

**ECC Minerals and Waste Planning Authority Response
Danbury Neighbourhood Plan - Request for Information
March 2019**

Introduction

1. The following information is provided as a response from the Minerals and Waste Planning Authority (MWPA) to a request for information received from Danbury Parish Council in relation to whether any of the proposed sites in the emerging Danbury Neighbourhood Plan are likely to be precluded from development on the basis of being affected by allocations under either the adopted Minerals Local Plan 2014 or the Replacement Waste Local Plan 2017.
2. Following receipt of this letter, the MWPA received GIS information in relation to 21 sites. These 21 sites were subsequently put through a screening process used by the MWPA to assess any potential impact on minerals and waste planning concerns. The results and implications are presented below.

Planning Context for Minerals and Waste Issues

3. Please note that since the previous correspondence between Danbury Parish Council and the MWPA (April 2016), the 'Replacement Waste Local Plan' has since been adopted. The relevant planning documents are now the Essex Minerals Local Plan 2014 and Essex and Southend-on-Sea Waste Local Plan 2017.
4. These documents are both part of the overall Development Plan for Danbury Parish.

Essex Minerals Local Plan 2014

Safeguarding Mineral Resources

5. Paragraph 143 of the National Planning Policy Framework state that local planning authorities should "define Minerals Safeguarding Areas and adopt appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development."
6. Policy S8 - *Safeguarding mineral resources and mineral reserves* of the Minerals Local Plan 2014 defines Mineral Safeguarding Areas (MSAs) and sets the basis for the way that applications coming forward in MSAs are

assessed. Danbury Parish lies within a Minerals Safeguarding Area for Sand and Gravel. Policy S8 states that applications for housing development exceeding 5ha will be subject to Policy S8. Land within 100m of the façade of existing properties is excluded from consideration. For ease of reference, Policy S8 of the Minerals Local Plan is included as Appendix 1. Development within MSAs which trigger Policy S8 must be accompanied by a Minerals Resource Assessment. The expected contents of such a resource assessment is included as Appendix 2.

Safeguarding Mineral Development

7. 'Mineral development' includes both permitted and allocated mineral extraction sites and the infrastructure associated with the processing, transportation and storage of minerals. Mineral development may create impacts on their immediate surroundings through, for example, dust or noise emissions and vehicle movements.
8. Paragraph 182 of the NPPF states that *“Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”*
9. Mineral Consultation Areas (MCAs) have been designated through Policy S8 of the Minerals Local Plan 2014 to ensure that potential impacts of mineral operations upon future neighbouring uses are appropriately mitigated. An MCA is designated within and up to 250m from mineral developments.

Essex and Southend Waste Local Plan 2017

Safeguarding Waste Development

10. 'Waste development' includes both permitted and allocated waste management sites and the infrastructure associated with the processing, transportation and storage of waste. Waste development may also create impacts on its immediate surroundings and local communities through, for example, odour or noise emissions and vehicle movements, and again Paragraph 182 of the NPPF has relevance here.
11. Policy 2 - Safeguarding Waste Management Sites and Infrastructure of the Waste Local Plan 2017 designates Waste Consultation Areas (WCAs). A

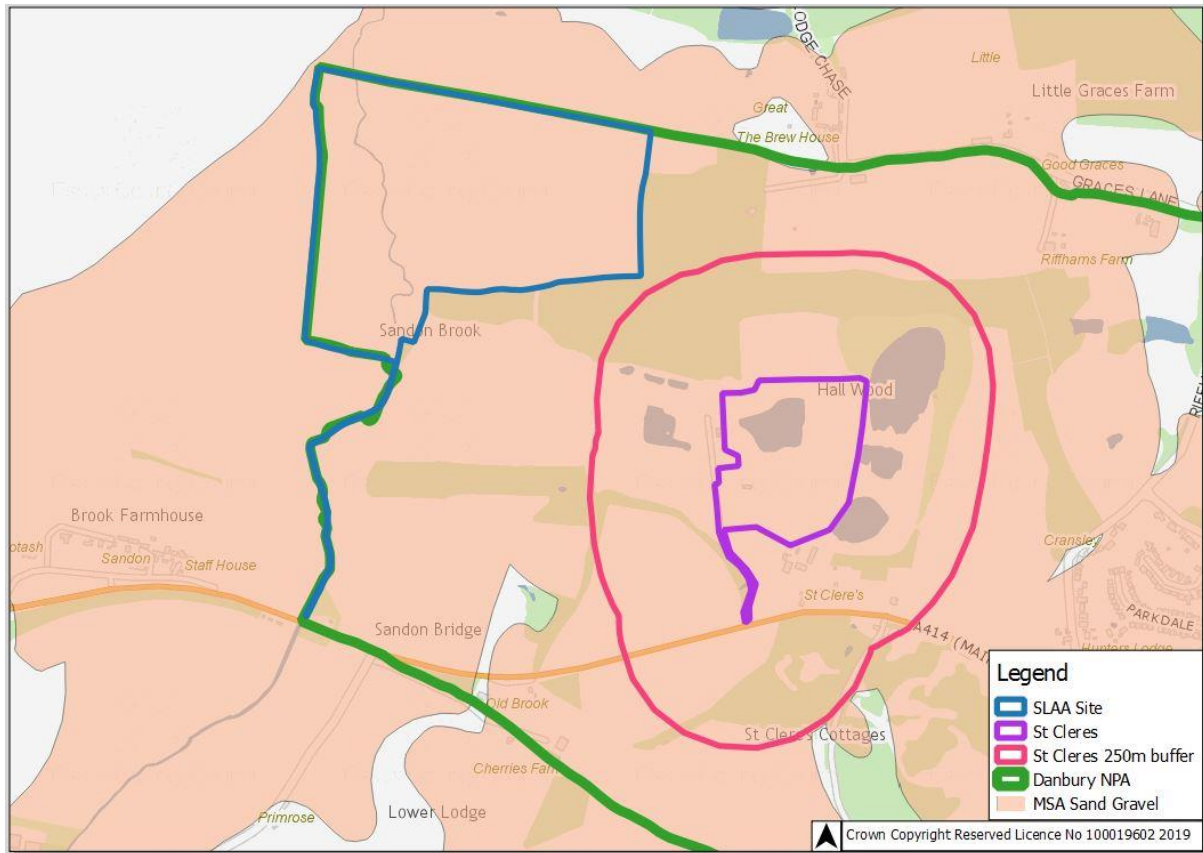
WCA is designated within and up to 250m from the boundary of all waste management facilities granted permission by Essex County Council (increasing to 400m for Water Recycling Centres). For ease of reference, Policy 2 is included as Appendix 3.

12. Please note that MSAs, MCAs and WCAs are not intended to be a barrier to all potential future development, rather they seek to ensure that the Minerals and Waste Planning Authority are consulted on non-minerals and waste development that could adversely impact on the operation of a safeguarded waste site or infrastructure. This also ensures that potential future development is not adversely affected by existing or future mineral and waste developments.

Results of Screening Exercise

13. The 21 sites received from Danbury Council were subjected to a screening process used by the MWPA to ascertain any potential impact on minerals and waste planning concerns. Implications were found with regard to the following sites.
14. At this point it is important to note that no sites are automatically *precluded* from development as a result of this screening exercise. As stated in the relevant policies (mentioned in brief where relevant here and included in full in Appendices), applications on these sites will need to demonstrate conformity with the relevant policy requirements. In this regard, the Danbury Neighbourhood Plan should make appropriate reference to minerals and waste policies as they apply to any site taken forward in subsequent iterations of the Danbury Neighbourhood Plan.
15. Those sites with minerals and/or waste implications are as follows:

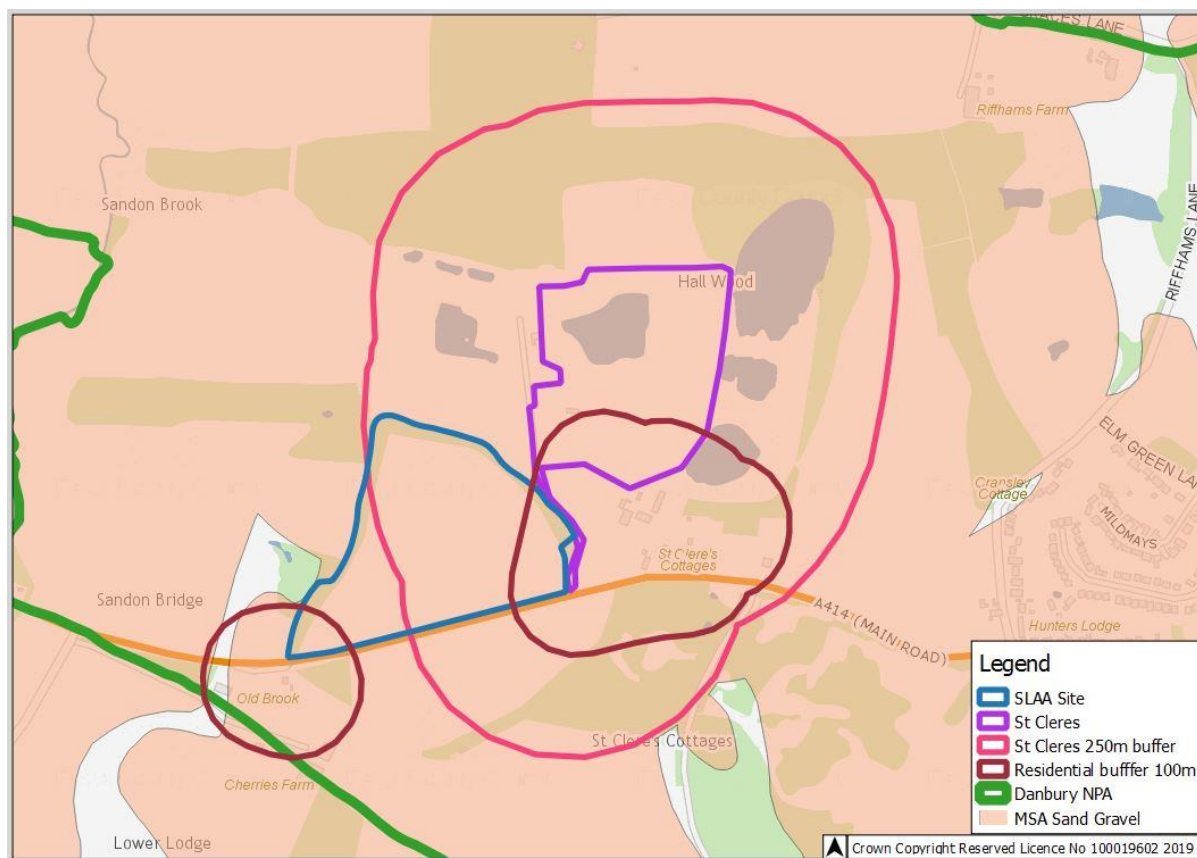
Site D1 – Land at Hammonds Farm



Minerals and Waste Implications

- Site D1 is proposed to be allocated on 27ha of land designated as a Minerals Safeguarding Area for sand and gravel. It is therefore subject to Policy S8 of the Minerals Local Plan as it relates to Mineral Safeguarding Areas.
- Site D1 falls outside of the Waste Consultation Area associated with the works at St Clere's and therefore the provisions of Policy 2 of the Waste Local Plan *does not apply*.

Site D2 - Land at St Clere's Hall

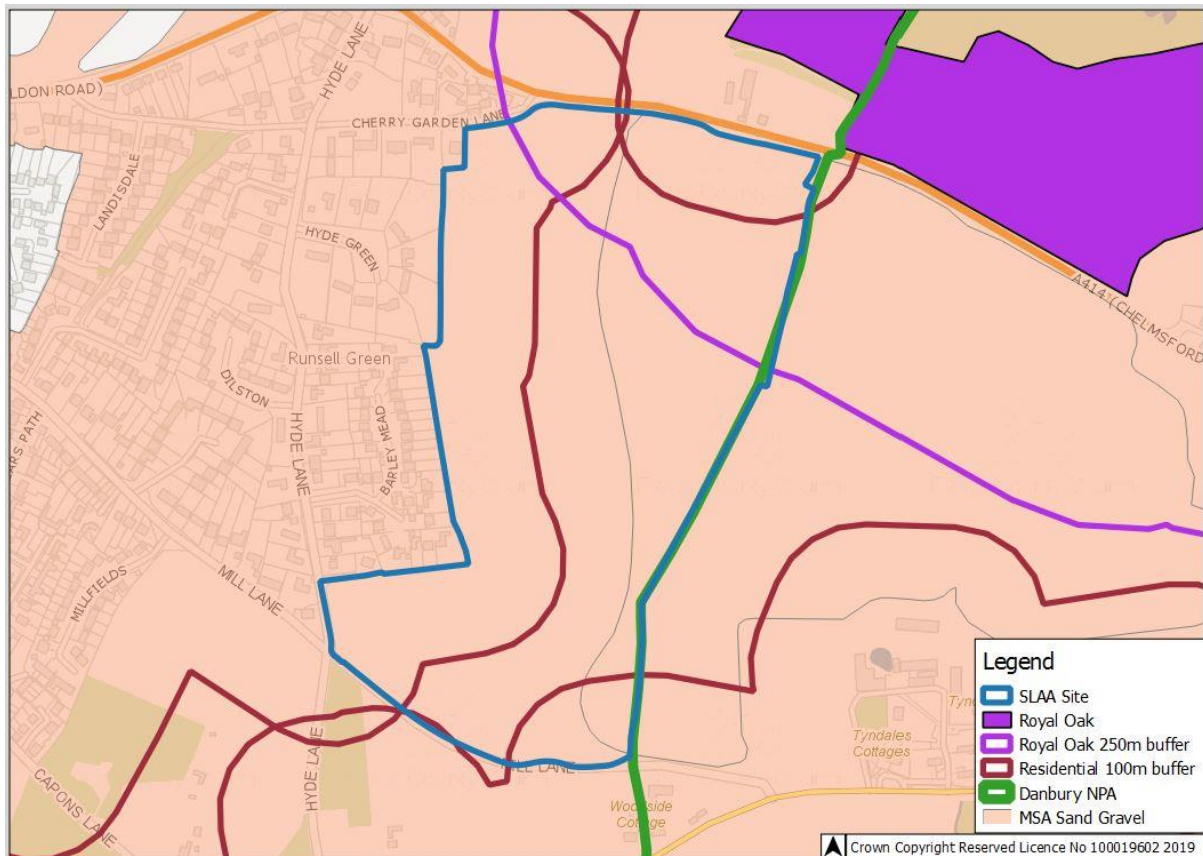


- Once land within 100m of existing properties is excluded from consideration, Site D2 lies on approximately 7ha of land designated as a Minerals Safeguarding Area for sand and gravel. It is therefore subject to Policy S8 of the Minerals Local Plan as it relates to Mineral Safeguarding Areas.
- Site D2 also falls partly within the Waste Consultation Area associated with the works at St Clere's and therefore the provisions of Policy 2 of the Waste Local Plan apply. The Mineral Consultation Area designation was removed at the point that mineral extraction ceased.
- The relevant planning application is ESS/63/10/CHL - *Retrospective planning permission for mineral extraction (now ceased) Infilling existing void with inert waste (construction waste, soils & clays) Recycling of inert materials to recover secondary aggregates and soils. Restoration to species rich grassland in line with the Essex Biodiversity Habitat Action Plan.*
- The decision notice states that activities are permitted up to 12 years following commencement of the application. Records show that the permission was commenced on 2nd August 2013, meaning that policy designations

associated with permission ESS/63/10/CHL will currently remain in place until 2nd August 2025.

Site D7 & D8 - Land East of Barley Mead, Hyde Lane Danbury & Land South of Barley Mead, Hyde Lane Danbury

As can be seen below, these sites were amalgamated in the information received from Chelmsford City Council. If these sites were supplied separately, the screening process can be re-run on an individual basis.



- Once land within 100m of existing properties is excluded from consideration, Sites D7&D8 lie on approximately 11ha of land designated as a Minerals Safeguarding Area for sand and gravel. Sites D7&D8 also fall partly within the Minerals Consultation Area associated with the works at Royal Oak and therefore the provisions of Policy S8 of the Minerals Local Plan apply in full.
- The relevant planning application is ESS/35/17/MAL - *Continuation of use of land for mineral extraction through a revised phasing scheme without compliance with Conditions 20 (Soil Storage); 39 (Phasing Scheme) and 41 (Water Management) of planning permission ref no: ESS/19/14/MAL*
- The Decision Notice associated with application ESS/35/17/MAL states (*inter alia*) that:

- All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission shall be removed and the site restored in accordance with the conditions of this permission not later than 16th February 2031.
- A Consultation Area will therefore remain extant until 16th February 2031.

Appendix 1 – Policy S8 of the Essex Minerals Local Plan 2014

Policy S8 – Safeguarding Mineral Resources & Mineral Reserves

By applying Mineral Safeguarding Areas (MSAs) and / or Mineral Consultation Areas (MCAs), the Mineral Planning Authority will safeguard mineral resources of national and local importance from surface development that would sterilise a significant economic resource or prejudice the effective working of a permitted mineral reserve, Preferred or Reserve Site allocation within the Minerals Local Plan. The Minerals Planning Authority shall be consulted, and its views taken into account, on proposed developments within MSAs and MCAs except for the excluded development identified in Appendix 5.

Mineral Safeguarding Areas

Mineral Safeguarding Areas are designated for mineral deposits of sand and gravel, silica sand, chalk, brickearth and brick clay considered to be of national and local importance, as defined on the Policies Map.

The Mineral Planning Authority shall be consulted on:

All planning applications for development on a site located within an MSA that is 5ha or more for sand and gravel, 3ha or more for chalk and greater than 1 dwelling for brickearth or brick clay; and

Any land-use policy, proposal or allocation relating to land within an MSA being considered by the Local Planning Authority for possible development as part of preparing a Local Plan (with regard to the above thresholds).

Non-mineral proposals that exceed these thresholds shall be supported by a minerals resource assessment to establish the existence or otherwise of a mineral resource of economic importance. If, in the opinion of the Local Planning Authority, surface development should be permitted, consideration shall be given to the prior extraction of existing minerals.

Mineral Consultation Areas

MCAs are designated within and up to an area of 250 metres from each safeguarded permitted minerals development and Preferred and Reserve Site allocation as shown on the Policies Map and defined on the maps in Appendix 6. The Mineral Planning Authority shall be consulted on:

Any planning application for development on a site located within an MCA except for the excluded development identified in Appendix 5.

Any land-use policy, proposal or allocation relating to land within an MCA that is being considered as part of preparing a Local Plan Proposals which would unnecessarily sterilise mineral resources or conflict with the effective workings of permitted minerals development, Preferred or Reserve Mineral Site allocation shall be opposed.

Appendix 2 – Matters to be Covered in a Minerals Resource Assessment

The scope and level of detail of a Minerals Resource Assessment will be influenced by the specific characteristics of the site's location and its geology. However, a number of key requirements can be identified which are likely to satisfy the Mineral Planning Authority that the viability and practicality of prior extraction has been suitably assessed in the MRA.

MRA Section	Matters to Cover
<i>Nature of the Application</i>	Description of proposed development.
	Area of proposed development (text and red line boundary on appropriate scaled map). To include building footprints if known.
	Any previous reference to show mineral may be present (including any Development Plan Allocation).
<i>Nature of the existing mineral</i>	An appraisal of the geology of the site.
	Whether there is any previous relevant site history – this could include any previous mineral assessments and market appraisals, boreholes, site investigations, technical reports and applications to the Minerals Planning Authority for extraction.
	The type and extent of mineral present at the site.
	Depth of deposit and overburden with commentary to include any variations across the site. To be expressed as both actual depths and ratio of overburden to deposit.
	Mineral quality (BSI standard) and how processing may impact on quality. Consideration should be given to the extent to which material available on site would meet the specifications required for construction
	To what extent mineral resources are likely to be sterilised if it is not prior extracted.
<i>Constraints impacting on the practicality of mineral extraction</i>	Contextual information regarding the site and any existing development or designations in close proximity such as ecology designations, landscape character, heritage designations, proximity to existing dwellings, highways infrastructure, proximal waterbodies, hydrology, land stability, utilities present etc. These should be assessed in light of the fact that construction of the non-minerals development would be taking place, should the practicalities of prior extraction be expressed as unviable. It is held that mitigation methods employed as part of the construction of the non-minerals development may be appropriate to allow prior extraction at that locality.
<i>The viability of prior extraction</i>	An assessment of the current and future economic and/or special value of the mineral resource.
	Whether prior extraction is practicable at the site.
	Distance/route to potential market.
	Any evidence of discussions with local operators to confirm

	the viability of prior extraction.
	Where prior extraction can be undertaken, an assessment of the amount of material that can be extracted and an explanation of how this will be carried out as part of the overall development scheme.
	Any opportunities for incidental extraction as part of the development of the site such as foundations, footings, landscaping, sustainable drainage systems.

Appendix 3 – Policy 2 of the Essex and Southend-on-Sea Waste Local Plan 2017

Policy 2 – Safeguarding Waste Management Sites and Infrastructure

Waste Consultation Areas

Where non-waste development is proposed within 250m of safeguarded sites, or within 400m of a Water Recycling Centre, the relevant Local Planning Authority is required to consult the Waste Planning Authority on the proposed non-waste development (except for those developments defined as 'Excluded' in 'Appendix C - Development Excluded from Safeguarding Provisions'). Proposals which are considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure, including the site allocations within this Plan, are unlikely to be opposed where:

- A temporary permission for a waste use has expired, or the waste management use has otherwise ceased and the site or infrastructure is considered unsuitable for a subsequent waste use; or
- Redevelopment of the waste site or loss of the waste infrastructure would form part of a strategy or scheme that has wider environmental, social and/or economic benefits that outweigh the retention of the site or the infrastructure for the waste use, and alternative provision is made for the displaced waste use; or
- A suitable replacement site or infrastructure has otherwise been identified and permitted.