



# Report to Wiltshire County Council and Swindon Borough Council

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

## REPORT ON THE EXAMINATION INTO THE WILTSHIRE & SWINDON MINERALS DEVELOPMENT CONTROL POLICIES DEVELOPMENT PLAN DOCUMENT

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## 1 Introduction and Overall Conclusion

- 1.1 Under the terms of section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
  - (a) whether it satisfies the requirements of section 19 and section 24(1) of the 2004 Act, the regulations under section 17(7), and any regulations under section 36 relating to the preparation of the document
  - (b) whether it is sound.
- 1.2 This report contains my assessment of the Wiltshire & Swindon Minerals Development Control Policies DPD in terms of the above matters, along with my recommendations and the reasons for them, as required by section 20(7) of the 2004 Act.
- 1.3 In relation to 1.1(a) above, I am satisfied that the DPD meets the requirements of the Act and the Regulations. In considering 1.1(b) I have applied the three tests of soundness set out in PPS12 paragraph 4.52. In line with national policy, the starting point for the examination is the assumption that the local authorities have submitted what they consider to be a sound plan. The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the legal requirements and/or the tests of soundness. None of these changes should materially alter the substance of the overall plan and its policies, or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 My specified changes include the 'Proposed Changes' formally advanced by the Councils during the examination. For convenience the schedule of Proposed Changes (core document CD40) is attached to my report as an appendix. The Proposed Changes were advertised, with a six week period for public consultation from 9 February 2009 to 23 March 2009. I have taken into account the written representations made during that period insofar as they relate to the Proposed Changes.
- 1.5 My report first considers the legal requirements, and then deals with the relevant matters and issues considered in testing the DPD's justification, effectiveness and consistency with national policy. My overall conclusion is that the DPD would be sound if changed in the ways specified. The principal changes required are, in summary:
  - a) *To remove references to Mineral Consultation Areas.*
  - b) *To clarify the wording of policy MDC6 and the features to which it applies.*
  - c) *To clarify the protection afforded by policy MDC7 to sites at different levels of importance, and to define the areas to which the policy applies.*

For convenience, Annex 1 brings together the detailed changes required to ensure that the plan meets the legal requirements and the three tests of soundness.

## **2 Legal Requirements**

- 2.1 The Wiltshire & Swindon Minerals Development Control Policies DPD was included in the Minerals and Waste Development Scheme for Wiltshire (March 2006). More recently it has been included in the Wiltshire Local Development Scheme (January 2009), where it is timetabled for adoption in June 2009. It is also within the approved Swindon Borough Local Development Scheme (Second Review) dated December 2007, which indicates adoption in July 2009.
- 2.2 The Statements of Community Involvement for the two Councils have been found to be sound by the Secretary of State. That for Wiltshire was formally adopted in July 2006 and that for Swindon was adopted in January 2007. It is evident from the documents submitted by the Councils, including the 'Regulation 28 and 31 Statements' and their DPD Soundness Self Assessment, that the Councils have met the related requirements as set out in the Regulations.
- 2.3 Alongside the preparation of the DPD it is evident that the Councils have carried out a parallel process of sustainability appraisal. I am also satisfied that a 'Habitats Regulations Assessment' has been undertaken (CD14) and that there would be no significant harm to the conservation of any 'European sites' as a result of the policies in the DPD.
- 2.4 On 12 September 2008 the South West Regional Assembly indicated that the DPD is in general conformity with the current and the emerging Regional Spatial Strategy for the South West, and I am satisfied that it is still in general conformity. The emerging Regional Spatial Strategy is now subject to the Secretary of State's Proposed Changes and in view of its advanced stage of preparation it carries considerable weight in my assessment. For convenience I refer to this latest stage as 'the RSS' in my report.
- 2.5 I am also satisfied that the DPD has had regard to the sustainable community strategies for the area.
- 2.6 It is not evident that the DPD fails to comply with the specific requirements of the 2004 Regulations including the requirements in relation to the publication of the prescribed documents, the availability of them for inspection, local advertisement and the notification of DPD bodies. And in accordance with Regulation 13(5), the DPD contains, in Appendix 3, a list of 'saved' development plan policies to be replaced by the policies in the DPD.
- 2.7 I conclude that the legal requirements have all been satisfied.

### **3 'Justified', 'Effective' and 'Consistent with National Policy' Tests**

- 3.1 The format of this part of my report follows that of the 'List of Main Matters' for the Examination and I deal with the main issues in the same order as set out in that List. At the end of each issue the numbers in square brackets identify the most relevant soundness tests concerned. In brief these are: [1] justified, [2] effective, and [3] consistent with national policy.

#### *MATTER 1 - POLICY MDC1 – SUSTAINABLE MINERALS DEVELOPMENT*

***Issue 1.1: With regard to the 'need' for the development in criterion (a), is the further guidance in paragraph 3.6 adequate and consistent with Government policy in MPS1; and to be effective should it not be included in the policy? [2, 3]***

- 3.2 In addressing the basis for need, paragraph 3.6 of the DPD explains that this should be based on the maintenance of a minimum 7-year landbank. Proposed Change PC004 would make it clear that this relates specifically to sand and gravel rather than primary aggregates generally and I accept the need for this change in order to ensure consistency with Government guidance, the RSS and the Minerals Core Strategy.
- 3.3 Otherwise I find the reasoned justification in paragraph 3.6 to be adequate. In drawing attention to the dangers of 'overprovision' it would not, I believe, be interpreted to mean provision of anything over the 7-year landbank would be unacceptable. That is not what it says; and it can be seen from the monitoring and implementation table on page 36 that there is considerable allowance for exceeding the minimum landbank before a review is triggered. The quantitative guidelines in the table give a reasonably clear and adequate indication of the Councils' approach to the question of overprovision.
- 3.4 Paragraph 3.6 contains explanatory background and I do not consider it essential for it to be included in the policy itself. I conclude that this part of the policy is effective and in keeping with higher level policy guidance. With Proposed Change PC004, there would be no failure in terms of soundness tests 2 or 3.

***Issue 1.2: In criterion (d) of policy MDC1, what constitutes 'minerals waste', and does this need to be clarified? [2]***

- 3.5 To clarify the term 'mineral waste' Proposed Change PC042 would add a definition to the Glossary. With this change there would be no lack of clarity.

***Issue 1.3: In criterion (d) of policy MDC1 does it need to be explained how it is envisaged that the generation of mineral waste would be minimised? [2]***

3.6 As the Councils indicate, there are various ways in which mineral waste can be minimised. While it would have been helpful to elaborate a little in the reasoned justification I accept that it is not essential for the soundness of the DPD. With Proposed Change PC042, I conclude that criterion (d) of the policy would be clear and effective. It would meet soundness test 2.

***Overall Conclusion on Matter 1***

3.7 The following changes are required to make the DPD sound:  
Proposed Changes PC004 and PC042.

***MATTER 2 - POLICY MDC2 – MANAGING THE IMPACTS OF MINERALS DEVELOPMENT***

***Issue 2.1: To be effective in protecting the amenities of nearby residential occupiers does policy MDC2 need to prescribe a 100 m buffer zone for all mineral workings? [2]***

3.8 Government policy in MPS2<sup>1</sup> indicates that all impacts of minerals development proposals should be assessed objectively and with regard to cumulative effects. In establishing adequate separation distances between mineral workings and dwellings several different factors need to be taken into account. In view of this guidance I can see no justification for a policy requiring a standard 100 m buffer zone. Such a prescribed buffer zone would be of little value even if regarded simply as a default position or starting point. After all, policy MDC1(b) of the DPD already requires adverse impacts to be addressed “... *through an integrated mitigation strategy developed through early and effective consultation ...*”, and policy MDC2 itself requires the inclusion of appropriate separation distances where necessary to safeguard residential amenity.

3.9 I conclude that it is not necessary for the DPD to refer to a standard buffer zone in order to be effective. The DPD is more flexible without it, in that, in considering separation distances on the basis of the policies, the decision maker is able to strike a well-judged balance taking account of the presence of dwellings, the desirability of the efficient working of the mineral resource, and the various circumstances at the site. In relation to this issue, and having particular regard to soundness test 2, the DPD is sound.

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<sup>1</sup> Especially paragraphs 12 and 28

*MATTER 3 - POLICY MDC3 - MANAGING THE IMPACT ON SURFACE WATER AND GROUNDWATER RESOURCES*

***Issue 3.1: Does the policy add anything to existing national policy [1]***

3.10 Although policy MDC3 does not appear to me to add much to national, regional and strategic policy, it does provide a local application and is helpful in, for example, requiring the use of sustainable drainage systems where appropriate. On balance I conclude that it is justified and worthwhile.

***Issue 3.2: Is the policy coherent with the Minerals Core Strategy (policy MCS1[B]), which indicates the need for a criterion relating to proximity to groundwater source protection zones? [1]***

3.11 The proximity to 'groundwater source protection zones' is an indicative criterion of Minerals Core Strategy policy MCS1(B), yet there is no mention of such zones or any elaboration of the criterion in policy MDC3. However, the latter policy does require the protection of the quality and levels of groundwater and is in this sense compatible with the aims of the Minerals Core Strategy. Being stated in broad terms, policy MDC3 allows for various ways of assisting with flood management to be taken into account. It is not vital for it to refer to groundwater source protection zones.

***Overall Conclusion on Matter 3***

3.12 I conclude that policy MDC3 is adequate, justified and consistent with higher level policies. This part of the DPD is compliant with the soundness tests, including test 1.

*MATTER 4 - POLICY MDC4 - SAFEGUARDING MINERAL RESOURCES, RAILHEAD FACILITIES AND MINERAL RECYCLING FACILITIES*

***Issue 4.1: Is the application of this policy to both Mineral Safeguarding Areas and Mineral Consultation Areas in accordance with Government policy in MPS1(13)? [3]***

3.13 This issue is effectively nullified by Proposed Changes PC006-011, which remove references to Mineral Consultation Areas. The latter cease to be required with the change to unitary status for Wiltshire. I support the Proposed Changes and accept that they are required to make the DPD effective under the new administrative arrangements. Although not directly addressing the issue as stated above, they enable the soundness tests, and test 2 in particular, to be met.

*MATTER 5 - POLICY MDC5 - PROTECTION AND ENHANCEMENT OF LANDSCAPE CHARACTER*

***Issue 5.1: Is the first paragraph of policy MDC5 sufficiently clear to be effective? [2]***

- 3.14 Paragraphs 5.2 and 5.3 of the reasoned justification for policy MDC5 adequately explain the need to take into account the size and nature of proposals when assessing their impact on the landscape. The related qualification in the first paragraph of the policy raises understandable questions about the interpretation of the phrase "as deemed appropriate". However, taken in its context I believe the meaning is sufficiently clear: that is, that the required assessment should be shaped by the size and nature of the mineral development proposals.
- 3.15 I have considered the listing of the designated areas after the words "in particular in relation to ...". The Councils intend the words "in particular" to give emphasis rather than to limit the production of assessments to the designated areas. On balance, and taking account of paragraph 5.5, I accept that this would be reasonably clear.
- 3.16 I conclude that the first paragraph of policy MDC5 is sufficiently clear to be effective.

***Issue 5.2: Given the vulnerability of certain settlements (e.g. Marston Meysey), is the aim of policy MDC5 to protect the character, setting and rural amenity of settlements likely to be achieved in the absence of the Settlement Protection Zones presently designated in the adopted Local Plan? [2, 3]***

- 3.17 Settlement Protection Zones were included in the Wiltshire and Swindon Minerals Local Plan (2001) to protect the landscape settings of certain settlements near to Preferred Areas for mineral working. Because the relevant policy – policy 42 – was not 'saved' following the Planning and Compulsory Purchase Act 2004, Settlement Protection Zones cannot now be regarded as part of the Minerals Local Plan.
- 3.18 Current Government policy prefers the landscape character assessment approach, as also reflected in the RSS. Thus, PPS7(25) states that in reviewing their local development documents planning authorities should rigorously consider the justification for retaining existing local landscape designations. They should ensure that such designations are based on a formal and robust assessment of the qualities of the landscape concerned. I find no such assessments to support the reinstatement of Settlement Protection Zones.
- 3.19 Moreover, I doubt that the re-introduction of Settlement Protection Zones would achieve anything given that policy MDC5 requires assessments of impacts on landscape character, taking account of existing Landscape Character Areas; and requires minerals development to safeguard the character, settings, and rural

amenity of any nearby settlements. Such safeguarding would be achieved through various mitigation measures, including the incorporation of *"an acceptable separation distance"*.

- 3.20 Apart from being more in tune with current Government policy, policy MDC5 is justifiable because the separation distances would not be prescribed but would be based on an up to date assessment of the environment, circumstances and the nature of the development proposed. They would also, therefore, have the advantage of greater flexibility.
- 3.21 In short I am satisfied that the aim of policy MDC5 to protect the character, setting and rural amenity of settlements would be no less likely to be achieved in the absence of the Settlement Protection Zones.

### ***Overall Conclusion on Matter 5***

- 3.22 I conclude that policy MDC5 is justifiable, effective and consistent with Government policy, and that this part of the DPD meets all three of the soundness tests.

### ***MATTER 6 - POLICY MDC6 - BIODIVERSITY AND GEOLOGICAL INTEREST***

#### ***Issue 6.1: With regard to the first paragraph of policy MDC6, what do the "areas of biodiversity and/or geological interest" consist of and where is this made clear? [2]***

- 3.23 Various areas of nature conservation interest are referred to in policy MDC6 and its reasoned justification. But it is not clear which of these areas are the subject of the first paragraph of the policy. Therefore it is also not clear for which areas the assessments of the potential effects of development would be required.
- 3.24 Following a discussion at the hearings, the Councils proposed changes to the policy and its reasoned justification to provide the necessary clarity. Proposed Changes PC013-018 involve the insertion of a new paragraph, after paragraph 5.9, that lists the kinds of features concerned, in a hierarchical fashion. They would also change the policy itself. This would be particularly useful in distinguishing between the requirements for the assessments and the criteria to be applied to development proposals. Without the Proposed Changes, policy MDC6 would be confusing and therefore not effective in this respect.
- 3.25 While I conclude that Proposed Changes PC013-018 should be made in order to meet soundness test 2, I think it is necessary to include one further minor amendment in the first paragraph of policy MDC6. The word "areas" should be replaced by 'features'. This would achieve consistency with the definition of the features concerned in the proposed new paragraph of the reasoned



justification, and also with the wording elsewhere in policy MDC6, which is concerned with species as well as areas.

***Issue 6.2: Is there an adequate distinction between policy criteria applicable to nationally important sites and regional / local sites in accordance with PPS9(9)? [3]***

- 3.26 It is Government policy that local development documents should include policies against which proposals for development affecting sites of local or regional biodiversity or geological interest can be judged. The guidance in PPS9[9] adds that such policies should be distinguished from those applied to nationally important sites. That distinction is not adequately made in policy MDC6. The second paragraph of the policy clearly applies to proposals affecting sites at all levels of the hierarchy, and by implication the same could be said of the third paragraph. This appears to be in contradiction of paragraph 5.10, which indicates that the inclusion of sites afforded European and national protection in local planning policy is not warranted.
- 3.27 I consider that Proposed Changes PC013-018 succeed in resolving this issue, partly by clearly separating in policy MDC6 the requirements for the assessments from the criteria that apply to the proposed development itself. It is also more apparent from the changed wording of the policy and its reasoned justification that there is a distinction between features of national / international importance and those of local or regional interest, and that additional statutory requirements and national policy criteria apply to the former.
- 3.28 By making the policy effective, consistent with national policy and coherent with its reasoned justification I conclude that the Proposed Changes are necessary to enable the DPD to meet all three soundness tests.

***Issue 6.3: Paragraph 2 of the policy refers to 'species of principal importance', 'European Protected Species' and Wiltshire's Biodiversity Action Plan species. To be effective does the DPD need to explain these distinctions and where the species concerned are listed? [2]***

- 3.29 I find the references in policy MDC6 to these different categories of species to be confusing and inadequately explained, even with the supporting references in the reasoned justification. The Proposed Changes PC013-018 would provide adequate additional explanation. They would also simplify and rationalise the wording of the policy so as to reduce the scope for confusion. In this way too, I accept that the Proposed Changes PC013-018 succeed in making this part of the DPD effective and compliant with soundness test 2.

***Overall Conclusion on Matter 6***

3.30 I conclude that the following changes are necessary to make the DPD sound.

- Amend the DPD in accordance with Proposed Changes PC013-018.
- In the first sentence of policy MDC6 replace the word "areas" with 'features'.

*MATTER 7 - POLICY MDC7 - THE HISTORIC ENVIRONMENT*

***Issue 7.1: With regard to the first paragraph of policy MDC7 is it clear what "areas of archaeological or cultural heritage importance" are and where they are defined? [2]***

3.31 The first paragraph of policy MDC7 requires proposals for mineral development to demonstrate that "areas of archaeological or cultural heritage importance" and their settings can be protected, enhanced and/or preserved. But it is not clear where these areas are and exactly what kinds of sites they comprise. Paragraph 5.19 provides a broad definition of the historic environment; but subsequent paragraphs make reference to various site designations, which may or may not be taken to be the areas of "importance".

3.32 To address this lack of clarity a set of Proposed Changes (PC019-029) would, among other things, amend paragraph 5.19 to define 'historic assets of archaeological or cultural heritage importance': a term which, by amendment, would also be used in the first paragraph of policy MDC7. Therefore it would be clear which kinds of area or feature this part of the policy applies to. I accept that this would help to make the policy effective, in accordance with soundness test 2.

***Issue 7.2: Is the reasoned justification sufficiently specific in this respect, and are/should all the areas concerned be identified on the Proposals Map? [2]***

3.33 Although the Proposed Changes PC019-029 would identify which kinds of area or feature the first paragraph of the policy applies to, the net is cast widely, including for example 'townscape features', 'the historic character of the wider landscape / built environment', and the potential for as yet unrecorded archaeology. Consequently it may not be straightforward to tell from the DPD and Proposals Map whether or not there are historic assets in the vicinity of a proposed mineral working site. It would probably not be practicable to fully illustrate the policy on the Proposals Map as advised in PPG15(2.7).

- 3.34 However, the Proposed Changes would also amend the first paragraph of the policy to indicate the need for a process of assessment. That process would presumably involve identifying the historic assets to be taken into account. Therefore although the DPD appears to be a little unhelpful in this respect I do not conclude that policy MDC7 would be ineffective.

***Issue 7.3: Is the degree of protection afforded by the first paragraph of policy MDC7 justified? [1, 3]***

- 3.35 An essential part of this first paragraph of policy MDC7 is that it requires all the features concerned, and their settings, to be capable of being "protected, enhanced and / or preserved". This could be taken to confer a rather high level of protection for such a wide range of features. But the inclusion of '/ or' implies that protection or preservation may not be required if some enhancement of the feature could be achieved. The policy appears to me to be too blunt to give any clear guide to the degree of protection sought for features of such varying degrees of importance.
- 3.36 The Proposed Changes PC027-028 would insert the word 'appropriately' before "protected, enhanced and / or preserved". They would also add text to paragraph 5.25 to indicate that the principal objective of the policy is to ensure that the historic environment is afforded the 'appropriate' level of protection, enhancement and / or preservation in conformity with national and regional policy. Although consistent with national and strategic policy, I doubt that it adds much to it in practice. However, having regard to the different form of words proposed, including a reference to settings, and the fact that the policy is required for the purpose of development control, I conclude on balance that the first paragraph of policy MDC7, subject to the Proposed Changes, is justifiable. It does not cause the DPD to be unsound, particularly in terms of soundness tests 1 and 3.

***Issue 7.4: What is the justification for applying the second paragraph of the policy only to archaeological sites and not to all historic assets? [1]***

- 3.37 I infer from the DPD and the Councils' statement that much of the archaeological interest of the plan area is unknown and that there are areas of potential value that are as yet unidentified or not investigated. I have no reason to doubt this, and I accept that the wording of the second paragraph of the policy is intended to take it into account. There is policy coverage for other historic assets in the first paragraph of the policy and I am not convinced that it is unjustifiable to leave them out of the second paragraph, which is

specifically concerned with archaeological interest. I conclude that there is no failure here to meet soundness test 1.

***Issue 7.5: Are the second paragraph of the policy and the third bullet point of paragraph 5.22 consistent with PPG16(25) in respect of seeking financial contributions? [3]***

- 3.38 The last sentence of the second paragraph of the policy, as supported by the third bullet point of paragraph 5.22, states that the Councils **may** seek contributions from the developer in the form of a legal agreement. It is possible that the interests of recording, preserving and management of archaeological features would require provision to be secured by means of a legal agreement rather than by other means such as planning conditions. The policy does not require developers to finance archaeological works in return for the grant of planning permission and so I see no conflict with the related Government guidance in PPG16. Indeed, PPG16(25&26) envisages a positive role for agreements, to secure the necessary archaeological provision.
- 3.39 In considering this issue the Councils draw attention to an error in the supporting text to the policy. The word 'financial' in the third bullet point should in fact be 'non-financial', and Proposed Change PC023 would make the necessary correction. It does not go to the heart of the soundness of the DPD but in the interests of accuracy I support this change as one of the group of Proposed Changes PC019-029 affecting policy MDC7 and its reasoned justification. I conclude that there would be no unsoundness in terms of soundness test 3.

***Issue 7.6: Is the final paragraph of the policy clear? Are the 'settings' referred to included within the World Heritage Sites as defined on the Proposals Map or are they undefined areas around those designated Sites? [2]***

- 3.40 While the last sentence of policy MDC7 is quite clear in literal terms it is not clear to me why it is limited to the settings of the World Heritage Sites or why it takes no account of the kind of effects concerned, which could conceivably be beneficial. At the hearing the Councils explained that, unlike its setting, the World Heritage Site itself would be already protected by other means. Given that the setting is an undefined area around the World Heritage Site and that the effects of development here would not necessarily be damaging to the site or its appreciation I doubt that the blanket opposition to change represented by this part of the policy is justified. Government policy in PPG15(2.23) recognises that development proposals affecting World Heritage Sites or their settings may be compatible with the objective of protecting the Sites for future generations.

- 3.41 I find no justification for this third paragraph of the policy in the supporting text. While I appreciate the need to afford great weight to the protection of World Heritage Sites, this is already expressly included in Government policy (PPG15: 2.23) and generally covered by the first paragraph of policy MDC7, which would refer to both the historic assets and their settings. To delete the third paragraph would not result in a lack of protection for World Heritage Sites, therefore, and I consider that this should be done in order to ensure the soundness of the DPD, especially in terms of soundness test 1.

***Overall Conclusion on Matter 7***

- 3.42 I conclude that to make the DPD sound it should be amended in accordance with Proposed Changes PC019-029 and by deleting the last sentence of policy MDC7.

***MATTER 8 - POLICY MDC8 - SUSTAINABLE TRANSPORT***

***Issue 8.1: Is the third bullet point of policy MDC8 consistent with the Proposed Changes to the Regional Spatial Strategy? [1]***

- 3.43 The third bullet point of policy MDC8 requires mineral development proposals to ensure direct access to, or suitable links with, the Wiltshire Heavy Goods Vehicle Route Network or primary route network. Policy RTS4 of the RSS states that the primary route network should be promoted for use by heavy goods vehicles in preference to other roads. However, it is to be inferred from the text supporting that policy that the primary route network has been designated as providing the most satisfactory routes for through traffic and that other roads may be required for local access or connections. Although the Wiltshire Heavy Goods Vehicle Route Network includes some of the primary route network I accept the Councils' view that the two networks are otherwise complementary for the purpose of policy MDC8.
- 3.44 The Wiltshire Heavy Goods Vehicle Route Network was produced through consultation with stakeholders and the Wiltshire Freight Quality Partnership, and as the name suggests it identifies routes suitable for use by heavy goods vehicles. I consider that it justifiably expands on the aims and policy of the RSS. In referring to both networks I conclude that the third bullet point of policy MDC8 is not incompatible with the RSS. It meets soundness test 1.

***Issue 8.2: Is the third bullet point of policy MDC8 consistent with policy MCS9 of the Minerals Core Strategy? [2]***

- 3.45 Part of the strategic approach described in Minerals Core Strategy policy MCS9 is that the transportation of minerals by road must

utilise the Wiltshire Heavy Goods Vehicle Route Network. This is in the context of considering the sustainability of different modes of minerals transport. The fact that the third bullet point of policy MDC8 refers additionally to the primary route network is not inconsistent. For one thing policy MCS9 does not indicate that the primary route network should not be used by heavy goods vehicles: indeed, in Wiltshire much of it is included in the Wiltshire Heavy Goods Vehicle Route Network. Nor in my view could the policy sensibly be interpreted as limiting use **entirely** to the Wiltshire Heavy Goods Vehicle Route Network, as that would be obviously unduly restrictive.

- 3.46 I am also conscious that policy MDC8, being a development control policy, is couched in rather different, criteria-based, terms. I conclude that in referring to access to, or suitable links with, both networks it is not inconsistent with the Minerals Core Strategy, but provides a justifiable elaboration for the purpose of development control. In doing so it takes due account of policy RTS4 of the RSS. I conclude that in this respect it meets all the soundness tests including the internal consistency demanded by soundness test 2.

***Issue 8.3: Is it clear where the Wiltshire HGV Route Network and the primary route network are defined? Should they be identified on the Proposals Map? [2]***

- 3.47 Paragraph 6.4 of the DPD provides a little more information about the Wiltshire Heavy Goods Vehicle Route Network but does not refer to the primary route network. The Councils indicate that they are prepared to show both networks on the Proposals Map. Although the Proposals Map is not part of the DPD, this action would make the policy requirements clear and effective and I consider that it would be sufficient in terms of soundness test 2.

***Overall Conclusion on Matter 8***

- 3.48 I conclude that the Wiltshire Heavy Goods Vehicle Route Network and the primary route network should be identified on the Proposals Map. Subject to this, I find no lack of effectiveness in the wording of policy MDC8 and conclude that the DPD would be sound in respect of Matter 8.

***MATTER 9 - POLICY MDC9 - RESTORATION, AFTERCARE AND AFTER-USE***

***Issue 9.1: Is it evident that certain after-uses could add excessive pressure to parts of the Strategic Road Network and that policy MDC9 should therefore include a criterion to ensure that proposals do not adversely impact on that Network? [1]***

- 3.49 I have no firm evidence to demonstrate that certain after-uses could add excessive pressure to parts of the Strategic Road Network. Were this to be a potential problem with any mineral

development proposal I would expect it to be revealed in the transport assessments required under policy MDC8. It could then be taken into account in applying the criteria of that policy, which include consideration of adverse impacts on the highway network. Both this DPD<sup>2</sup> and the Minerals Core Strategy give primary importance to the restoration, aftercare and after-use considerations of mineral development proposals and so transportation impacts of the after-use as well as the mineral activity itself would be taken into account.

3.50 Although policy MDC9 itself does not specifically address this issue it does require proposals to demonstrate that the after-use would benefit the local and/or wider community. Adverse effects on the Strategic Road Network would count against the proposals in relation to that criterion. I would also expect these effects to be taken into account in applying policy MDC1, especially in relation to criteria (b), (h) and (i).

3.51 While it might have been worthwhile to include in policy MDC9 a criterion on transportation impacts of proposed after-uses, I conclude that its absence is not critical in terms of the soundness of the DPD. In relation to this issue and Matter 9 there is no failure to meet the soundness tests.

#### *MATTER 10 - POLICY MDC10 - RESTORATION WITHIN AIRFIELD SAFEGUARDING AREAS*

##### ***Issue 10.1: Is it reasonable to expect applicants to demonstrate that their proposals would not cause an unacceptable risk of bird strike? [1]***

3.52 Given that the vulnerable areas for bird strikes, in the form of Airfield Safeguarding Areas, are identified on the Proposals Map it is reasonable to expect applicants to address the potential bird strike problem here, especially when planning the restoration and after-use of the site. The view of airfield owners on unacceptable risks appears to be disputed by some in the minerals industry, but I consider the wording of policy MDC10 to be suitably neutral. It can be inferred from paragraph 7.19 that unacceptable risks can be avoided by planning after-uses here that do not generally attract flocking birds. I do not find that the policy would place unreasonable demands on applicants, or that it is necessary for it to be more prescriptive. I conclude that this part of the DPD is justifiable and in accordance with soundness test 1. No changes are necessary to make the DPD sound in respect of matter 10.

#### *MATTER 11 - CHAPTER 8 – MONITORING AND IMPLEMENTATION*

##### ***Issue 11.1: Is chapter 8 ineffective owing to internal***

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<sup>2</sup> For example paragraph 7.1

***inconsistencies? Indicators, targets and thresholds for the same item are not always expressed in the same units? [2]***

3.53 There could have been more rigour in the definition of indicators and their related targets and thresholds. But for the most part I consider the relationship between them is sufficiently clear to be understood. Proposed Change PC032 would make for effective monitoring in relation to part of policy MDC1, and I endorse it for the purpose of meeting soundness test 2. The other Changes are minor and not essential to soundness of the DPD; but for the purpose of clarity and correctness I support them, as indicated in section 4 below.

***Issue 11.2: For monitoring and implementation to be effective, should it be clear what kind of review process would be triggered by failure to meet a threshold? [2]***

3.54 There is little information in this chapter of the DPD about the process of the policy reviews that could be triggered during the monitoring process. However, there is at least a mechanism for prompting reconsideration and possible remedial action if the policies are found to be not working as intended. This provides the DPD with due flexibility in achieving its objectives. I conclude that the DPD is not ineffective in this respect, and that it meets soundness test 2.

***Issue 11.3: What purpose is served by indicators that have no targets or thresholds? [2]***

3.55 I accept that it is worth including some indicators not for their function in signalling the need to review an existing policy but to provide information that will, for example, help the Councils to estimate the benefits that result from some policies and to provide a better context for considering future planning requirements.

3.56 However, in addressing this issue the Councils appear to recognise the need to specify a target and review threshold for the second indicator relating to policy MDC5. Accordingly Proposed Change PC035 would amend the target to read '100%' and the threshold to read '80%'. I accept the need for the Proposed Change, which makes the monitoring provision for policy MDC5 consistent and fully effective.

***Issue 11.4: With regard to policy MDC1, why is there no threshold for triggering action where the sand and gravel landbank falls below the 7 years minimum? [2, 3]***



- 3.57 The need to trigger action when the landbank falls below the minimum level is dealt with in the Minerals Core Strategy, particularly in respect of the monitoring indicators, targets and thresholds for policy MCS1. I accept that this is appropriate and that there is no need for the Minerals Development Control Policies DPD to contain the same provision especially as it is concerned with development control rather than strategic planning. I conclude that the DPD does not lack soundness in relation to this issue.

***Issue 11.5: What periods are the targets intended to cover and should this be made clear for the review process to be understood and effective? [2]***

- 3.58 The Councils' Proposed Change PC031 addresses this issue by adding an explanatory sentence to paragraph 8.3 just prior to the monitoring tables. The sentence confirms that all indicators will be measured on an annual basis (1 April to 31 March) for inclusion in the Annual Monitoring Report. This makes the targets meaningful and the monitoring process effective. I conclude that the Proposed Change is needed to make the DPD sound in terms of soundness test 2.

***Issue 11.6: For the review process to be fully effective should the thresholds normally be set at 100%? [2]***

- 3.59 Many of the thresholds are set at 80%. Footnotes in the DPD explain that this is due to the relatively small number of applications for mineral development. The Councils also point out that decisions sometimes depart from policy - for example where there are important material considerations that outweigh the policy. This might not reflect a need to review the policy. I accept that there is a reasonable basis for the 80% thresholds and find no cogent argument to warrant changing them to 100%. It is clear that the thresholds are for policy review and I doubt that they would be mistakenly thought to indicate the degree of tolerance of the Councils in considering proposals that are contrary to policy. In respect of this issue I therefore conclude that the DPD is sound.

***Issue 11.7: What is the rationale for the target and threshold relating to the first indicator under policy MDC5, or for the threshold relating to the second indicator under policy MDC3? [2]***

- 3.60 The Councils accept that the target and threshold relating to the first indicator under policy MDC5 are erroneous, and they present Proposed Change PC034 as a means of correction. I accept that this is required for the effectiveness of the monitoring process and to make the DPD sound.

- 3.61 As for the threshold relating to the second indicator under policy MDC3, I refer back to my conclusions under issue 11.6 above. The 80% threshold is simply a trigger for policy review and cannot be taken to reflect the degree to which the Councils are prepared to tolerate breaches of policy. I conclude that it does not point to any lack of effectiveness in the monitoring and review process, and that it does not cause the DPD to be unsound.

***Issue 11.8: Does the monitoring of policy MDC9 also need to cover community benefits, such as flood storage provision? [2]***

- 3.62 There is no indicator to cover the community benefits that could be forthcoming in addressing criterion 3[iv] of policy MDC9, although I note that there is an indicator in respect of nature conservation benefits relating to criterion 3[i]. Proposed Change PC041 would add an appropriate indicator, target and threshold, and I accept that in a significant respect this would help to make the policy fully effective. I therefore support the Proposed Change, which would help to achieve soundness in accordance with test 2.

***Overall Conclusions on Matter 11***

- 3.63 I conclude that to make the DPD sound in respect of its monitoring and review provision, it should be amended in accordance with Proposed Changes PC031, PC032, PC034, PC035 and PC041.

**4 Minor Changes**

- 4.1 The Councils wish to make several other minor changes to the submitted DPD in order to clarify, correct and update various parts of the text. These are included in their schedule of Proposed Changes as: PC001-003, PC005, PC012, PC030, PC033, PC036-040, and PC043-046. Although they are minor and do not address key aspects of soundness, I endorse them in the interests of clarity and accuracy.

**5 Overall Conclusions**

- 5.1 I conclude that, with the amendments I recommend in Annex 1, the Wiltshire & Swindon Minerals Development Control Policies DPD satisfies the requirements of section 20(5) of the 2004 Act and meets the tests of soundness in PPS12.

*G C Cundale*

## INSPECTOR

## **Annex 1**

### **Schedule of changes that are necessary to make the DPD sound**

1. In the first sentence of policy MDC6 replace the word "areas" with 'features'.
2. Delete the last sentence of policy MDC7.
3. Show the Wiltshire Heavy Goods Vehicle Route Network and the primary route network on the Proposals Map.
4. Amend the DPD in accordance with Proposed Changes PC001- PC046.