking place is assessed as set out in policy. If prior extraction is not then proposed, whether the tests are met or not, there needs to be a justification for the non-mineral development that overrides the presumption to safeguard. To ensure that piecemeal losses of finite resources are appropriately factored into the planning balance, conclusions are to be based on the full extent of the MSA within which the application site resides and not scoped to just the application site itself.

- 1.51 Table 3, Table 4 and Table 6 of the MLP contain criteria which determine the degree to which safeguarding provisions are applied. Table 7 and Table 8 state that there is an expectation that Mineral Resource Assessments and Mineral Infrastructure Impact Assessments set out, if prior extraction is not practical and/or environmentally feasible, the justification for sterilising the mineral. This is to include whether there would be the potential to work the land for mineral in the future.
- 1.52 Another respondent stated that the draft plan is too restrictive and unreasonable in its requirements for prior extraction to be undertaken. It was argued that the scale of mineral resource that would ever likely be lost over the longer term to non-mineral development is low compared to the overall resource size, particularly for sand and gravel.
- 1.53 The MWPA notes that the NPPF places no thresholds on the application of safeguarding policy. The MWPA have however sought to implement thresholds in order to apply proportionality to the process given the size of the sand and gravel resource in Essex. The tests for whether prior extraction should take place have been taken from the NPPF and have then been interpreted further in the MLP, including through suggestions to inform safeguarding assessments set out in Table 7. These suggestions are being tested through the public consultation and at this point are considered to be reasonable given the strong stance against the principle of non-mineral development being permitted in safeguarding areas as set out in the NPPF that needs to be balanced against the national priority of housing delivery. The full requirements of the policy are only applied for those sites which have the potential to sterilise mineral over relevant thresholds as these have the greatest potential for prior extraction.
- 1.54 On the theme of housing, a representation stated that mineral safeguarding has the potential to restrict housing growth, obstructing development in what would otherwise be sustainable locations. It was said that the draft plan should be amended to clearly recognise that in these circumstances, where sustainable development can be achieved, in most cases mineral safeguarding should not be used to prevent development. It is suggested that it was in this context that the implementation of the safeguarding policy needs to be proportionate.
- 1.55 The MWPA would clarify that the role of mineral safeguarding is not to 'prevent' non-mineral development. The NPPF sets out a requirement to make 'best use' of finite mineral resources, and this cannot be said to be being achieved if mineral is needlessly sterilised. The NPPF further states that 'Local planning authorities should not normally permit other

development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.’ Prior extraction is therefore given great weight in national planning policy, is in principle clearly a component of sustainable development, and can also provide additional sustainability benefits such as Sustainable Urban Drainage systems and ecologically rich habitats through restoration. Therefore,

- 1.56 All development proposals within an MSA which have the potential to sterilise land will be expected to assess the practicality of prior extraction to support the development being applied for.
- 1.57 Through the consultation it was suggested that the requirement to consider prior extraction is to be replaced with a requirement to assess the potential for prior extraction in terms of its practicality and environmental feasibility. The MWPA clarifies that the requirement to consider prior extraction has not been replaced. The wording of Policy S8 and its supporting test has just been updated to more accurately reflect the tests for prior extraction as set out in the NPPF.

The appropriateness of the 100m buffer for calculating the area of mineral bearing land potentially sterilised by non-mineral development.

- 1.58 The MWPA is proposing that MCAs will be designated as a buffer to MSAs extending up to 100m from MSA peripheries. The appropriateness of this distance was the subject of disagreement through the Regulation 18 consultation in March 2021. In some cases this was considered to be due to incorrect interpretations regarding the function of MCAs and the 100m buffer, but nonetheless issues were raised that it would be appropriate to specifically address. This buffer was often interpreted as being the distance used to assess whether existing, allocated or permitted mineral infrastructure could be impacted by proposed non-mineral development setting up in proximity such that its presence may compromise the operation of the mineral infrastructure on, for example, environmental health grounds.
- 1.59 A common area of objection was that the 100m buffer was unsupported by evidence and therefore based on assumptions or nothing specific. It was requested that justification and evidence should be provided for the 100m limit imposed. It was noted that previous planning policies across the UK in relation to stand offs from minerals operation have considered distances of up to 500m as a minimum from residential premises (as was the case in relation to a case of opencast coal sites in Scotland). It was stated that each mineral extraction site will vary in scale of operation and as such the 100m appears to be an arbitrary limit. It was also noted that unacceptable noise effects can be received beyond 100m, as can air quality and landscape impacts. The methodology and reasoning for the 100m distance has to be supplied in order for it to be suitably scrutinised.
- 1.60 It was also stated that there should be a consistent approach in that the limit applied in the context of the impact upon the mineral safeguarding area should also be applied equally to rule out mineral reserves from being extracted if they are found within a similar distance to existing residential premises. This is a point that should be highlighted in the Appendix 2 when applicants undertake a MRA.

- 1.61 Within the MLP, it is stated that this 100m figure is a reasonable figure to apply as part of a proportionate, desk-based assessment approach to the potential risk of mineral sterilisation. The use of this figure is not to say that mineral extraction is automatically precluded within 100m of existing development, nor will it always be acceptable at 100m from a development. The 100m MCA threshold is used in the application of safeguarding policy to determine whether a development continues to be included, and to what extent, for the purposes of the application of Policy S8. If required, a bespoke MRA linked to both the proposed development site and the nature of the proposed non-mineral development would be expected to test the appropriateness of this threshold as it relates to the proposal and spatial context, and appropriately conclude on the practicality and environmental feasibility of prior extraction.
- 1.62 It is noted that Minerals Safeguarding Practice Guidance, published jointly by the Planning Officers Society and the Mineral Products Association in 2019, states at Paragraph 4.3 that *'Minerals Consultation Areas (MCAs) may also be designated by Mineral Planning Authorities and delineated in the minerals local plan, identifying the area in which the Local Planning Authority should consult with the Mineral Planning Authority on local plan site allocations and planning applications. MCAs are based on MSAs but often extend beyond these in the form of a 'buffer' (generally between 100m and 500m, and commonly 100-250m) around MSAs or mineral infrastructure sites'*.
- 1.63 Further, Guidance on the Assessment of Mineral Dust Impacts for Planning (Institute of Air Quality Management (IAQM), 2016) reports on The Bradley decision made in 2012 (APP/X1355/A/11/2150277) stating that *"At present, there is no statutory guidance for dust"* In June 2015 planning permission was granted on appeal. The decision accepts that; *"....approximately 95% of dust particles from mineral workings have a relatively high mass and generally deposit within 100m of the point of release, with the remainder being deposited within 200 – 500 m of source."*
- 1.64 The IAQM have not updated this advice and it is important to qualify that the MWPA takes the more precautionary approach of a 250m buffer around existing, allocated and permitted mineral infrastructure, including quarries, when considering applications for new non-mineral development in proximity to these. The 100m buffer is drawn around the extent of all mineral resources in Essex for the purposes of understanding the potential for mineral sterilisation. These are resources currently in the ground with no planning permission to extract.
- 1.65 In both cases, the buffers are not exclusionary, they are indicators that there are safeguarding issues to be addressed. Development is not automatically precluded or approved by being within or outside such a buffer. It is recognised that unacceptable impacts can be experienced by existing occupiers of dwellings greater than 100m away although conversely mineral extraction can be 'not inappropriate' less than 100m away from dwellings.
- 1.66 A planning application for mineral development will be required to provide quantified evidence that all existing occupiers of land in proximity to proposed mineral development will not be unacceptably impacted by said development. Any planning permission issued will include conditions

requiring the same. Non-compliance, as evidenced by monitoring, can lead to the mineral operation being shut down temporarily or permanently. Such testing for a minerals application would not be limited to the 100m distance set out in the MLP as Policy S8 would not apply.

- 1.67 A further representation questioned how the MWPA could justify that the 100m MCA buffer 'represents an appropriate balance' as stated in the emerging MLP.
- 1.68 The MWPA notes that Appendix Two of the emerging MLP states that "The area of land to be included as land subject to the test set out in Table 3 is that within the application site covered by the MSA designation and land up to 100m from the application site, also within an MSA designation. The MRA should then take into account the presence or absence of constraints to prior extraction, including those related to land ownership and the restoration required to facilitate the primary (i.e. non-mineral) development."
- 1.69 The above quotation makes clear that the 100m buffer is a starting point for the application of safeguarding policy, with bespoke assessment expected to test this principle. It is noted that increasing this buffer from 100m would have the impact of increasing safeguarding regulation, which is assumed to run counter to the intentions of the respondent. To decrease the buffer would lead to less safeguarding restrictions at the planning application stage for non-mineral development but would in effect be advocating that mineral can be worked less than 100m from the façade of existing non-mineral development.
- 1.70 As previously stated, Minerals Safeguarding Practice Guidance, published jointly by the Planning Officers Society and the Mineral Products Association in 2019, states at Paragraph 4.3 that MCAs are "commonly 100m -250m" around MSAs or mineral infrastructure sites'. When calculating the amount of mineral bearing land potentially sterilised by non-mineral development, the MWPA are proposing to base this on the lowest threshold. This results in the lowest restriction and therefore lower regulatory impact on promoters of non-mineral development whilst still being within an appropriate threshold. When calculating potential impacts of and on non-mineral development from the operation of existing, permitted or allocated mineral infrastructure, the more precautionary approach of 250m is proposed.
- 1.71 Such an approach is considered to be 'appropriate' given the growth pressures in Essex and the fact that mineral-bearing land covers much of the north and middle of the County. The MWPA recognises that an overly restrictive approach to safeguarding cannot be a barrier to growth.
- 1.72 A further response stated that the MCA distance should be changed from 100m to 250m in line with the adopted Statement of Community Involvement. In response, the MWPA reiterates that the 100m threshold relates solely to a calculation used to determine the area of MSA potentially sterilised by the non-mineral development. It is not a limit at which mineral extraction becomes impossible due to guaranteed impacts on existing sensitive development. Such a distance would be required to be assessed on a case-by-case basis.

- 1.73 It was originally proposed to designate land within 250m of an MSA as an MCA. However, there is a requirement for the MWPA to adopt a pragmatic approach when designating MCAs as the likelihood of land ownership issues making borehole investigation and prior extraction improbable increase as the distance from the MSA to the proposed development increases. As such it is proposed to reduce this buffer to 100m. However, where matters relate to the potential impacts of mineral development on newly proposed non-mineral development, the commonly used upper threshold of 250m as set out in safeguarding guidance is applied.

The thresholds and data used are old and perhaps do not reflect a realistic assessment of viable mineral workings.

- 1.74 Alongside an absence of evidence to justify the thresholds used, and whether it was appropriate to apply them in the first place, another avenue of disagreement in relation to the proposed thresholds for Policy S8 was the age of the data used in their formulation. A representation stated that in general the evidence for a number of safeguarding assumptions is significantly out of date including in relation to the threshold for Minerals Resources Assessment (MRA) to be undertaken as well as the BGS and industry data. It was considered that the approach to prior extraction is unrealistic, unjustified and one sided, and that there is no recognition of the cost associated with undertaking it.
- 1.75 The MWPA notes that the numerical thresholds used in Policy S8 were originally consulted upon to inform the MLP adopted in 2014. Whilst therefore 'historic', the MWPA does not consider any threshold to be 'out of date' and by virtue of being adopted, they were considered sound at the time. No evidence has since been submitted to suggest that they do not remain fit for purpose, including during a previous Regulation 18 consultation in 2021, other than some respondents requesting their complete removal which would have the impact of increasing safeguarding restrictions.
- 1.76 The MWPA is currently proposing to maintain all numerical thresholds for when an MRA is required although their application has been amended in order to incorporate the requirement for MCAs. These numerical thresholds, and the whole approach to mineral safeguarding, is again being tested through the Regulation 18 consultation taking place in February 2024.
- 1.77 In relation to the information drawn from BGS Mineral Assessment Reports it was noted through responses that these reports are generally quite old and perhaps do not reflect a realistic assessment of viable mineral workings. For example, an overburden ratio of 3:1 was considered unlikely to be found to be economic to work by most operators given the current cost profile of minerals (in particular sand and gravel) extraction. It was also considered concerning that the safeguarding policy of the draft plan, which will have a potentially huge impact upon a broad range of projects across Essex, is based on data collected over 40 years ago in the 1970s and early 1980s. It was stated that these assumptions need to be tested by modern standards of minerals extraction. Factors such as the price of fuel, changes in extraction equipment and market for the minerals to be used in will have

changed in the intervening time. These changes may have an impact upon the criteria quoted which will be relevant for the MRA to be produced.

- 1.78 The MWPA notes that the BGS Mineral Assessment Reports were produced between the 1970's and early 1980's but, whilst old, the geology has remained unchanged and they are still widely used by aggregate industry geologists for land search purposes. It is also important to note that safeguarding provisions are made in order to safeguard mineral resources for future use. Whilst the practicality of prior extraction as it relates to its economics has to be tested at a given point in time when a planning application is submitted, the NPPF also states that *'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.'* As such, whether a resource is economic to work is a test that needs to be applied both as it exists at the time and also in the future, where resources will likely become progressively scarcer.
- 1.79 An updated mineral resources map will accompany the Plan at Regulation 19, which will be based on the latest version of the BGS Digital Mineral Resource dataset (currently V3). The BGS base the dataset on the criteria highlighted in the representation and it is designed to highlight potentially workable mineral deposits. This is obtained by the MWPA on a subscription basis so is up to date. The land designated as MSAs is considered by the BGS to have the potential to be worked and are, therefore, at least locally important. As such they require safeguarding as per the provisions of the NPPF.
- 1.80 Also in relation to the age of the data, it was stated that the details of the consultation undertaken with the organisations noted within the mineral industry used to formulate the draft plan (which is taken to mean the safeguarding thresholds) should be included within the evidence base alongside a note of when that advice was gained. There was concern that some of the data used may be significantly out of date, as this is believed to be the case with the BGS data and the information noted in Paragraph 3.125 of the March 2021 consultation draft of the MLP. This MLP paragraph highlighted the use of data from 2007 to inform a consultation threshold which was considered unsound. It was noted that significant changes in fuel costs, extraction technology and minerals markets have occurred in that time period and as such these assumptions should be updated. It is then noted that the 2007 data is ultimately ignored and an arbitrary limit of 5ha is applied with no justification or supporting evidence, other than it "represents a proportionate approach". This approach is a common theme across the draft plan, in that little to no evidence has been provided to justify some of the major criteria used to assess applications.
- 1.81 The MWPA does not agree with this position. The highlighted MLP paragraph provides a justification for the 5ha sand and gravel threshold. It is stated that *'Informal consultation carried out with the minerals industry as part of initial evidence gathering for the production of the MLP in 2007 found that there would need to be a minimum of 3ha of resource for the site to be capable of being worked, and so approximately doubling that minimum threshold is considered a reasonable approach towards ensuring that the*

requirements of Policy S8 only apply to non-mineral led applications where there is a reasonable prospect of there being a sufficient quantity of mineral present which is practicable to extract.'

- 1.82 It is important to note that the NPPF does not provide a threshold of any kind. The MWPA considers its threshold-based approach to be proportionate by virtue of the fact that it acts to exclude developments from the full requirements of safeguarding policy where there is very little prospect of prior extraction being viable when the application site is considered on its own merits. The advice referenced would have been secured as part of the formation of the current MLP which was adopted in 2014. The advice therefore pre-dates 2014 and, with regards to the organisations listed, would have, as a minimum, been tested with these as part of statutory engagement. By virtue of the area thresholds being found sound in 2014, and in the absence of any extant national policy or guidance, the matter of relevance now is whether they remain appropriate and are 'not unsound'. As such, the various consultation thresholds have, and continue to be, tested through public engagement and the Duty to Cooperate. Records of all consultations pertaining to the formation of this Plan, including when they took place, can be found in the evidence base supporting this consultation. No evidence has been received to date which would suggest that any of the currently proposed thresholds have been quantified inappropriately to the extent that a reasonable quantified alternative has been proposed.

The need to justify or amend supporting text of Policy S8 in relation to the role of Minerals Resource Assessment, mitigation and the approach to consultation

- 1.83 A respondent noted that the emerging MLP explains what a MWPA must achieve with the policies it adopts. It presents the issue of sterilisation as being either prior extraction or no non-mineral development. The draft plan includes an extensive provision for MRA to be undertaken and for this in turn to demonstrate that prior extraction is not to be undertaken. This supporting text at the beginning of this section needs to be clear that mineral resources can be sterilised if supported by an adequate MRA.
- 1.84 With regards to the suggestion that supporting text at the beginning of this section needs 'to be clear that mineral resources can be sterilised if supported by an 'adequate' MRA', the MWPA does not agree with the full extent of the proposed amendment and considers that its conclusion could potentially be misleading.
- 1.85 All qualifying applications need to be accompanied by an 'adequate' MRA in the sense that the MRA needs to be fit for purpose. If the MRA reasonably concludes that prior extraction is not practicable, then the determining authority will need to assess whether the long-term sterilisation of the mineral is outweighed by the benefit that would be secured by the non-mineral development. Should the MRA conclude that the mineral is practicable and environmentally feasible to extract but the application makes no provision for its extraction, this would be a departure from the Development Plan at MLP and NPPF level. This would be material to any decision reached by the determining authority at district level.

- 1.86 Through the consultation, it was further stated that the draft MLP states that built development would be faced with the same issues that a proposed mineral extraction scheme would face. It was advised that this is not correct. An example was given of a built development proposal which can be designed to retain a number of sensitive features (such as mature trees hedgerows), which practically a minerals scheme would often have to remove. It was argued that the principle of suggesting that if a built development scheme is acceptable on a given site, therefore a mineral scheme would most likely also be acceptable is unfounded and unsound. This needs to be recognised more clearly in the supporting text.
- 1.87 The MWPA does not consider this to be the correct interpretation of the paragraph. The corresponding paragraph in the current consultation document (3.121) states '*Where issues of environmental feasibility are raised, since built development would follow any prior extraction, mitigation measures that make the primary non-mineral development acceptable may also mitigate the impact of prior extraction. Supporting evidence for any application will need to be clear what environmental impact, that demonstrably couldn't be mitigated, would occur from the mineral working alone.*'
- 1.88 The paragraph seeks to ensure that any costs applied to prior extraction for the purposes of practicability and financial viability are costs that are genuinely attributable to prior extraction, rather than costs that would be incurred by the non-mineral development in any event. There is no attempt to equate the two development activities in terms of the issues that may be faced, rather the intention is to make these issues separate and clearly attributable.
- 1.89 It was further highlighted through the consultation that there is no recognition of the cost associated with undertaking prior extraction. This is not agreed with. In terms of cost, MLP Table 7 sets out that practicality is to be based, in part, on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefits / disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development. The NPPF does not state that prior extraction is required to be profit making.
- 1.90 It was also stated through consultation that the proposed amendments to safeguarding policy effectively reduce the current 'buffer' to MSA from 250m to 100m without any apparent justification and it was believed that the 250m buffer should remain. However, it is the case that the MWPA are proposing to add an additional buffer of 100m to the spatial extent of the MSA which effectively increases the reach of the safeguarding policy and addresses the fact that mineral can be sterilised by both proximal development as well as that which takes place directly upon it.

The appropriateness of grouping minerals alongside the conservation of heritage and ecological assets

- 1.91 A respondent acknowledged that the NPPF refers to the long-term conservation of mineral resources and it was accepted that mineral resources are finite. It was however stated that grouping minerals alongside the conservation of heritage and ecological assets is misleading. It was also

said that this would be akin to saying most of Essex is classed as a SSSI or a Scheduled Ancient Monument. It was concluded that nowhere in national planning policy or guidance is the safeguarding of mineral resources compared to the safeguarding of heritage and ecological assets. The wording of this paragraph needs to recognise this point.

- 1.92 The MWPA notes that the MLP makes no attempt to infer that safeguarding policy inhibits development in the same manner as SSSI or SAM designations would do. Where mineral bearing land is also designated for, for example, historic amenity purposes, the MWPA would then exclude that land from the approach to calculating the area of mineral potentially sterilised and reapply the safeguarding policy appropriately.
- 1.93 The following paragraphs set out what the MWPA considers to be a reasonable approach with regards to addressing the conservation of minerals.
- 1.94 Paragraph 3.145 of the draft MLP being put out for consultation in February 2024 states that ‘Safeguarding and prior extraction is described in the NPPF as being a conservation measure and therefore the mineral resources safeguarded through this designation should be seen as a constraint on development that should be positively addressed in a similar manner to any other conservation measure. That is to say that there should be a record in the MRA of how the design of the proposed development sought to reduce or avoid impact on the safeguarded resource, even when prior extraction is not practical.’
- 1.95 Paragraph 3.149 states that ‘conservation measures, in of themselves, are not typically profit generating activities. As such the absence of profit directly related to the prior extraction activity is not, in of itself, an acceptable reason to conclude that the prior extraction of this mineral is unviable, now and/ or in the future. Evidence supporting a conclusion of prior extraction being ‘not practicable’ based solely on economic viability would be expected to be justified through a high-level financial appraisal of the value and costs of prior extraction, which should then be linked to the benefits/disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development.’
- 1.96 The MWPA notes that where land is designated as, for example, a SSSI or SAM, development would likely be prohibited. From the paragraphs set out above, it is clear that the potential for mineral sterilisation is not treated as being as significant a barrier. The sterilisation of minerals is to be avoided if possible, minimised or justified as part of the planning balance. It is further noted that the NPPF states that LPAs should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working. National policy therefore clearly places significant weight on the sterilisation of minerals.

To ensure its best use, mineral raised through prior extraction may need to be exported to existing processing plant at other sites.

- 1.97 Respondents noted that sand and gravel, silica sand and brickearth are non-renewable resources. It was stated that to maximise their use(s) they are

typically washed, screened and processed to produce construction materials that meet recognised product specifications. As such, to maximise the potential recovery and reuse of minerals from MSAs, the MP should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.

- 1.98 The MWPA agrees with this stance, and makes reference to Policy DM3 which states 'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'

The potential for long-term impacts and cumulative impact, and how this is to be addressed

- 1.99 It was stated through representation that quarries will not allow new builds so therefore the area remains open space but the land taken by the quarry is for an unexpected amount of time. Therefore most people will not see a quarry return into previous use eg farmland . The amount of land taken has got to be considered and compared with the overall competition on that piece of land.
- 1.100 Whilst temporary, minerals development is acknowledged as being a potentially longer-term activity. Policy S12 seeks to return land to beneficial after-use as soon as possible. The policy states that '*Proposals for minerals development will be permitted provided that it can be demonstrated that the land is capable of being restored at the earliest opportunity to an acceptable environmental condition to support Local Plan objectives and/or other beneficial after-uses, with positive benefits to the environment, biodiversity and/or local communities. Mineral extraction sites shall be restored using phased, progressive working and restoration techniques*'.
- 1.101 Regarding the requirement to compare land used for mineral extraction with the overall competition on that piece of land, the MWPA does not consider that this is necessary. It is the landowners themselves who put forward their land for consideration for mineral extraction and so in that sense there is not a competing use unless the land owner has also submitted their land for potential development within a LPA's local plan. Engagement under the Duty to Cooperate will bring this to light.
- 1.102 There could however be an issue where two new proposals for different uses in proximity are put forward at the same time. To accommodate this, the Site Assessment Report considers cumulative impact and discussions under the Duty to Cooperate would also highlight this. Paragraph 2.17 of the Site Assessment Report states that '*Cumulative impacts include those associated with existing and/or candidate mineral sites and other cumulative impacts i.e., those outside the MPA's ability to control such as planning permission for nearby residential development, or potential existing local plan allocations. Cumulative impacts will be assessed in detail at site*

selection and planning application stages and tested through future consultation.'

Progress with a safeguarding database

- 1.103 As part of Duty to Cooperate discussions, a local authority have requested that a list of Local Plan sites which have already been considered as acceptable by the MWPA to be included within the consultation to satisfy a reference made at 3.134 of the Regulation 18 2021 consultation draft of the MLP. It was highlighted that the MWPA have noted that this will be done, but until such time as it is published, judgement is reserved regarding whether this satisfactorily addresses these concerns.
- 1.104 The latest engagement under the Duty to Cooperate took place in November 2023 ahead of the Regulation 18 consultation on the replacement MLP in February 2024. With regards to the production of a list of Local Plan sites which have already been considered as acceptable by the MWPA, the approach has since evolved. It is still proposed to include such a database, but it is now considered that this could log the progress of safeguarding considerations up to determination and would be required to be jointly hosted and updated by both the MWPA and the relevant LPA. LPAs will be best placed to compile a schedule of their Local Plan allocations and will also typically be initiating conversations relating to mineral safeguarding concerns through pre-application or other early conversations with developers. Discussions focussed on a database which can be kept up to date and detail when and how safeguarding issues were considered, including, for example, when discussions were held between site promoters, when borehole logs were taken etc, the MRA drafted and reviewed. This will aid promoters with demonstrating adherence to safeguarding policy and potentially front-load the process.
- 1.105 This approach is not specifically detailed within the MLP itself as it is an administrative task to aid monitoring rather than one of policy compliance.

Prior extraction offers an opportunity to introduce flood alleviation measures

- 1.106 It was requested that the MWPA add a reference to after-uses including flood alleviation. To include flood alleviation, where appropriate. Paragraph 3.153 of the emerging MLP now states that prior extraction can also be used as an opportunity in major developments to create Sustainable Drainage Schemes (SuDS) and increase flood resilience.

Issues relating to a proposed flood scheme in Coggeshall

- 1.107 Through the consultation in March 2021, it was raised that Policy S8 states that once the minerals are known to be located, there must be control over building near the site to avoid contamination (100metres away). This shows that where the new quarry at Coggeshall could be developed they are going against their policy as Coggeshall is within this vicinity. If Coggeshall were to expand house building on the south side of Coggeshall it would be contaminated.

- 1.108 The MWPA notes that the referenced quarry would be to engineer a flood alleviation scheme, which is a venture between a private company and the Environment Agency which will involve the establishment of an extension at Bradwell Quarry to facilitate the creation of flood defences. Whilst the MWPA notes the comments received, at the point of the Regulation 18 Consultation in 2021, this was not a site that was being proposed for allocation through the MLP Review. However, land pertaining to a very similar area was submitted through the Call for Sites exercise in March 2022 as a candidate site for future sand and gravel extraction. The site will therefore be assessed under the site selection methodology that all sites received through the March 2022 Call for Sites exercise will be subjected to, and the outcome of that assessment will form part of a second Regulation 18 consultation in 2024 where the Plan end date will be extended to 2040.
- 1.109 Any application submitted to work a site that is not allocated as a Preferred Site in the MLP will be assessed against the relevant policy framework in the adopted MLP, particularly Policy S6, at the point of any application being submitted.
- 1.110 The issues raised in this response to the Regulation 18 Consultation 2021 would be required to be considered, particularly under Policy DM1 – Development Management Criteria, or its future replacement. A specific public consultation exercise on any future application would subsequently form part of the determination process for that application, irrespective of whether it was a Preferred Site or not. As of January 2024, an application has yet to be submitted and therefore there is no application before the MWPA to determine.
- 1.111 The 100m distance referred to is proposed to enable a proportionate, desk-based approach to the application of safeguarding policy. It is not a limit at which mineral extraction becomes impossible due to guaranteed impacts on existing sensitive development. Such a distance is required to be assessed on a case-by-case basis.

Conclusion

- 1.112 Support was received across a number of aspects of the safeguarding approach. Whilst also attracting disagreement, support was received for the threshold approach to sand and gravel safeguarding. Support was also received for MRA to be undertaken as soon as practical and that the need for a MRA should be included in the Validation Checklist of each Local Planning Authority. Other areas of support included those passages relating to the benefits of prior extraction and the recognition of the importance of the Agent of Change principle.
- 1.113 Support was further given to the previously proposed approach to assessing viability as a part of the practicability of prior extraction. However, in respect of this, the proposed approach has changed to assessing the benefits and disbenefits of the activity in the context of the proposed non-minerals development, rather than directly against the viability of the non-mineral development itself.

- 1.114 There were a number of areas of disagreement. Whilst it was acknowledged that the NPPF refers to the long-term conservation of mineral resources, based on the scale of the safeguarding, the resource available over the long term is significant. As such the safeguarding approach by the MWPA needs to be proportionate. However, the NPPF contains no indication that the spatial extent of mineral resources that are present in any given area is to have an impact on the application of mineral safeguarding policy. As such, this is considered immaterial. In any event, the MWPA considers its approach proportionate given the use of thresholds, which are also not required by the NPPF.
- 1.115 It was also suggested that the blanket MSA approach should be refined to remove those parts of the MSA with no prospect of being worked. The MWPA accepts the logic but given the spatial extent of MSAs, it would be a resource intensive exercise to attempt to establish the practicality of mineral working across the full extent of the County. This would also have to be continually maintained, leading to potentially thousands of amendments annually, for it to retain any use. Applications are therefore sieved by the MWPA via the use of GIS before conclusions are drawn on the appropriate application of Policy S8.
- 1.116 A respondent drew attention to a section of the MLP entitled 'Benefits of prior and stated that it presents an overly positive and one-sided account of the impacts of prior extraction. As such, it was considered that it should be re-written. However, whilst the MWPA does not disagree that prior extraction creates both issues and opportunities, it is not considered that there is a requirement to redraft the highlighted section. Therefore the MWPA, in line with the NPPF and PPG, seeks to include an encouraging approach to mineral safeguarding, albeit one that is proportionate, hence the use of thresholds when determining how to apply the policy. Appendix Two of the emerging MLP states how a Minerals Resource Assessment should assess barriers to prior extraction through its assessment of the practicality and environmental feasibility of prior extraction
- 1.117 A number of responses were received which questioned the relationship and apparent tension between Policy S6 which seeks to direct mineral extraction on site allocations unless there is an overriding benefit, and Policy S8, which seeks to maximise prior extraction to avoid sterilisation which would most likely occur on non-allocations. The MWPA does not consider there to be any tension in the approach as an overriding benefit to satisfy Policy S6 could be the need to avoid mineral sterilisation as set out in Policy S8.
- 1.118 It was also questioned whether Policy S8 could act as a loophole and permit mineral development when the promoter has no intention of delivering the 'overriding benefit' as well as potentially allowing more and more extensions to mineral sites in non-allocated areas. However, the MWPA can attach conditions to any approved mineral extraction activities which limit the amount of sand and gravel that can leave the site or require that the mineral is only used in a single development that created the overriding benefit which satisfied Policy S6. Further, all planning applications are required to contain a restoration scheme setting out how the site will be restored following mineral extraction. Where extraction is permitted to take place to

allow for the creation of, for example, a flood storage area or housing development, the restoration scheme will be to a flood alleviation scheme or housing development. A planning permission granted for this application for development will have conditions attached requiring that the site is restored in accordance with its restoration scheme. These can be legally secured.

- 1.119 A respondent expressed strong disagreement with the proposal that prior extraction should not be ruled out on the grounds that the extraction activity itself would not generate a profit. It was considered that this could have a distortive effect on the aggregates supply market as the extraction activity is effectively cross subsidised by the value uplift from the resultant development, and mineral extraction can only be achieved by a sustainable and solvent minerals developer. The MWPA notes that maximising prior extraction opportunities would have a positive impact on conserving mineral for future use. With regards to the role of a mineral developer, there is the potential to enter into partnerships with the developers of major, long-term housing projects such that there is a synergy between minerals and housing development.
- 1.120 Further, the MWPA respects that matters relating to the viability of non-mineral projects are largely resolved in discussions with the LPA during the formation of their Local Plans and so a full financial appraisal of the viability of the non-mineral development is no longer expected. However, the need for a financial appraisal of prior extraction is still proposed to remain. Viability as part of practicability is now proposed to be based on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefit /disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development. The NPPF does not however state that prior extraction is required to be profit making.
- 1.121 The role of safeguarding thresholds, their application and whether these are undermined by including all development under the provisions of Policy S8 was a common theme through the presentation. A number of respondents disagreed with the application of thresholds in their entirety, noting that the NPPF does not define any area limits for the application of the safeguarding approach. This is acknowledged by the MWPA and proposed amendments to Policy S8 now require the application of safeguarding policy, where relevant, irrespective of the area of a development site that falls within an MSA and/or MCA. However, a degree of proportionality is still considered to be required and as such, area-based thresholds within the policy have been maintained. The difference is that these thresholds now apply to the type of evidence that is required to be submitted to address safeguarding issues and whether the MWPA is to be specifically consulted, rather than whether the policy is applied. Some respondents still considered the approach to be too restrictive but the MWPA notes the need to strike a balance between competing objectives. It is further noted that safeguarding policy requires that the practicability and environmental feasibility of prior extraction is assessed but it is not necessarily the case that prior extraction will be automatically required.
- 1.122 It was also considered that the thresholds were based on old data and were therefore either not, or were potentially not, reflective of the modern industry.

This included information sourced from the BGS and local industry. The MWPA consider that, whilst some of the thresholds are historic, the majority of them have either been already adopted in Essex, or are otherwise in use or set out in extant guidance. The MWPA consider that the main issue is whether the thresholds are 'not unsound' and that respect they have, and continue to be, subject to public consultation. No evidence has been received to date which would suggest that any of the currently proposed thresholds have been quantified inappropriately to the extent that a reasonable quantified alternative has been proposed, other than to use no thresholds at all, which the MWPA does not consider to be proportionate. It is also clarified that the role of these thresholds is to enable a proportionate, desk-based approach to the application of safeguarding policy. It is not a limit at which mineral extraction becomes impossible due to guaranteed impacts on existing sensitive development, nor do they act to automatically require prior extraction. It would be a bespoke MRA, informed by quantitative information, where this assessment would be made.

- 1.123 It was also considered that the MLP presents the issue of sterilisation as being either prior extraction or no non-mineral development. It should also be made clear that mineral resources can be sterilised if supported by an adequate MRA. The MWPA does not agree with the full extent of the proposed amendment and considers that its conclusion could potentially be misleading. All qualifying applications need to be accompanied by an 'adequate' MRA in the sense that the MRA needs to be fit for purpose. If the MRA reasonably concludes that prior extraction is not practicable, then the determining authority will need to assess whether the long-term sterilisation of the mineral is outweighed by the benefit that would be secured by the non-mineral development. Should the MRA conclude that the mineral is practicable and environmentally feasible to extract but the application makes no provision for its extraction, this would be a departure from the Development Plan at MLP and NPPF level. This would be material to any decision reached by the determining authority at district level.
- 1.124 Through the consultation, it was further stated that the draft MLP states that built development would be faced with the same issues that a proposed mineral extraction scheme would face. The MWPA does not draw this conclusion. The relevant section of the MLP seeks to ensure that any costs applied to prior extraction for the purposes of practicability and financial viability are costs that are genuinely attributable to prior extraction, rather than costs that would be incurred by the non-mineral development in any event. There is no attempt to equate the two development activities in terms of the issues that may be faced, rather the intention is to make these issues separate and clearly attributable.
- 1.125 A respondent acknowledged that the NPPF refers to the long-term conservation of mineral resources and it was accepted that mineral resources are finite. It was however stated that grouping minerals alongside the conservation of heritage and ecological assets is misleading. It was also said that this would be akin to saying most of Essex is classed as a SSSI or a Scheduled Ancient Monument. The MWPA notes that the MLP makes no attempt to infer that safeguarding policy inhibits development in the same manner as SSSI or SAM designations would do. The MWPA notes that

where land is designated as, for example, a SSSI or SAM, development would likely be prohibited. The MLP makes clear that sterilisation of minerals is to be avoided if possible, minimised or justified as part of the planning balance. This is not as strict an approach to development as being within a SSSI would be. Further, the NPPF states that LPAs should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working. National policy therefore clearly places significant weight on the sterilisation of minerals.

Table 1: March 2021 Regulation 18 Consultation Responses to Policy S8: Safeguarding Mineral Resources

ORGANISATION	ON BEHALF OF	POLICY S8	POLICY S8	MINERALS AND WASTE PLANNING RESPONSE
Name of Organisation	Are you responding on behalf of another individual or organisation? - If Yes, Who?	1.Do you agree or disagree with the rationale behind the amendments proposed in this section of the emerging Minerals Local Plan? (see Rationale Report)	Please provide any comments below:	
Runwell Parish Council (631132323)	Runwell Parish Council	Agree	N/a	N/A
W H Collier Limited (769297167/ 942768790)		Agree		N/A
Blackwater Aggregates (623162177)		Agree (but wish to clarify)	Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.	Agreed, this is already recognised in Policy DM3, which states: <i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it</i>

			<p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.</p>	<p><i>is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>
<p>CEMEX (982058282)</p>		<p>Agree (but wish to clarify)</p>	<p>Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the</p>	<p>Agreed, this is already recognised in Policy DM3, which states:</p> <p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>

			development site.	
Gent Fairhead Aggregates (871678397)		Agree (but wish to clarify)	<p>Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.</p>	<p>Agreed, this is already recognised in Policy DM3, which states:</p> <p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>
Resident (850344129)		Agree (but wish to clarify)	<p>Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export</p>	<p>Agreed, this is already recognised in Policy DM3, which states:</p> <p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous</i></p>

			of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.	<i>supply, subject to no unacceptable adverse impacts.'</i>
Coggeshall Parish Council (598729813)	Coggeshall parish council	Agree (but wish to clarify)	Policy S8 once the minerals are known to be located there must be control over building near the site to avoid contamination (100metres away). This shows that where the new quarry at Coggeshall could be developed they are going against their policy as Coggeshall is within this vicinity. If Coggeshall were to expand house building on the south side of Coggeshall it would be contaminated.	The MWPA notes that the referenced quarry would be to engineer a flood alleviation scheme, which is a venture between a private company and the Environment Agency which will involve the establishment of an extension at Bradwell Quarry to facilitate the creation of flood defences. Whilst the MWPA notes the comments received, at the point of the Regulation 18 Consultation in 2021, this was not a site that was being proposed for allocation through the MLP Review. However, land pertaining to a very similar area was submitted though the Call for Sites exercise in March 2022 as a candidate site for future sand and gravel extraction. The site will therefore be assessed under the site selection methodology that all sites received through the March 2022 Call for Sites exercise will be subjected to, and the outcome of that assessment will form

				<p>part of a second Regulation 18 consultation in 2024 where the Plan end date will be extended to 2040. It is further noted that the evidence supporting this submission states that a 'planning application for the flood alleviation scheme will come forward during 2022'. This would pre-date the adoption of any new Preferred Site allocations through the MLP Review and the site would therefore be considered to be a proposal on a non-Preferred Site at that time, irrespective of the outcome under the site assessment.</p> <p>Any application submitted to work a site that is not allocated as a Preferred Site in the MLP will be assessed against the relevant policy framework in the adopted MLP, particularly Policy S6, at the point of any application being submitted.</p> <p>The issues raised in this response to the Regulation 18 Consultation 2021 would be required to be considered, particularly under Policy DM1 – Development Management Criteria, or its future replacement. A specific public consultation exercise on any future application would subsequently form part of the determination process for that application, irrespective of whether</p>
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				<p>it was a Preferred Site or not. As of January 2024, an application has yet to be submitted and therefore there is no application before the MWPA to determine.</p> <p>As a general point, the 100m distance referred to is proposed to enable a proportionate, desk-based approach to the application of safeguarding policy. It is not a limit at which mineral extraction becomes impossible due to guaranteed impacts on existing sensitive development. Such a distance is required to be assessed on a case-by-case basis.</p>
Kelvedon & Feering Heritage Society (677892382)		Agree (but wish to clarify)		N/A
Chelmsford City Council (937203217)		Disagree (please clarify)	<p>Chelmsford City Council (CCC) welcomes the opportunity to comment on the Minerals Local Plan Review (MLP) Regulation 18 Consultation, and for the continued engagement from ECC Minerals Planning Authority (MPA) under the Duty to Co-operate.</p> <p>CCC has previously raised detailed concerns and comments, particularly regarding the approach to the viability assessment of safeguarded sites under</p>	<p>The latest engagement under the Duty to Cooperate took place in November 2023 ahead of the Regulation 18 consultation on the replacement MLP in February 2024.</p> <p>With regards to the issue of assessing viability as part of the consideration of whether prior extraction is practical, the record of that meeting notes that the MWPA attempted to commission a piece of work with regards to the approach towards assessing the viability of safeguarding but was unsuccessful. Therefore, ECC will not</p>

			<p>Policy S8 of the MLP. These concerns are set out in full on page 21 of the published Duty to Co-operate report 2020 includes notes of meeting with CCC on 3rd Dec 2019, and the published Duty to Co-operate report 2021 which includes notes of meeting with CCC on 19th Jan 2021 (page 19) and set out in further detail on page 150 to 190.</p> <p>While it is noted in the 2021 Duty to Co-operate report that the MPA have sought to address some of CCC's comments there have been no further changes to the MLP. For example, CCC have requested that a list of Local Plan sites which have already been considered as acceptable by the MPA should be included in reference to paragraph 3.134 of the MLP. The MPA have noted that this will be done, but until such time as it is published CCC reserves judgement on whether this satisfactorily addresses these concerns.</p> <p>It is acknowledged that the MPA recognise that it has yet to address the concerns raised by CCC and intend to continue discussions with CCC under the Duty to Co-operate (as set out in paragraphs 5.4 and 6.3 of the 2021 Duty to Co-operate Report published</p>	<p>be amending the safeguarding approach as previously stated. The MWPA respects that matters relating to the viability of non-mineral projects are largely resolved in discussions with the LPA during the formation of their Local Plans and so a full financial appraisal of the viability of the non-mineral development is no longer expected.</p> <p>However, the need for a financial appraisal of prior extraction is still proposed to remain. This is to be based on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefits / disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development.</p> <p>It is proposed that it will remain the case that the practicality of prior extraction needs to be considered in the context of housing delivery, but this context does not need to revisit the financial viability of the non-mineral development. ECC were finding that prior extraction was being considered as a standalone commercial activity, and benefits such as using the extracted mineral as part of the housing development was not considered.</p> <p>With regards to the production of a list of Local Plan sites which have already</p>
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			<p>alongside this Regulation 18 Consultation). CCC welcomes this proposed continued engagement with a view to resolving CCC's outstanding concerns.</p> <p>However, unfortunately, with no further changes having been proposed to the draft MLP shared informally with CCC in January 2021 the comments and issues raised by CCC, as set out in notes from a meeting on 19th Jan 2021 (page 19) and set out in further detail on page 150 to 190 of the 2021 Duty to Co-operate Report remain the views of CCC.</p> <p>CCC therefore seek to rely on these previous comments to form its formal response to the Regulation 18 Consultation and on that basis formally objects to the proposed amendments to the MLP until such time as these issues can be resolved.</p>	<p>been considered as acceptable by the MWPA, the approach has since evolved. It is still proposed to include such a database, but it is now considered that this could log the progress of safeguarding considerations up to determination and would be required to be jointly hosted and updated by both the MWPA and the relevant LPA. LPAs will be best placed to compile a schedule of their Local Plan allocations and will also typically be initiating conversations relating to mineral safeguarding concerns through pre-application or other early conversations with developers. Discussions focussed on a database which can be kept up to date and detail when and how safeguarding issues were considered, including, for example, when discussions were held between site promoters, when borehole logs were taken etc, the MRA drafted and reviewed. This will aid promoters with demonstrating adherence to safeguarding policy and potentially front-load the process.</p> <p>This approach is not specifically detailed within the MLP itself as it is an administrative task to aid monitoring rather than one of policy compliance.</p>
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<p>Coggeshall Residents Against the Quarry (449012745)</p>		<p>Disagree (please clarify)</p>	<p>The requirement to consider prior extraction is to be replaced with a requirement to assess the potential for prior extraction in terms of its practicality and environmental feasibility.</p>	<p>The requirement to consider prior extraction has not been replaced. The wording of Policy S8 and its supporting test has just been updated to more accurately reflect the tests for prior extraction as set out the NPPF.</p>
			<p>Para 4.108 (Rationale Report) outlines a situation where prior extraction is involved and appellants have argued that there is a conflict with policy S6. The Review rejects this suggesting that policy S6 applies to applications where mineral extraction is the primary purpose of the development. If the primary purpose of a development is for something else (and mineral extraction is secondary), then policy S8 applies and this requires carrying out a Minerals Resource Assessment to establish whether the minerals have economic value and market use. Consideration of whether prior extraction is practical and environmentally feasible is the next stage.</p> <p>However, there appears to be no indication of whether this could result in too much extraction taking place because</p>	<p>The MWPA does not agree with this interpretation.</p> <p>Policy S6 seeks to maintain a plan-led system by requiring applications for mineral extraction on non-allocated sites to demonstrate an over-riding justification or benefit for why extraction needs to take place. Unless linked to an unmet need for mineral in the county, mineral extraction for the sake of mineral extraction, such as for commercial reasons, would, without prejudice, unlikely satisfy the need to demonstrate an over-riding justification.</p> <p>That said, for there to be an over-riding justification or benefit for mineral extraction, mineral extraction would likely be to facilitate a different purpose, such as for engineering a flood alleviation scheme or to provide a very</p>

			<p>the whole purpose of this strand of enquiry is to establish that extraction should take place! In the usual situation where built development on top of minerals is proposed, the incentive is to avoid prior extraction or minimise extraction.</p> <p>When a landowner is more interested in extracting the minerals rather than completing surface development, then there is no deterrent for increasing the extraction. It could therefore be construed from this that there exists a loophole, whereby if an applicant wanted to extract minerals from a non-allocated site, they could propose a non-minerals development (eg a flood storage area) and use it to trigger prior minerals extraction.</p>	<p>localised source of mineral for a Nationally Significant Infrastructure Project to avoid longer mineral transportation distances. Where mineral extraction is undertaken to facilitate another type of development, the emerging Policy S6 includes a clause requiring that 'The scale of the extraction is no more than the minimum essential for the purpose of the proposal'. The MWPA can attach conditions to any mineral extraction activities approved under this route which limit the amount of sand and gravel that can leave the site, or require that the mineral is only raised for used in a single development.</p> <p>Where mineral extraction is undertaken to facilitate another type of development, the emerging Policy S6 includes a clause requiring that 'The scale of the extraction is no more than the minimum essential for the purpose of the proposal'. The MWPA can attach conditions to any mineral extraction activities approved under this route which limit the amount of sand and gravel that can leave the site, or require that the mineral is only used in a single development.</p>
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				<p>All planning applications are required to contain a restoration scheme setting out how the site will be restored following mineral extraction. Where extraction is permitted to take place to allow for the creation of a flood storage area or housing development, the restoration scheme will be to a flood alleviation scheme or housing development. A planning permission granted for this application for development will have conditions attached requiring that the site is restored in accordance with its restoration scheme. These can be legally secured.</p> <p>Whilst Policy S6 primarily seeks to maintain a plan-led system with regard to applications for mineral extraction by creating a hierarchy of preference in favour of allocated sites, it is not intended to work against prior extraction. Prior extraction is undertaken as part of, and ahead of, a non-mineral led development such that finite resources can be better conserved.</p> <p>Policy S8 specifically requires the prior extraction of mineral if it is practical and environmentally feasible to do so ahead of non-mineral development being built on top of mineral bearing land. Without prior extraction, the finite mineral</p>
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				<p>resource underneath will be inaccessible, potentially permanently, which effectively sterilises it. Faced with their permanent loss, the MWPA seeks through Policy S8 to maximise prior extraction opportunities. It is noted that this distinction is already made in supporting text at Paragraph 3.100 of the MLP.</p>
<p>CPRE Essex (665562826)</p>		<p>Disagree (please clarify)</p>	<p>When an applicant is more interested in extracting sand and gravel rather than undertaking surface built development, there appears to be no deterrent for doing so, nor restricting the level of extraction. This suggests there's a potential loophole, whereby if an applicant wanted to extract minerals from a non-allocated site, they could propose a non-minerals development and use it to trigger prior minerals extraction.</p>	<p>Where mineral extraction is undertaken to facilitate another type of development, The emerging Policy S6 includes a clause requiring that 'The scale of the extraction is no more than the minimum essential for the purpose of the proposal'. The MWPA can attach conditions to any mineral extraction activities approved under this route which limit the amount of sand and gravel that can leave the site, or require that the mineral is only used in a single development.</p> <p>All planning applications are required to contain a restoration scheme setting out how the site will be restored following mineral extraction. Where extraction is permitted to take place to allow for the creation of a flood storage area or housing development, the restoration scheme will be to a flood alleviation scheme or housing development. A</p>

				<p>planning permission granted for this application for development will have conditions attached requiring that the site is restored in accordance with its restoration scheme. These can be legally secured.</p>
<p>Suffolk County Council (549043477)</p>		<p>Disagree (please clarify)</p>	<p>The approach for non-miernals surface development sterilising 5ha or more of below ground resources is supported.</p>	<p>Noted.</p>
			<p>However, the 100m distance is questioned. It could be suggested that this should match the distance for neighbour notifications for major minerals planning applications as set out in your Statement of Community Involvement.</p>	<p>The 100m distance referred to is proposed to enable a proportionate, desk-based approach to the application of safeguarding policy. This reflects the typical minimum distance that the MWPA would permit extraction activities taking place from the façade of existing sensitive development and is the exclusionary buffer the MWPA request is employed when initially quantifying the amount of mineral potentially sterilised for the purposes of assessing whether MRA is required. It is not a limit at which mineral extraction becomes impossible due to guaranteed impacts on existing sensitive development. Such a distance would be required to be assessed on a case-by-case basis.</p> <p>It was originally proposed to designate land within 250m of an MSA as an MCA. However, there is a requirement for the MWPA to adopt a pragmatic approach</p>

				when designating MCAs as the likelihood of land ownership issues making borehole investigation and prior extraction improbable increase as the distance from the MSA to the proposed development increases. As such it is proposed to reduce this buffer to 100m.
Thurrock Borough Council (97704900)	Thurrock borough Council	No comment	No additional comment.	Noted
GeoEssex (538324742)		No comment	no comment	Noted
Strutt & Parker (891506607)	G&B Finch	No comment		N/A

ORGANISATION	ON BEHALF OF	POLICY S8	POLICY S8	MINERALS AND WASTE PLANNING AUTHORITY RESPOSE
Name of Organisation	Are you responding on behalf of another individual or organisation? - If Yes, Who?	2.Do you agree or disagree with the proposed amendments as set out in this section of the emerging Minerals Local Plan?	Please provide any comments and/or alternative wording for this section of the Plan below:	
Runwell Parish Council (631132323)	Runwell Parish Council	Agree	N/a	N/A
W H Collier Limited (769297167/ 942768790)		Agree		N/A
Hertfordshire County Council (131572473)		Agree (but wish to clarify)	<p>It is noted that significant amendments have been made to Policy S8 and its supporting text.</p> <p>Table 4 establishes the thresholds for when non-mineral development falling within a MSA, will be required to undertake a Mineral Resource Assessment (MRA). The threshold for non-mineral development falling within a sand and gravel MSA is 5</p>	<p>The MWPA accepts the potential contradiction. Elements of Policy S8, its supporting text and Appendix Two have been redrafted following consultation to improve clarity. The MWPA now propose that safeguarding policy should be a material planning consideration for all planning applications for developments not excluded by Table 6 of the MLP. This is because the application of the guiding principles of safeguarding as set out within the NPPF</p>

			<p>hectares or more. The text in paragraph 3.125 explains that this threshold has been identified by considering the outcomes of the consultation with the minerals industry in 2007.</p> <p>The county council supports the threshold of 5 hectares and agrees that it increases the potential that prior extraction would be practicable at any given site and is also a more realistic requirement to impose (as opposed to a 3-hectare threshold).</p> <p>The supporting policy text for Policy S8 has also been amended to include wording on Mineral Resource Assessments (MRA) and the benefits of prior extraction. The proposed wording states that the MPA requires a MRA to be undertaken as soon as practical and that the need for a MRA should be included in the Validation Checklist of each Local Planning Authority. The county council supports the inclusion of this requirement. This approach will help to ensure consideration of minerals is given at the earliest stage possible and ensure a more integrated approach to mineral</p>	<p>are not restricted to applications greater than any stated area threshold.</p> <p>Table 3 of the MLP sets out a calculation methodology to determine the area of mineral bearing land potentially sterilised, and the area thresholds for each mineral type. Exceedance of these would require the application to be accompanied by a Minerals Resource Assessment (MRA), as defined through Table 7.</p> <p>Table 4 sets out four scenarios to guide LPAs to the intended approach for the application of safeguarding policy. For applications not requiring an MRA, Table 4 sets out that the determining authority are to consider mineral sterilisation as part of the planning balance, which the site promoter should still address in evidence, although the MWPA is not required to be consulted. In these instances, a full MRA is not explicitly requested in order to bring proportionality to the application of this element of the Development Plan and concentrate the need for MRA on those larger sites with greater potential for prior extraction.</p> <p>With regards to applications below the</p>
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		<p>safeguarding in a two-tier authority area.</p> <p>Overall, the county council supports the amendments made to Policy S8 and its supporting text, however, would question whether the following paragraph of Policy S8 is appropriate to include:</p> <p><i>Unless excluded under Appendix Two of this Plan, development proposals within an MSA and/or within an MCA, which have the potential to sterilise land within an MSA below the relevant thresholds as set out above will be expected to assess the practicality of prior extraction to support the development being applied for.</i></p> <p>It could be argued that this paragraph makes the thresholds set out in Table 4 redundant and is contradictory to the text in Part A of Appendix Two which states:</p> <p>Whilst it is recognised that developments below these thresholds have the potential to sterilise mineral, the MPA wish to avoid imposing unrealistic requirements on developers to undertake detailed geological borehole and site investigation</p>	<p>mineral thresholds, the MWPA accepts that prior extraction at this scale is unlikely to be practical, but the impact of long-term sterilisation of a small part of the wider Mineral Safeguarding Area should still be considered in terms of its potential to impact future working, as set out in the NPPF.</p>
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			<p>work on proposals or allocations for small scale development close or indeed below the minimum site threshold considered to be potentially viable to support prior extraction.'</p> <p>The county council seeks clarification on this matter, to understand what information will be required in instances when applications fall below the stated thresholds but have the potential to sterilise land and what types of development this could include.</p>	
Blackwater Aggregates (623162177)		Agree (but wish to clarify)	<p>Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and</p>	<p>Agreed, this is already recognised in Policy DM3, which states:</p> <p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>

			<p>minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.</p>	
<p>Medway Council (496262423)</p>		<p>Agree (but wish to clarify)</p>	<p>Changes to the policy and supporting text regarding mineral safeguarding are noted. The policy and text appear mainly focussed on the need to implement the safeguarding process when potentially sterilising development is proposed at the project stage, however this is equally an important consideration at the plan making stage i.e., it is important that the need to safeguard mineral resources and infrastructure is considered when lower tier authorities are allocating sites in local plans. It is suggested that the text be reviewed to ensure that appropriate emphasis has been given to mineral safeguarding considerations at the plan making stage. For example, a change along the following lines to the second sentence of paragraph 3.136 is suggested (suggested addition from Medway Council in capitals): <i>The MPA requires an MRA to be undertaken as soon as practical, and at such a time that it can shape and inform</i></p>	<p>This is agreed.</p> <p>Paragraph 3.144 of the MLP, and elsewhere in the document, now states that where the tests for MRA are met, <i>'whether it be development proposed through the preparation of a DPD, Masterplan or planning application, the need for an MRA is expected to form part of early engagement, including pre-application discussions, between the relevant LPA, the prospective developer and/or the MWPA as relevant. The MWPA requires an MRA to be undertaken as soon as practical and for it to demonstrate that it was prepared at such a time that there was at least the potential for it to have shaped and informed the early stages of the design of the proposed development.'</i></p> <p>A similar requirement is set out in Table 7 of the MLP which details the issues for an MRA to address.</p>

			<i>the early stages of a LOCAL PLAN/Master Plan/planning application.</i>	
			Further on safeguarding, the inserted explanatory text concerning prior extraction (including its viability), at paragraphs 3.138 and 3.145, is supported.	Noted.
CEMEX (982058282)		Agree (but wish to clarify)	<p>Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.</p>	<p>Agreed, this is already recognised in Policy DM3, which states:</p> <p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>
Gent Fairhead Aggregates		Agree (but wish to	Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To	Agreed, this is already recognised in Policy DM3, which states:

(871678397)		clarify)	<p>maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.</p>	<p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>
Resident (850344129)		Agree (but wish to clarify)	<p>Sand and gravel, silica sand and brickearth are a virgin, non-renewable resources. To maximise their use(s) they are typically washed, screened and processed to produce construction materials that meet recognised product specifications.</p> <p>To maximise the potential recovery and reuse of minerals from MSAs the Plan should recognise that the potential export of the as raised mineral to an existing</p>	<p>Agreed, this is already recognised in Policy DM3, which states:</p> <p><i>'The minerals for processing and/or treatment shall be sourced from within the boundary of the mineral working within which the plant is located unless it is demonstrated that there are exceptional circumstances or overriding benefits from sourcing materials from elsewhere to supplement indigenous supply, subject to no unacceptable adverse impacts.'</i></p>

			<p>mineral processing plant within a Preferred Site or soil and aggregate recycling facilities would maximise their use and minimise the environment impacts associated with their recovery, rather than provide unprocessed materials with limited value to the development site.</p>	
<p>Kelvedon & Feering Heritage Society (677892382)</p>		<p>Agree (but wish to clarify)</p>	<p>Policy S7 page 79 Section 3.143 afteruse To include flood alleviation, where appropriate</p>	<p>The highlighted paragraph (Now Paragraph 3.151) has been updated to include reference to prior extraction allowing for 'Sustainable Drainage Schemes (SuDS) and increased flood resilience'.</p>
<p>Bretts (203253168)</p>		<p>Agree (but wish to clarify)</p>	<p>NPPF Para 204. c) states: 'safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked)'</p> <p>Whilst we support Policy 8 a) it should be noted that the NPPF does not define any area limits for safeguarding.</p>	<p>Proposed amendments to Policy S8 now require the application of safeguarding policy, where relevant, irrespective of the area of a development site that falls within an MSA and/or MCA. However, a degree of proportionality is still considered to be required and as such, area based thresholds within the policy have been maintained. The difference is that these thresholds now apply to the amount of evidence that is required to be submitted to address safeguarding issues and whether the MWPA is to be specifically consulted, rather than whether the policy is applied</p>
<p>Coggeshall</p>	<p>Coggeshall</p>	<p>Disagree</p>	<p>The fact that the policy states that buildings</p>	<p>As set out in supporting text to Policy</p>

<p>Parish Council (598729813)</p>	<p>parish council</p>	<p>(please clarify)</p>	<p>have to be further away (100 metres). from a potential quarry, this had to relate then to potential new quarry areas. Quarries will not allow new builds so therefore the area remains open space but the land taken by the quarry is for an unexpected amount of time. Therefore most people will not see a quarry return into previous use eg farmland . The amount of land taken has got to be considered and compared with the overall competition on that piece of land.</p>	<p>S8, mineral extraction is not automatically precluded within 100m of existing development. This is however a reasonable figure to apply as part of a proportionate, desk-based approach to assessing the risk of mineral sterilisation and potential impacts on operating mineral infrastructure caused by proximity to sensitive developments established subsequent to a quarry gaining planning permission.</p> <p>Whilst temporary, minerals development is acknowledged as being a potentially longer-term activity. Policy S12 seeks to return land to beneficial after-use as soon as possible. The policy states that <i>'Proposals for minerals development will be permitted provided that it can be demonstrated that the land is capable of being restored at the earliest opportunity to an acceptable environmental condition to support Local Plan objectives and/or other beneficial after-uses, with positive benefits to the environment, biodiversity and/or local communities.</i></p> <p><i>Mineral extraction sites shall be restored using phased, progressive working and restoration techniques'.</i></p> <p>Regarding the requirement to compare</p>
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				<p>land used for mineral extraction with the overall competition on that piece of land, the MWPA does not consider that this is necessary. It is the land owners themselves who put forward their land for consideration for mineral extraction and so in that sense there is not a competing use unless the land owner has also submitted their land for potential development within a LPA's local plan. Engagement under the Duty to Cooperate will bring this to light.</p> <p>There could however be an issue where two new proposals for different uses in proximity are put forward at the same time. To accommodate this, the site assessment considers cumulative impact and discussions under the Duty to Cooperate would also highlight this. Paragraph 2.17 of the Site Assessment Report states that <i>'Cumulative impacts include those associated with existing and/or candidate mineral sites and other cumulative impacts i.e., those outside the MPA's ability to control such as planning permission for nearby residential development, or potential existing local plan allocations. Cumulative impacts will be assessed in detail at site selection and planning application stages and tested through</i></p>
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				<i>future consultation.'</i>
Kent County Council (266388168)		Disagree (please clarify)	<p>The policy fully reflects the requirement of a mineral local plan to make provision for the conservation of potentially economically valuable resources through the establishment of Mineral Safeguarding Areas (and Mineral Consultation Areas), as detailed by Part 17, Section 204 para. c) the NPPF 2019.</p> <p>The policy sets criterion thresholds as to when the Mineral Planning Authority (MPA) shall be consulted. This is seen as useful and is supported by the County Council.</p>	Noted.
			<p>However, the policy does not then set out any criteria when an exemption from the presumption to safeguard can be invoked, using any evidence in the 'mineral resource assessment' documents. The NPPF does require that there are policies in local plans to encourage prior extraction of such resources to effect their conservation and avoiding needless sterilisation (by Part 17, Section 204 para. d)). However, for good planning reasons this may not always be possible. This approach, setting out exemption criteria, would assist in the assessment of proposals where it is being argued that a departure from the presumption from safeguarding is justified. It may be more appropriate to detail mineral safeguarding exemption criteria in</p>	<p>The MWPA takes the position that there is no exemption from applying safeguarding policy, rather there are a number of qualifying tests that determine how the policy is applied. Where a proposal meets the relevant tests, the practicality and environmental feasibility of prior extraction ahead of the non-mineral development taking place is assessed to as set out in policy. If prior extraction is not then proposed, whether the tests are met or not, there needs to be a justification for the non-mineral development that overrides the presumption to safeguard.</p> <p>Table 3, Table 4 and Table 6 contain criteria which determine the degree to</p>

			<p>a separate policy alongside Policy S8.</p> <p>The County Council has produced a Supplementary Planning Document (SPD) on how these criteria are to be interpreted, and what type of evidence is required for both development proposals and local plan allocations for non-mineral developments, on land within Mineral Safeguarding Areas (and Mineral Consultation Areas) to gain an exemption. It is a complex area and how objectively it can be demonstrated that prior extraction is uneconomic, impractical or the need for the non-mineral development overrides the mineral safeguarding presumption are enlarged upon in this adopted safeguarding SPD. Which can be seen at the following link.</p>	<p>which safeguarding provisions are applied. Table 7 and Table 8 state that there is an expectation that Mineral Resource Assessments and Mineral Infrastructure Impact Assessments set out, if prior extraction is not practical and/or environmentally feasible, the justification for sterilising the mineral. This is to include whether there would be the potential to work the land for mineral in the future. To ensure that piecemeal losses of finite resources are appropriately factored into the planning balance, conclusions are to be based on the full extent of the MSA within which the application site resides and not scoped to just the application site itself.</p>
<p>Chelmsford City Council (937203217)</p>		<p>Disagree (please clarify)</p>	<p>Chelmsford City Council (CCC) welcomes the opportunity to comment on the Minerals Local Plan Review (MLP) Regulation 18 Consultation, and for the continued engagement from ECC Minerals Planning Authority (MPA) under the Duty to Co-operate.</p> <p>CCC has previously raised detailed concerns and comments, particularly regarding the approach to the viability assessment of safeguarded sites under Policy S8 of the MLP. These concerns are set out in full on page 21 of the published</p>	<p>The latest engagement under the Duty to Cooperate took place in November 2023 ahead of the Regulation 18 consultation on the replacement MLP in February 2024.</p> <p>With regards to the issue of assessing viability as part of the consideration of whether prior extraction is practical, the record of that meeting notes that the MWPA attempted to commission a piece of work with regards to the approach towards assessing the viability of safeguarding but was unsuccessful.</p>

			<p>Duty to Co-operate report 2020 includes notes of meeting with CCC on 3rd Dec 2019, and the published Duty to Co-operate report 2021 which includes notes of meeting with CCC on 19th Jan 2021 (page 19) and set out in further detail on page 150 to 190.</p> <p>While it is noted in the 2021 Duty to Co-operate report that the MPA have sought to address some of CCC's comments there have been no further changes to the MLP. For example, CCC have requested that a list of Local Plan sites which have already been considered as acceptable by the MPA should be included in reference to paragraph 3.134 of the MLP. The MPA have noted that this will be done, but until such time as it is published CCC reserves judgement on whether this satisfactorily addresses these concerns.</p> <p>It is acknowledged that the MPA recognise that it has yet to address the concerns raised by CCC and intend to continue discussions with CCC under the Duty to Co-operate (as set out in paragraphs 5.4 and 6.3 of the 2021 Duty to Co-operate Report published alongside this Regulation 18 Consultation). CCC welcomes this proposed continued engagement with a view to resolving CCC's outstanding</p>	<p>Therefore, ECC will not be amending the safeguarding approach as previously stated. The MWPA respects that matters relating to the viability of non-mineral projects are largely resolved in discussions with the LPA during the formation of their Local Plans and so a full financial appraisal of the viability of the non-mineral development is no longer expected. However, the need for a financial appraisal of prior extraction is still proposed to remain. This is to be based on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefits / disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development.</p> <p>It is proposed that it will remain the case that the practicality of prior extraction needs to be considered in the context of housing delivery, but this context does not need to revisit the financial viability of the non-mineral development. ECC were finding that prior extraction was being considered as a standalone commercial activity, and benefits such as using the extracted mineral as part of the housing development was not considered.</p>
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			<p>concerns.</p> <p>However, unfortunately, with no further changes having been proposed to the draft MLP shared informally with CCC in January 2021 the comments and issues raised by CCC, as set out in notes from a meeting on 19th Jan 2021 (page 19) and set out in further detail on page 150 to 190 of the 2021 Duty to Co-operate Report remain the views of CCC.</p> <p>CCC therefore seek to rely on these previous comments to form its formal response to the Regulation 18 Consultation and on that basis formally objects to the proposed amendments to the MLP until such time as these issues can be resolved.</p>	<p>With regards to the request that a list of Local Plan sites which have already been considered as acceptable by the MWPA should be included, the approach has since evolved. It is still proposed to include such a register, but this will log the progress of safeguarding considerations up to determination and would be required to be jointly hosted and updated by both the MWPA and LPA. LPAs will be best placed to compile a schedule of their Local Plan allocations and will also typically be initiating conversations relating to mineral safeguarding concerns through pre-application or other early conversations with developers. ECC and CCC discussed a log which can be kept up to date and detail when Minerals Resource Assessment (MRAs) and other safeguarding issues were considered, including when discussions were held between site promoters, when borehole logs were taken etc. This will aid promoters with demonstrating adherence to safeguarding policy and potentially front-load the process.</p> <p>This approach is not specifically detailed within the MLP itself as it is an administrative task to aid monitoring</p>
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				rather than one of policy compliance.
CPRE Essex (665562826)		Disagree (please clarify)	When an applicant is more interested in extracting sand and gravel rather than undertaking surface built development, there appears to be no deterrent for doing so, nor restricting the level of extraction. This suggests there's a potential loophole, whereby if an applicant wanted to extract minerals from a non-allocated site, they could propose a non-minerals development and use it to trigger prior minerals extraction. Additional wording is required to close the potential loophole	<p>Where mineral extraction is undertaken to facilitate another type of development, The emerging Policy S6 includes a clause requiring that '<i>The scale of the extraction is no more than the minimum essential for the purpose of the proposal</i>'. The MWPA can attach conditions to any mineral extraction activities approved under this policy which limit the amount of sand and gravel that can leave a site, or require that the mineral is only used in a single development.</p> <p>All planning applications are required to contain a restoration scheme setting out how the site will be restored following mineral extraction. Where extraction is permitted to take place to allow for the creation of a flood storage area or housing development, the restoration scheme will be to a flood alleviation scheme or housing development. A planning permission granted for this application for development will have conditions attached requiring that the site is restored in accordance with its restoration scheme. These can be legally secured.</p> <p>Whilst Policy S6 primarily seeks to</p>

				<p>maintain a plan-led system with regard to applications for mineral extraction by creating a hierarchy of preference in favour of allocated sites, it is not intended to work against prior extraction. Prior extraction is undertaken as part of, and ahead of, a non-mineral led development such that finite resources can be better conserved.</p> <p>Policy S8 specifically requires the prior extraction of mineral if it is practical and environmentally feasible to do so ahead of non-mineral development. Without prior extraction, the finite mineral resource underneath will be inaccessible, potentially permanently, which effectively sterilises it.</p> <p>It is noted that this distinction is already made in supporting text of the MLP but for clarity a direct cross reference to Policy S8 is proposed to be inserted into supporting text of the new emerging Policy S6 at Paragraph 3.98.</p>
David L Walker Ltd (559449615)	Brice Aggregates	Disagree (please clarify)	Paragraph 3.119 sets out assumptions from the BGS Mineral Assessment Reports. These reports are generally quite old now and perhaps do not reflect a realistic assessment of viable mineral workings. For example, an overburden ratio of 3:1 is unlikely to be found to be	The BGS Mineral Assessment Reports were produced between the 1970's and early 1980's and, although old, the geology has remained unchanged and they are still widely used by aggregate industry geologists for land search purposes. It is also important to note

			<p>economic to work by most operators given the current cost profile of minerals (in particular sand and gravel) extraction.</p>	<p>that safeguarding provisions are made in order to safeguard mineral resources for future use. Whilst the practicality of prior extraction as it relates to its economics has to be tested at a given point in time when a planning application is submitted, the NPPF also states that <i>'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.'</i> As such, whether a resource is economic to work is a test that needs to be applied both as it exists at the time and also in the future, where resources will likely become progressively scarcer.</p> <p>An updated mineral resources map will accompany the Plan at Regulation 19, which will be based on the latest version of the BGS Digital Mineral Resource dataset (currently V3). The BGS base the dataset on the criteria highlighted in the representation and it is designed to highlight potentially workable mineral deposits. This is obtained by the MWPA on a subscription basis so is up to date. The land designated as MSAs is considered by the BGS to have the potential to be worked and are, therefore, at least locally important. As</p>
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			<p>BAL strongly disagrees with the logic of paragraphs 3.138 & 3.139 and specifically the content that prior extraction should not be ruled out on the grounds that the extraction activity itself would not generate a profit. This could have a distortive effect on the aggregates supply market whereby otherwise uneconomic deposits of minerals are forcibly extracted as a result of decisions by planning authorities to enable the development that is subject to the mineral safeguarding constraint (e.g. residential), and the extraction activity is effectively cross subsidised by the value uplift from the resultant development.</p> <p>In such a scenario the imperative would be to complete the extraction activity as quickly as possible with no regard for the effect on the wider aggregate market. This could have a highly distortive and deflationary effect on pricing which would harm existing mineral producers at operational and allocated sites who rely on profitability to sustain their operations. BAL supports the principle of prior extraction where it is viable to do so but only where the extraction itself is able to generate a profit. Otherwise, the whole concept of sustainable plan led supply is undermined.</p>	<p>such they require safeguarding as per the provisions of the NPPF.</p> <p>The MWPA notes that maximising prior extraction opportunities would have a positive impact on conserving mineral for future use. With regards to the role of a mineral developer, there is the potential to enter into partnerships with the developers of major, long-term housing projects such that there is a synergy between minerals and housing development.</p> <p>With regards to the issue of assessing viability as part of the consideration of whether prior extraction is practical, the MWPA attempted to commission a piece of work around this topic but was unsuccessful. Therefore, ECC no longer proposes amending the approach towards assessing viability as previously stated.</p> <p>The MWPA respects that matters relating to the viability of non-mineral projects are largely resolved in discussions with the LPA during the formation of their Local Plans and so a full financial appraisal of the viability of the non-mineral development is no longer expected.</p>
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			<p>The effects in delays to housing delivery (housing in itself being a scarce resource) should also be considered.</p> <p>The purpose of safeguarding is to ensure that viable mineral deposits are available to supply the construction demands of the future, and this can only be achieved by a sustainable and solvent minerals developer.</p>	<p>However, the need for a financial appraisal of prior extraction is still proposed to remain. The NPPF-derived tests for prior extraction are that it should be encouraged where practical and environmentally feasible. Practicality is to be based on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefits / disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development. The NPPF does not state that prior extraction is required to be profit making.</p> <p>It is therefore proposed that it will remain the case that the practicality of prior extraction needs to be considered in the context of, for example, housing delivery, but this context does not need to revisit the financial viability of the non-mineral development. The MWPA were however finding that prior extraction was being considered as a standalone commercial activity, and benefits such as using the extracted mineral on-site as part of the housing development were not being considered.</p>
Barton Willmore (1040328186)	L&Q, Cirrus Land and G120 Land	Disagree (please clarify)	This consultation response has been prepared on behalf of L&Q, Cirrus Land and G120 Land. All of these developers	Noted.

			<p>are promoting non-mineral development sites across Essex which are either wholly or in part affected by a series of measures outlined within the Essex County Council Minerals Local Plan Draft Proposed Amendments (referred to from here as the “draft plan”).</p> <p>Given the nature of our client’s land interest, the following comments relate to how the issues of safeguarding mineral resources and avoiding their sterilisation is addressed within the draft plan. In relation to specific policies, our comments relate to the drafting of the following specific policies and appendices:</p> <ul style="list-style-type: none"> • Safeguarding Mineral Resources and Avoiding Their Sterilisation text (Paras 3.113 to 3.148); • Policy S8 – Safeguarding Mineral Resources; • Appendix Two - Implementation of Mineral Resource and Infrastructure Safeguarding Policy; and • Proposals Map. 	
			<p>Broadly the draft plan is too restrictive, and unreasonable in its requirements for prior extraction to be undertaken. The scale of mineral resource that would ever likely to be lost over the longer term to non-mineral development is low compared to the overall</p>	<p>The NPPF places no thresholds on the application of safeguarding policy. The MWPA have however sought to implement thresholds in order to apply proportionality to the process given the size of the sand and gravel resource in</p>

			<p>resource size (particularly for sand and gravel).</p>	<p>Essex. The tests for whether prior extraction should take place have been taken from the NPPF and have then been interpreted further in the MLP, including through suggestions to inform safeguarding assessments set out in Table 7. These suggestions are being tested through the public consultation and at this point are considered to be reasonable given the strong stance against the principle of non-mineral development being permitted in safeguarding areas as set out in the NPPF that needs to be balanced against the national priority of housing delivery.</p>
			<p>Mineral safeguarding has the potential to restrict housing growth, obstructing development in what would otherwise be sustainable locations. The draft plan should be amended to clearly recognise that in these circumstances, where sustainable development can be achieved, in most cases mineral safeguarding should not be used to prevent development. It is in this context that the implementation of the safeguarding policy by the Mineral Planning Authority (MPA) needs to be proportionate.</p>	<p>The role of mineral safeguarding is not to 'prevent' non-mineral development. The NPPF sets out a requirement to make 'best use' of finite mineral resources, and this cannot be said to be being achieved if mineral is needlessly sterilised. The NPPF further states that 'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.' Prior extraction is therefore given great weight in national planning policy, is in principle clearly a component of sustainable development and can also provide benefits such as Sustainable</p>

				<p>Urban Drainage systems and ecologically rich habitats through restoration.</p> <p>All development proposals within an MSA which have the potential to sterilise land will be expected to assess the practicality of prior extraction to support the development being applied for.</p>
			<p>The evidence base user for a number of its assumptions is significantly out of date (in the case of the threshold for Minerals Resources Assessment (MRA) to be undertaken and the BGS and industry data) or are based on broad unsupported and unevidenced assumptions (e.g., 100m standoff from existing minerals operations. The approach to prior extraction is unrealistic, unjustified and one sided, there is no recognition of the cost associated with undertaking it.</p> <p>In summary, the following letter outlines a series of matters that we object to in the draft plan. On the basis of the points raised, the draft plan as it is currently drafted, is considered unsound and unjustified.</p>	<p>The numerical thresholds were originally consulted upon to inform the MLP adopted in 2014.</p> <p>Whilst therefore ‘historic’, the MWPA does not consider any threshold to be ‘out of date’ and by virtue of being adopted, they were considered sound at the time. No evidence has since been submitted to suggest that they do not remain fit for purpose, including a previous Regulation 18 consultation in 2021, other than some respondents requesting their complete removal which would have the impact of increasing safeguarding restrictions.</p> <p>The MWPA is currently proposing to maintain all numerical thresholds for when an MRA is required although their application has been amended in order to incorporate the requirement for MCAs. These numerical thresholds, and</p>

				<p>the whole approach to mineral safeguarding is again being tested through the Regulation 18 consultation taking place in February 2024.</p> <p>An updated mineral resources map will accompany the Plan at Regulation 19, which will be based on the latest version of the BGS Digital Mineral Resource dataset (currently V3). The BGS base the dataset on the criteria highlighted in the representation and it is designed to highlight potentially workable mineral deposits. This is obtained by the MWPA on a subscription basis so is up to date. The land designated as MSAs is considered by the BGS to have the potential to be worked and are, therefore, at least locally important. As such they require safeguarding as per the provisions of the NPPF.</p> <p>In relation to the 100m stand-off, within the MLP, it is stated that this figure is a reasonable figure to apply as part of a proportionate, desk-based assessment approach to the potential risk of mineral sterilisation. The use of this figure is not to say that mineral extraction is automatically precluded within 100m of existing development, nor will it always be acceptable at 100m from a</p>
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			<p>development. The 100m threshold is used in the application of safeguarding policy to determine whether a development continues to be included, and to what extent, for the purposes of the application of policy. If required, a bespoke Minerals Resource Assessment linked to both the proposed development site and the nature of the proposed non-mineral development would be expected to test the appropriateness of this threshold as it relates to the proposal and spatial context, and appropriately conclude on the practicality and environmental feasibility of prior extraction.</p> <p>In terms of cost, MLP Table 7 sets out that practicality is to, in part, be based on a high-level financial appraisal of the value and costs of prior extraction, linked to the benefits / disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development. The NPPF does not state that prior extraction is required to be profit making.</p>	<p>The paragraph sets out the benefits of safeguarding mineral resources. There is no mention of the role that a Minerals Resource Assessment might play within this paragraph.</p>
			<p>Supporting text to Policy S8:</p> <p>This section relates to the supporting text of Policy S8 which is under the heading of "Safeguarding Mineral Resources and</p>	

			<p>Avoiding Their Sterilisation” of the draft plan (Paras 3.113 to 3.148). The following section notes the paragraph numbers that are relevant to the comments being made.</p> <p>3.114 – This paragraph explains what a MPA must achieve with the policies it adopts. It presents the issue of sterilisation as being either prior extraction or no non-mineral development. The draft plan includes an extensive provision for MRA to be undertaken and for this in turn to demonstrate that prior extraction is not to be undertaken. This supporting text at the beginning of this section needs to be clear that mineral resources can be sterilised if supported by an adequate MRA.</p>	<p>With regards to the suggestion that supporting text at the beginning of this section needs ‘to be clear that mineral resources can be sterilised if supported by an ‘adequate’ MRA’, the MWPA does not agree with the full extent of the proposed amendment and considers that its conclusion could potentially be misleading.</p> <p>All qualifying applications need to be accompanied by an ‘adequate’ MRA in the sense that the MRA needs to be fit for purpose. If the MRA reasonably concludes that prior extraction is not practicable, then the determining authority will need to assess whether the sterilisation of the mineral is outweighed by the benefit that would be secured by the non-mineral development. Should the MRA conclude that the mineral is practicable and environmentally feasible to extract but the application makes no provision for its extraction, this would be a departure from the Development Plan at MLP and NPPF level. This would be significant to any decision reached by the determining authority at district level.</p>
			<p>3.117 – The draft plan states that the built development would be faced with the same</p>	<p>This interpretation is not agreed with. The corresponding paragraph in the</p>

			<p>issues that a proposed mineral extraction scheme would face. This is not correct. For example, a built development proposal can be designed to retain a number of sensitive features (such as mature trees hedgerows), which practically a minerals scheme would often have to remove.</p> <p>The principle of suggesting that if a built development scheme is acceptable on a given site, therefore a mineral scheme would most likely also be acceptable is unfounded and unsound. This needs to be recognised more clearly in the supporting text.</p>	<p>current consultation document (3.121) states '<i>Where issues of environmental feasibility are raised, since built development would follow any prior extraction, mitigation measures that make the primary non-mineral development acceptable may also mitigate the impact of prior extraction. Supporting evidence for any application will need to be clear what environmental impact, that demonstrably couldn't be mitigated, would occur from the mineral working alone.</i>'</p> <p>The paragraph seeks to ensure that any costs applied to prior extraction for the purposes of practicability and viability are costs that are genuinely attributable to prior extraction, rather than costs that would be incurred by the non-mineral development in any event. There is no attempt to equate the two development activities in terms of the issues that may be faced, rather the intention is to make these issues separate and clearly attributable.</p>
			<p>3.119 - It is concerning that the safeguarding policy of the draft plan, which will have a potentially huge impact upon a broad range of projects across Essex, is based on data collected over 40 years ago in the 1970s and early 1980s.</p>	<p>The data collected pertains to the underlying geology which would not change over the stated timescale.</p> <p>It is important to note that safeguarding provisions are made in order to</p>

			<p>These assumptions need to be tested by modern standards of minerals extraction. Factors such as the price of fuel, changes in extraction equipment and market for the minerals to be used in will have changed in the intervening time. These changes may have an impact upon the criteria quoted which will be relevant for the MRA to be produced.</p>	<p>safeguarding mineral resources for future use. Whilst the practicality of prior extraction as it relates to its economics has to be tested at a given point in time when a planning application is submitted, the NPPF also states that <i>'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.'</i> As such, whether a resource is economic to work is a test that needs to be applied both the circumstances that prevail at the time and also potentially in the future, where resources will likely become progressively scarcer. The potential for the mineral to be a 'resource' is what the BGS base their mineral resource maps upon, which are then adopted by MWPAs and subjected to safeguarding policy as required by the NPPF.</p>
			<p>3.123 – The details of the consultation undertaken with the organisations noted within the mineral industry used to formulate the draft plan should be included within the evidence base alongside a note of when that advice was gained. There is concern that some of the data used may be significantly out of date, as this is believed to be the case with the BGS data and the information noted in paragraph 3.125 (see</p>	<p>The advice referenced would have been secured as part of the formation of the current MLP which was adopted in 2014. The advice therefore pre-dates 2014 and, with regards to the organisations listed, would have, as a minimum been tested with these as part of statutory engagement.</p> <p>By virtue of the area thresholds being</p>

			<p>below).</p>	<p>found sound in 2014, the matter of relevance is whether they remain appropriate and 'not unsound'. As such, the various consultation thresholds have, and continue to be tested through public engagement and the Duty to Cooperate. Records of all consultations pertaining to the formation of this Plan, including when they took place, can be found in the evidence base supporting this consultation. No evidence has been received to date which would suggest that any of the currently proposed thresholds have been quantified inappropriately to the extent that a reasonable quantified alternative has been proposed.</p> <p>The BGS-related data is taken from the latest data-set. This is obtained by the MWPA on a subscription basis so is up to date.</p>
			<p>3.124 – justification and evidence should be provided for the 100m limit imposed. Previous planning policies across the UK in relation to stand offs from minerals operation have considered distances of up to 500m as a minimum from residential premises (as was the case in relation to case of opencast coal sites in Scotland). Each mineral extraction site will vary in scale of operation and as such the 100m</p>	<p>In relation to the 100m stand-off, this is set out within the MLP as being a reasonable figure to apply as part of a proportionate, desk-based assessment approach to the potential risk of mineral sterilisation.</p> <p>Mineral extraction is not automatically precluded within 100m of existing development, nor will it always be</p>

			<p>appears to be arbitrary limit.</p> <p>There should be a consistent approach in that the limit applied in the context of the impact upon the mineral safeguarding area should also be applied equally to rule out mineral reserves from being extracted if they are found within a similar distance to existing residential premises. This is a point that should be highlighted in the Appendix 2 when applicants undertake a MRA.</p>	<p>acceptable at 100m from a development. Where this 100m threshold determines that a development continues to be included for the application of mineral safeguarding policy, a bespoke Minerals Resource Assessment linked to both the site and the nature of the proposed non-mineral development would be expected to test this threshold and appropriately conclude on the practicality and environmental feasibility of prior extraction.</p> <p>It is noted that Minerals Safeguarding Practice Guidance, published jointly by the Planning Officers Society and the Mineral Products Association in 2019, states at Paragraph 4.3 that '<i>Minerals Consultation Areas (MCAs) may also be designated by Mineral Planning Authorities and delineated in the minerals local plan, identifying the area in which the Local Planning Authority should consult with the Mineral Planning Authority on local plan site allocations and planning applications. MCAs are based on MSAs but often extend beyond these in the form of a 'buffer' (generally between 100m and 500m, and commonly 100-250m) around MSAs or mineral infrastructure sites</i>'.</p>
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				<p>Further, Guidance on the Assessment of Mineral Dust Impacts for Planning (Institute of Air Quality Management (IAQM), 2016) reports on The Bradley decision made in 2012 (APP/X1355/A/11/2150277) stating that <i>“At present, there is no statutory guidance for dust”</i> In June 2015 planning permission was granted on appeal. The decision accepts that; <i>“...approximately 95% of dust particles from mineral workings have a relatively high mass and generally deposit within 100m of the point of release, with the remainder being deposited within 200 – 500 m of source.”</i></p> <p>The IAQM have not updated this advice and it is important to qualify that the MWPA takes the more precautionary approach of a 250m buffer around existing, allocated and permitted mineral infrastructure, including quarries, when considering applications for new non-mineral development in proximity to these. The 100m buffer is drawn around the extent of all mineral resources in Essex for the purposes of understanding the potential for mineral sterilisation.</p> <p>In both cases, the buffers are not</p>
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				<p>exclusionary, they are indicators that there are safeguarding issues to be addressed. Development is not automatically precluded or approved by being within or outside such a buffer. Where an application for mineral development is received, they would not be bound by these buffer values as Policy S8 would not apply. However, they will be required to demonstrate, as part of an evidence base, that there will be no unacceptable impact on any proximate non-mineral development. This will be achieved through bespoke on-sight monitoring rather than a fixed buffer value.</p>
			<p>3.125 – Using data from 2007 to inform a consultation threshold is unsound. Significant changes in fuel costs and extraction technology and minerals markets have occurred in that time period and as such these assumptions should be updated.</p> <p>However, this 2007 data is ultimately ignored and an arbitrary limit of 5ha is applied with no justification or supporting evidence, other than it “represents a proportionate approach”. This approach is a common theme across the draft plan, in that little to no evidence has been provided to justify some of the major criteria used to</p>	<p>The numerical thresholds were originally consulted upon to inform the MLP adopted in 2014.</p> <p>As stated in Paragraph 3.125 of the Regulation 18 consultation version of the MLP in March 2021, Informal consultation carried out with the minerals industry as part of initial evidence gathering for the production of the MLP in 2007 found that there would need to be a minimum of 3ha of resource for the site to be capable of being worked, and so approximately doubling that minimum threshold is considered a reasonable approach</p>

			<p>assess applications.</p>	<p>towards ensuring that the requirements of Policy S8 only apply to non-mineral led applications where there is a reasonable prospect of there being a sufficient quantity of mineral present which is practicable to extract.</p> <p>Whilst therefore ‘historic’, the MWPA does not consider any threshold to be ‘out of date’ and by virtue of being adopted, they were considered sound at the time. No evidence has since been submitted to suggest that they do not remain fit for purpose, including a previous Regulation 18 consultation in 2021, other than their complete removal which would have the impact of increasing safeguarding restrictions.</p> <p>The MWPA is currently proposing to maintain all numerical thresholds for when an MRA is required although their application has been amended in order to incorporate the requirement for MCAs. These numerical thresholds, and the whole approach to mineral safeguarding is again being tested through the Regulation 18 consultation taking place in February 2024.</p>
			<p>3.130 – As noted previously, the 100m limit is referred to again in this paragraph with</p>	<p>Paragraph 3.130 is now Paragraph 3.134 in the draft MLP which will be put</p>

			<p>no evidence provided to justify this distance and why it “represents an appropriate balance”.</p>	<p>out for consultation in February 2024. Whilst it remains the same, Paragraph 8.35 provides further detail with regards to calculating the amount of mineral that would potentially be sterilised:</p> <p><i>“The area of land to be included as land subject to the test set out in Table 3 is that within the application site covered by the MSA designation and land up to 100m from the application site, also within an MSA designation. The MRA should then take into account the presence or absence of constraints to prior extraction, including those related to land ownership and the restoration required to facilitate the primary (i.e. non-mineral) development.”</i></p> <p>The above paragraph makes clear that the 100m buffer is a starting point for the application of safeguarding policy, with bespoke assessment expected to test this principle. It is noted that increasing this buffer from 100m would have the impact of increasing safeguarding regulation, which is assumed to run counter to the intentions of the respondent. To decrease the buffer would lead to less safeguarding restrictions at the planning application stage for non-mineral development, but</p>
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				<p>would be advocating that mineral can be worked less than 100m from the façade of existing non-mineral development.</p> <p>Minerals Safeguarding Practice Guidance, published jointly by the Planning Officers Society and the Mineral Products Association in 2019, states at Paragraph 4.3 that MCAs are “commonly 100m -250m” around MSAs or mineral infrastructure sites’. When calculating the amount of mineral bearing land potentially sterilised by non-mineral development, the MWPA are proposing to base this on the lowest threshold. This results in the lowest restriction and therefore lower regulatory impact on promoters of non-mineral development whilst still being within an appropriate threshold. When calculating potential impacts of and on non-mineral development from the operation of existing, permitted or allocated mineral infrastructure, the more precautionary approach of 250m is proposed.</p> <p>Such an approach is considered to be ‘appropriate’ given the growth pressures in Essex and the fact that mineral-bearing land covers much of the north and middle of the County. The MWPA recognises that an overly restrictive</p>
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				<p>approach to safeguarding cannot be a barrier to growth.</p> <p>It is recognised that unacceptable impacts can be experienced by existing occupiers of dwellings greater than 100m away although conversely mineral extraction can be 'not inappropriate' less than 100m away from dwellings. A planning application for mineral development will be required to provide quantified evidence that all existing occupiers of land in proximity to proposed mineral development will not be unacceptably impacted by said development. Any planning permission issued will include conditions requiring the same. Non-compliance, as evidenced by monitoring, can lead to the mineral operation being shut down temporarily or permanently. Such testing for a minerals application would not be limited to the 100m distance set out in the MLP as this is for a different purpose.</p>
			<p>3.138 – It is acknowledged that paragraph 203 of the NPPF refers to the long-term conservation of mineral resources. It is accepted that mineral resources are finite but based on the scale of the safeguarding particularly for sand and gravel within the</p>	<p>The NPPF contains no indication that the spatial extent of mineral resources that are present in any given area is to have an impact on the application of mineral safeguarding policy. As such, this is considered immaterial.</p>

		<p>County, the resource available over the long term is significant.</p> <p>The scale of mineral resource that would ever likely to be lost over the longer term to non-mineral development is low compared to the overall resource size (particularly for sand and gravel). It is in this context that the implementation of the safeguarding policy by the MPA needs to be proportionate.</p> <p>Grouping minerals alongside the conservation of heritage and ecological assets is misleading. This would be akin to saying most of Essex is classed as a SSSI or a Scheduled Ancient Monument. Nowhere in national planning policy or guidance is the safeguarding of mineral resources compared to the safeguarding of heritage and ecological assets. The wording of this paragraph needs to recognise this point.</p>	<p>The current approach is considered to be 'appropriate' given the growth pressures in Essex and the fact that mineral-bearing land covers much of the north and middle of the County. The MWPA recognises that an overly restrictive approach to safeguarding cannot be a barrier to growth and has therefore adopted a range of thresholds which determine the proposed approach to the application of safeguarding policy. As explained from Paragraph XXX, the lowest threshold in what Minerals Safeguarding Practice Guidance, published jointly by the Planning Officers Society and the Mineral Products Association, calls the commonly applied threshold, is suggested for matters relating to mineral sterilisation. However, when it comes to matters relating directly to the safeguarding of amenity, the MWPA are proposing to apply the maximum commonly applied threshold of 250m.</p> <p>With regards to issues relating to the use of the term 'conservation', the NPPF states, in relation to minerals, that 'best use needs to be made of them to secure their long-term conservation.'</p>
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				<p>Planning Officers Society and the Mineral Products Association, calls the commonly applied threshold. However, when it comes to matters of amenity, the MWPA are proposing to apply the maximum commonly applied threshold of 250m.</p> <p>The following paragraphs set out what the MWPA considers to be a reasonable approach with regards to addressing the conservation of minerals.</p> <p>Paragraph 3.145 of the draft MLP being put out for consultation in February 2024 states that <i>'Safeguarding and prior extraction is described in the NPPF as being a conservation measure and therefore the mineral resources safeguarded through this designation should be seen as a constraint on development that should be positively addressed in a similar manner to any other conservation measure. That is to say that there should be a record in the MRA of how the design of the proposed development sought to reduce or avoid impact on the safeguarded resource, even when prior extraction is not practical.'</i></p> <p>Paragraph 3.149 states that</p>
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				<p><i>'conservation measures, in of themselves, are not typically profit generating activities. As such the absence of profit directly related to the prior extraction activity is not, in of itself, an acceptable reason to conclude that the prior extraction of this mineral is unviable, now and/ or in the future. Evidence supporting a conclusion of prior extraction being 'not practicable' based solely on economic viability would be expected to be justified through a high-level financial appraisal of the value and costs of prior extraction, which should then be linked to the benefits/disbenefits of prior extraction in the context of the delivery of the proposed non-mineral development.'</i></p> <p>Where land is designated as, for example, a SSSI or SAM, development would likely be prohibited. From the paragraphs set out above, it is clear that the potential for mineral sterilisation is not treated as being as significant a barrier.</p>
			<p>3.140 to 3.145 – whilst the title of this section is labelled the “Benefits of prior extraction”, it presents an overly positive and one-sided account of the impacts of prior extraction.</p>	<p>The Minerals section of PPG states that <i>'Mineral planning authorities should adopt a systematic approach for safeguarding mineral resources, which adopts clear development management policies which set out how proposals for</i></p>

			<p>This section needs to be rebalanced to acknowledge both the benefits and the issues associated with prior extraction. It is not disputed that prior extraction can present opportunities however, undertaking mineral extraction on a site to be ultimately developed for something else present significant technical and economic issues.</p> <p>No mention is made of prior extraction that would lead to the creation of permanent water bodies at restoration, this is especially common where sand and gravel deposits lie within the water table.</p> <p>Similarly, no mention is made of the need to import fill material to allow part of the prior extracted area to be used for built development. It is rare that a site can be turned over to an alternative form of built development following mineral extraction without the need to import material to make the contours and landform of the site usable. This is particularly an acute problem for sand and gravel sites which are generally on low lying areas close to the water table.</p> <p>These challenges are alluded to in Table 9 in Appendix 2, but technical constraints on prior extraction should be noted in these paragraphs and the whole section re-</p>	<p><i>non-minerals development in Minerals Safeguarding Areas will be handled, and what action applicants for development should take to address the risk of losing the ability to extract the resource. This may include policies that encourage the prior extraction of minerals, where practicable, if it is necessary for non-mineral development to take place in Minerals Safeguarding Areas and to prevent the unnecessary sterilisation of minerals.'</i></p> <p>Mineral safeguarding is a conservation measure and therefore inherently sustainable. Therefore the MWPA, in line with the NPPF and PPG, seek to include an encouraging approach to mineral safeguarding, albeit one that is proportionate, hence the use of thresholds.</p> <p>The referred to section of the MLP is therefore not required to be 'balanced' as it directly addresses part of the PPG.</p> <p>As recognised through the response, that there are potential constraints on prior extraction is acknowledged in Appendix Two of the MLP informing the February 2024 consultation. The appendix also contains further guidance</p>
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			<p>written to provide balanced information on the impacts of and opportunities associated with prior extraction.</p>	<p>on how mineral safeguarding policy is proposed to be applied and the potential barriers which a Minerals Resource Assessment is to address.</p>
			<p>Policy S8 – Safeguarding Mineral Resources:</p> <p>The main points raised above in relation to the supporting comments are largely repeated in relation the specific policy wording included in Policy S8.</p> <p>Clear evidence and justification needs to be provided to support the distances and site areas referred to in the policy. As noted above we have concerns regarding the 100m standoff distance referred to in relation to the areas sterilised by non-mineral development. At this stage it appears to be unfounded, unacceptable noise effects can be received beyond 100m, as can air quality and landscape impacts for example. The methodology and reasoning for the 100m distance has to be supplied in order for it to be suitably scrutinised.</p>	<p>The MLP makes clear that the 100m buffer is a starting point for the application of safeguarding policy with respect to calculating the area of mineral bearing land that would potentially be sterilised by non-mineral development, with bespoke assessment expected to test this principle. It is noted that increasing this buffer from 100m would have the impact of increasing safeguarding regulation, which is assumed to run counter to the intentions of the respondent. To decrease the buffer would lead to less safeguarding restrictions at the planning application stage for non-mineral development but would be advocating that mineral can be worked less than 100m from the façade of existing non-mineral development.</p> <p>It is recognised that unacceptable impacts can be experienced by existing occupiers of dwellings greater than 100m away although conversely mineral extraction can be ‘not inappropriate’ less than 100m away from dwellings. A planning application for mineral development will be required to provide</p>

				<p>quantified evidence that all existing occupiers of land in proximity to proposed mineral development will not be unacceptably impacted by a proposed mineral development. Any planning permission issued will include conditions requiring the same. Non-compliance, as evidenced by monitoring, can lead to the mineral operation being shut down temporarily or permanently. Such testing for a minerals application would not be limited to the 100m distance set out in the MLP as this is used to calculate an area of potential mineral sterilisation.</p>
			<p>Similarly, the justification and evidence of for the 5ha and 3ha threshold criteria should also be provided so that it can be thoroughly interrogated. There are concerns that a number of these assumptions and criteria have been based on information that is significantly out of date, if this is the case it renders the policy unsound.</p>	<p>The numerical thresholds were originally consulted upon to inform the MLP adopted in 2014.</p> <p>Whilst therefore 'historic', the MWPA does not consider any threshold to be 'out of date' and by virtue of being adopted, they were considered sound at the time. No evidence has since been submitted to suggest that they do not remain fit for purpose, including a previous Regulation 18 consultation in 2021, other than their complete removal which would have the impact of increasing safeguarding restrictions.</p>

				<p>The MWPA is currently proposing to maintain all numerical thresholds for when an MRA is required although their application has been amended in order to incorporate the requirement for MCAs. These numerical thresholds, and the whole approach to mineral safeguarding is again being tested through the Regulation 18 consultation taking place in February 2024.</p>
<p>Suffolk County Council (549043477)</p>		<p>Disagree (please clarify)</p>	<p>The distance should be changed from 100m to 250m. In line with your statement of community involvement.</p>	<p>Minerals Safeguarding Practice Guidance, published jointly by the Planning Officers Society and the Mineral Products Association in 2019, states at Paragraph 4.3 that MCAs are “commonly 100m -250m” around MSAs or mineral infrastructure sites’. When calculating the amount of mineral bearing land potentially sterilised by non-mineral development, the MWPA are proposing to base this on the lowest threshold. This results in the lowest restriction and therefore lower regulatory impact on promoters of non-mineral development whilst still being within an appropriate threshold. When calculating potential impacts of and on non-mineral development from the operation of existing, permitted or allocated mineral infrastructure, the more precautionary approach of 250m is proposed.</p>

				<p>Such an approach is considered to be 'appropriate' given the growth pressures in Essex and the fact that mineral-bearing land covers much of the north and middle of the County. The MWPA recognises that an overly restrictive approach to safeguarding cannot be a barrier to growth.</p> <p>It is recognised that unacceptable impacts can be experienced by existing occupiers of dwellings greater than 100m away although conversely mineral extraction can be 'not inappropriate' less than 100m away from dwellings. A planning application for mineral development will be required to provide quantified evidence that all existing occupiers of land in proximity to proposed mineral development will not be unacceptably impacted by a proposed mineral development. Any planning permission issued will include conditions requiring the same.</p> <p>Non-compliance, as evidenced by monitoring, can lead to the mineral operation being shut down, temporarily or permanently. Such testing for a minerals application would not be limited to the 100m distance set out in the MLP as this is used to calculate an area of</p>
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				potential mineral sterilisation.
Lichfields (62121849)	Bourne Leisure Limited	Disagree (please clarify)	<p>Minerals Safeguarding Areas:</p> <p>It is evident from the Adopted Policies Map that MSAs cover extensive areas of land across the County, with sand and gravel deposits accounting for the majority of the safeguarded areas. It is of course important to protect minerals deposits to ensure an adequate supply of primary minerals to meet future needs. However, we would expect a review of current MSAs to be undertaken to consider the practicality of the minerals being worked in the future, with regard to the scale of safeguarded areas, physical constraints and the proximity of existing sensitive uses.</p> <p>The adopted Minerals Local Plan acknowledges that mineral development can be an environmentally intrusive activity which can have a significant effect on the environment and the quality of life of nearby communities. It is appropriate therefore that the review considers whether MSAs should be retained as currently shown on the Policies Map or if these should be reduced in area, or even removed, where the environmental and amenity impacts of working the minerals could be significant and make extraction</p>	<p>The MWPA accepts the logic but given the spatial extent of MSAs, it would be a resource intensive exercise to attempt to establish the practicality of mineral working across the full extent of the County. Outside of where the resource is clearly already sterilised, any further modification of MSAs would need to be based on unsubstantiated high-level assumptions which may act to unfairly preclude mineral sourcing opportunities. More importantly, the output of that exercise would only ever relate to that moment in time, with any development permitted after its production that wasn't already in an urban location not then being taken account of. For this output to be able to be subsequently used, it would need to be continually updated with all developments made across the County, leading to hundreds if not potentially thousands of minor amendments. The MWPA currently screen potential non-mineral development sites which meet safeguarding thresholds against regularly updated Ordinance Survey maps in order to assess at a high level whether prior extraction is in theory practical. This is undertaken at a site</p>

			<p>impracticable or unfeasible.</p> <p>In the case of The Orchards Holiday Park at St Osyth, for example, there is a MSA for sand and gravel that appears south of the Holiday Park and may also include land within the Holiday Park (the Policies Map is unclear). Near to this area is the foreshore and River Colne. The environment of the River Colne is constrained, forming part of the Essex Estuaries Special Area of Conservation and Colne Estuary Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and RAMSAR. These areas are protected for their high nature conservation and biodiversity value. The neighbouring land is at high risk of flooding (being within Flood Zones 2 and 3). Predominant existing development includes the Holiday Park and Point Clear Village.</p> <p>The Policies Map shows another nearby larger MSA for sand and gravel. A significantly large area of this is developed residential land, forming part of Point Clear Village. The ability to work the minerals deposits in this area is therefore compromised by existing development.</p> <p>Instead of safeguarding blanket areas with a theoretical resource, it is sensible for</p>	<p>promoter's request and can therefore be done at project initiation. Unless the MSA mapping was to be continually modified, this bespoke search would need to take place in any event.</p> <p>As such, with respect to the sites mentioned, should an application come forward, this will be screened to assess to what degree mineral safeguarding policy should be applied. Where mineral bearing land is also designated for amenity, ecological and/or historical purposes, or in close proximity to sensitive uses, the MWPA would then exclude these areas when calculating the area of mineral potentially sterilised. If it is considered that the MWPA has erred in its calculation, the MWPA would welcome discussions with the site promoter or a justification being mounted in a Minerals Resource Assessment.</p> <p>It is important to note that thresholds set for the safeguarding processes do not automatically preclude non-mineral development, nor do they act to require prior extraction where this is not practicable or environmentally feasible.</p>
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			<p>MSAs such as the above to be reviewed in terms of their ability to contribute to future minerals supply, based on deliverable, workable minerals sites. Where it is evident that sites are unable to contribute to short or long-term supplies as a result of environmental constraints and existing development, it would be prudent for MSAs to be removed.</p> <p>We request therefore that a review of current MSAs is incorporated into the next draft of the Minerals Local Plan and Policies Map.</p>	
Heatons (451589647)	Tarmac	Disagree (please clarify)	<p>The detailed guidance proposed for mineral safeguarding in policy and as an appendix is supported. Paragraph 4 (part a) should not be specific to only 'development with the potential to sterilize 5ha or more of sand and gravel, 3ha or more for chalk and greater than 1 dwelling for brick earth and brick clay'. The NPPF does not define the size of the deposit to be safeguarded. Paragraph 204 c refers to known resources of local and national importance.</p>	<p>It is accepted that the NPPF places no thresholds on the application of safeguarding policy. The MWPA have however sought to implement thresholds in order to apply proportionality to the process given the size of the sand and gravel resource in Essex and the growth needing to take place. The tests for whether prior extraction should take place have been taken from the NPPF, thresholds have then been applied, with the means to address the NPPF tests made more transparent through Appendix Two, Table 7. The approach is being tested through the public consultation and at this point are considered to be reasonable.</p>

				Amendments proposed since the last consultation set out that safeguarding policy should always be applied, recognising the lack of NPPF thresholds, but that the need for an MRA and consultation with the MWPA is only required for those sites which have the potential to sterilise mineral over relevant thresholds as these have the greatest potential for prior extraction..
			The recognition of the Agent of Change Principle is supported (paragraphs 3.174 and 3.175). The Agent of Change Principle is not in place to restrict all new development in proximity to mineral workings. The onus though is on the proposed development to demonstrate that if it is in proximity to active operations, it will not be affected by the development and any mitigation required is the responsibility of and must be secured by the agent of change/new development.	Noted.
Mineral Products Association (339717535)		Disagree (please clarify)	Safeguarding Mineral Resources and Avoiding their Sterilization: The MPA support the policy principle of the approach Essex CC are proposing for mineral safeguarding but have the following comments; Para 3.130: The proposed amendments effectively	With regards to the proposed amendments effectively reduce the current 'buffer' to MSA from 250m to 100m without any apparent justification, this is not the case. The MWPA are proposing to add an additional buffer of 100m to the spatial extent of the MSA which effectively increases the reach of the safeguarding policy and addresses the fact that mineral can be sterilised by

			<p>reduce the current 'buffer' to MSA from 250m to 100m without any apparent justification. We believe that the 250m buffer should remain.</p> <p>Policy S8 – Safeguarding Mineral Resources: While the principle of the policy is supported part a) is contrary to National Policy as the NPPF does not define any area limits for safeguarding. Paragraph 204 c) requires known resources ...to be safeguarded.</p>	<p>both proximal development as well as that which takes place directly upon it.</p> <p>In relation to thresholds, it is accepted that the NPPF does not place these on the application of safeguarding policy. The MWPA have however sought to implement thresholds in order to apply proportionality to the process given the size of the sand and gravel resource in Essex and the growth needing to take place. The tests for whether prior extraction should take place have been taken from the NPPF, thresholds have then been applied, with the means to address the NPPF tests made more transparent through Appendix Two, Table 7. The approach is being tested through the public consultation and at this point are considered to be reasonable.</p> <p>Amendments proposed since the last consultation set out that safeguarding policy should always be applied, recognising the lack of NPPF thresholds, but that the need for an MRA and consultation with the MWPA is only required for applications over a certain size where opportunities for prior extraction are considered to be greater.</p>
Thurrock	Thurrock	No comment	No additional comment.	Noted

Borough Council (97704900)	borough Council			
GeoEssex (538324742)		No comment	no comment	Noted
Strutt & Parker (891506607)	G&B Finch	No comment		N/A