

DERBYSHIRE AND DERBY MINERALS LOCAL PLAN (2022-2038)

**Spring 2023 Consultation –
Pre-Submission Draft Plan**

**Developing the Pre-Submission Draft Plan
7.3 Brick Clay and Fireclay**

January 2023

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1 Introduction

- 1.1 The purpose of this Paper is to show how the proposed draft plan has been developed over time, through several stages of consultation, starting initially with a stakeholder workshop in 2009. It explains how national planning policy and guidance (including revisions), representations made at the consultation stages, interim sustainability appraisals and co-operation with appropriate bodies on strategic cross-border issues have been taken into account, leading to outcomes for the current strategies set out in the Pre-Submission Draft Plan.

- 1.2 The Paper is set out in sections for each consultation stage. Where relevant, each section is set out in the following order: representations from the previous stage, drop-in sessions, duty to co-operate issues, sustainability appraisal, other assessments, outcomes for the current consultation stage. The relevant documents at each consultation stage are set out in italics.

2 Stakeholder Workshop 2009

- 2.1 In July 2009, Derbyshire County and Derby City Councils held a workshop for key stakeholders. This helped to identify the key issues and themes that attendees thought the new Minerals Local Plan should address and sought the input of stakeholders in developing the vision and objectives for the Plan. The outcomes of the workshop were published on the County Council's website and in a newsletter that was circulated to stakeholders.

- 2.2 These outcomes were taken into account in the preparation of the Issues and Options Report.

3 Issues and Options Consultation 2010

- 3.1 The Issues and Options Consultation 2010 identified that the key issues for making provision for clay were that the demand for brick clay and fireclay was industry led and particularly susceptible to economic fluctuations leading to periods of decline, resulting in mothballing or shutting down of extraction and processing facilities. It indicated that any approach would need to maintain essential supplies to consumers, whilst seeking to encourage rapid working and

reclamation of sites to minimise environmental impact and avoiding the stocking of clays where it would delay reclamation. The Issues and Options Consultation suggested that the most appropriate way of making provision for clay working would be to have a criteria based policy in the Plan based on the above considerations. Further information can be found in the following document:

Derby and Derbyshire Minerals Local Plan: Issues and Options Consultation, 2010

4 Towards a Minerals Local Plan - Rolling Consultation 2015 - 2017: Emerging Approach

- 4.1 After the Issues and Options Consultation, the NPPF and PPG were published in 2012 and 2014 respectively; therefore the Councils revisited the issues and options surrounding the planning for the supply of brick clay and fireclay in light of this policy and guidance. The Councils examined the extent to which the Issues and Options Consultation and the responses to it remained helpful in developing a strategy and took on board additional evidence collected since 2010. The Councils also embarked on co-operation with other authorities on significant strategic cross border issues as required by the Localism Act 2011.
- 4.2 The Issues and Options Consultation also included a 'call for sites' from any developer wishing to promote a site for mineral development over the plan period. None came forward at that time but in December 2014, Wienerberger, the operator of Mouselow Quarry, put forward a small extension to the extraction area at the quarry for inclusion in the Plan.
- 4.3 The next stage in preparing the Plan was the 'Towards a Minerals Local Plan: Rolling Consultation' which commenced in 2015. This consultation consisted of a series of individual Papers. In light of the new national policy and guidance, the MPAs were seeking to define the vision and objectives and develop strategies to achieve those objectives and deliver the vision. The paragraphs below set out the outcomes for the rolling consultation – emerging approach, as a result of the previous consultation and in relation to Brick Clay and Fireclay.

A paper specifically about Brick Clay and Fireclay was included, accompanied by a background supporting Paper. Further details can be found in the following documents:

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan - Rolling Consultation 2015-2016: Emerging Approach - Towards a Strategy for Brick Clay and Fireclay, January 2015.

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan - Rolling Consultation 2015-2016: Emerging Approach - Brick Clay and Fireclay Supporting Paper, January 2015

Representations on the Issues and Options Consultation 2010

- 4.4 At the previous issues and options stage a criteria based policy approach was well supported by respondents to the consultation. Suggestions were also made that further consideration of the most appropriate location for stockpiling should be undertaken i.e. at the quarry or at the brick works/clay products manufacturing site; some respondents felt that it was not always practicable or desirable to stockpile at the manufacturing unit. Further information is available in the following document:

Responses to Derby and Derbyshire Minerals Local Plan: Issues and Options Consultation, 2011.

Duty to Co-operate

- 4.5 Duty to Co-operate is a way of planning strategically for significant cross border issues and a legal requirement of Plan preparation. In preparing the Minerals Local Plan the Councils identified the following strategic cross-boundary issues in planning for the provision of Brick Clay.
- The supply of brick clay from Mouselow Quarry in Derbyshire to Denton Brickworks in east Manchester; and
 - The supply of brick clay from Waingroves Quarry in Derbyshire to brickworks in Nottinghamshire and Leicestershire.

- 4.6 The Councils consulted on the duty to co-operate issues that had been identified and an approach to recording and processing those issues. Further information can be found in the following document:

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Rolling Consultation 2015-2016: Emerging Approach – Duty to Co-operate Report, April 2016

Sustainability Appraisal (SA) of the Issues and Options Consultation 2010

- 4.7 The sustainability appraisal process is a way of promoting sustainable development through the better integration of sustainability considerations throughout the preparation of the Plan. The process involves testing the impact of the Plan against a series of sustainability objectives. Where the process recommends improvements to the Plan, these improvements will be incorporated.

- 4.8 A sustainability appraisal was carried out on the suggested approach set out in the Issues and Options Paper as to how provision should be made for the supply of clay. It concluded that the suggested criteria based policy is in-line with the current adopted Minerals Local Plan, therefore the impacts of including a similar policy in the new Local Plan would have a negligible impact on the baseline position. In terms of the merits of this approach, there would be positive implications for landscape, biodiversity, natural resources and local communities. Restrictions on the working and stockpiling of clays however, could make extraction less efficient. These findings were taken into account in developing the approach set out in the Rolling Consultation. Further information can be found in the following document:

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Rolling Consultation 2015-2017: Emerging Approach – 1st Interim Sustainability Appraisal (SA) Report, July 2013

Outcomes for the Towards a Minerals Local Plan – Rolling Consultation 2015 – 2016: Emerging Approach

Towards a Strategy for Brick Clay and Fireclay paper

- 4.9 The 'Towards a Strategy for Brick Clay and Fireclay' Paper, January 2015 identified several issues and options that would need to be considered in developing a strategy to maintain the supply of brick clay and fireclay over the Plan period.

Issues and Options for the emerging Strategy

Issue 1: Making provision for the supply of brick clay.

- 4.10 In view of the promotion of a site for allocation in the Plan, options for ensuring the supply of Brick Clay were widened from a criteria based policy at the Issues and Options stage to options which encapsulated both allocations and a criteria policy. Three options were out forward:
- Option 1: Make provision through existing permitted reserves and allocated sites
 - Option 2: Make provision through existing permitted reserves and a criteria based policy
 - Option 3: Make provision through existing permitted reserves and allocated sites and a criteria based policy

- 4.11 Issue 2: A criteria based policy – emerging approach.

Issue 3: Specific identification (allocation) of land for brick clay working at Mouselow Quarry

Issue 4: The assessment of sites for allocation in the Plan

Issue 5: Making provision for the stockpiling of brick clay

Issue 6: Fireclay – Options for making provision for an adequate and steady supply of fireclay

Issue 7: Making provision for an adequate and steady supply of clay and shale used for other purposes.

Site Assessment Methodology Paper – Hard Rock Quarry Sites

- 4.12 A Site Assessment Methodology, April 2016 that would be used to assess the suitability of hard rock quarry sites for allocation in the Plan also formed part of this Consultation. Three responses were received in relation to the weighting of the criteria, the need to take mitigation on board and the use of 'buffer zones' to assess particular impacts. Changes were made to the Methodology Paper which was republished in December 2016 as part of the next consultation stage and used to carry out initial assessment of promoted sites. Further details can be found in the following document:

Towards a Minerals Local Plan: Rolling Consultation 2015-2016 – Site Assessment Methodology: Hard Rock Quarries, April 2016.

5. Towards a Minerals Local Plan – Rolling Consultation 2016-2017: Hard Rock Sites Consultation

Site Assessment Methodology – Hard Rock Quarry Sites and Initial Assessments of promoted sites

- 5.1 A revised Site Assessment Methodology- Hard Rock Quarry Sites, December 2016 and an initial assessment of the promoted extension site at Mouselow Quarry were included in this Consultation. Details can be found in the following documents:

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Rolling Consultation 2016-2017: Site Assessment Methodology – Hard Rock Quarry Sites

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Rolling Consultation 2016-2017: Initial Assessment Sheet and Maps – Mouselow Quarry

6. Towards a Minerals Local Plan – Spring 2018 Consultation: Proposed Approach

- 6.1 The Proposed Approach set out the draft vision and objectives and overarching strategic sustainability principles which will underpin the Plan, together with the approach to the provision for each of the important minerals found in the Plan area. The paragraphs below set out the outcomes for the proposed approach, in the light of previous consultation, in relation to brick clay. The complete text is set out in the following document:

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan: Spring 2018 Consultation: Proposed Approach, December 2017 – Chapter 7.3 Brick Clay and Fireclay and Chapter 14 Site Allocations.

- 6.2 More detailed background information about Brick Clay and Fireclay was set out in the following documents:

*Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan: Spring 2018 Consultation: Proposed Approach
Background Paper Brick Clay and Fireclay – December 2017*

- 6.3 Revised initial assessments were undertaken on the promoted hard rock sites. Further information can be found in the following documents:

*Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan: Spring 2018 Consultation: Proposed Approach
Background Paper Revised Initial Assessment, Background Information and Maps – December 2017*

Representations on the Emerging Approach 2015 – 2017 Rolling Consultation

- 6.4 The Rolling Consultation received few representations on the Brick Clay and Fireclay Strategy Paper. Issue 1 which was about making provision for brick clay put forward three options:

- Option1 – Make provision through existing permitted reserves and allocated sites;
- Option 2 – Make provision through existing permitted reserves and a criteria based policy; and
- Option 3 – Make provision through existing permitted reserves and allocated sites and a criteria based policy.

Options 1 and 3 received equal support. Two respondents supported the allocation of Mouselow Quarry put forward under Option 3. No responses were received to any of the other issues.

- 6.5 The Rolling Consultation: Hard Rock Sites received over 30 separate representations to the Methodology Paper covering a wide range of issues including weighting, buffer zones, mitigation, local amenity impacts and impacts on ecology and the historic environment. Two comments, including the comment from the operator, supported the allocation of the site at Mouselow. One comment stated that account should be taken of any impact on the Peak District National Park which is located approximately 2km away. Details of the representations received, together with considered responses and outcomes for the Spring 2018 Consultation is set out in the following document.

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Spring 2018 Consultation: Proposed Approach – Report of Representations, December 2017

Drop- In Sessions, February 2017

- 6.6 As part of the Hard Rock Sites Consultation drop-in sessions were held by the Councils in locations where new areas of working were being promoted by operators. In relation to the promoted site at Mouselow Quarry one resident of Higher Dinting raised concerns about views, land instability and any increases in dust, noise or traffic on the surrounding area. All comments received were noted, considered and where relevant used to inform the Proposed Approach, Spring 2018. Details can be found in the following document:

Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Spring 2018 Consultation: Proposed Approach – Report of Representations, December 2017

Duty to Co-operate

- 6.7 Two strategic cross-boundary issues relating to planning for the provision of Brick Clay have been identified by the Councils:
- The supply of brick clay from Mouselow Quarry in Derbyshire to Denton Brickworks in east Manchester; and
 - The supply of brick clay from Waingroves Quarry in Derbyshire to brickworks in Nottinghamshire and Leicestershire.
- 6.8 The Councils have engaged in meetings and discussions with relevant authorities, mineral operators and other stakeholders. Co-operation has focussed on the need to ensure a continuous supply of brick clay to brick works lying outside of the Plan area. Outcomes from the co-operation has fed into the Proposed Approach, Spring 2018 Consultation.
- 6.9 All Duty to Co-operate Issues together with the Stakeholders involved have been set out in the following Background Paper which has been updated to add additional matters that have arisen since the Plan has progressed. Further information can be found in the following Report:

*Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan – Spring 2018 Consultation: Proposed Approach
Duty to Cooperate Report – Background and Progress, December 2017*

Sustainability Appraisal of the Rolling Consultation 2015-2017

- 6.10 A sustainability appraisal was undertaken on all the Papers that constituted the Towards a Minerals Local Plan Rolling consultation 2015-2017 and all of the sites that were promoted by operators. The full appraisal is set out in the following document:

*Derbyshire and Derby Minerals Local Plan – Towards a Minerals Local Plan:
Spring 2018 Consultation: Proposed Approach
2nd Interim Sustainability Appraisal (SA) Report, December 2017*

- 6.11 Where appropriate the findings of the SA have been incorporated into the Proposed Approach, Spring 2018 Consultation as set out at paragraph 6.17. The paragraphs below set out the outcomes for the proposed approach, in relation to brick clay and fireclay issues in the light of previous consultation..

Outcomes for the Spring 2018 Consultation: Proposed Approach: Brick Clay and Fireclay

Vision and Objectives

- 6.12 Chapter 3 of this Consultation document contains the Plan's draft Vision and Objectives. The Vision is about what the Plan area will be like in terms of mineral development in 2030 if the policies and proposals of the Plan have been successfully delivered over the Plan period. The Objectives set out the key goals that will need to be attained to make the Vision a reality. The contribution that the individual draft policies set out in the Brick Clay and Fireclay chapter will make towards achieving the overall draft Vision and Objectives of the Plan is set out below the Policies section at the end of the chapter.
- 6.13 The Rolling Consultations included key Issues and Options that needed to be addressed in order to develop a strategy for ensuring the supply of Brick Clay and Fireclay.

Issue: Making provision for an adequate and steady supply of Brick Clay

- 6.14 There are no national demand targets for the supply of brick clay but the Plan is required to make provision for an adequate and steady supply to support its likely use in industrial and manufacturing processes. To support investment in maintaining or developing a new kiln, a 25 year stock of permitted reserves of brick clay should be maintained at individual brick or clay products works.

6.15 In order to maintain an adequate and steady supply of Brick Clay, three options were put forward for consultation:

- Option 1: Make provision through existing permitted reserves and allocated sites
- Option 2: Make provision through existing permitted reserves and a criteria based policy
- Option 3: Make provision through existing permitted reserves and allocated sites and a criteria based policy.

6.16 Options 1 and 3 received equal support. It is considered, however, that Option 3 should be the preferred approach for the following reasons. There are no national demand targets for brick clay; the plan has to make provision for the supply of both anticipated and unforeseen demand. Such demand may take the form of additional reserves required at an existing quarry to maintain supply or a new quarry to support a new brick or clay products works. There are currently no such works within the Plan area; the current brick clay quarries supply brickworks outside of the county. At Mouselow Quarry which supplies Denton Brickworks it is known that there is a need for additional reserves before the end of the Plan period and the operator, Wienerberger, is actively promoting an extension to the quarry.

6.17 Option 3 would provide both flexibility to meet unforeseen needs over the Plan period and the clarity and certainty of supply through the allocation of sites where there is an identified need for additional reserves, known economically viable resources exist and operators/landowners are supportive and actively promoting minerals development. The 2nd Interim SA Report, December 2017 confirmed that Option 3 was the most positive for minerals, providing both certainty through allocations and flexibility through a criteria based approach.

Alternatives

6.18 Option 1 is unsuitable as only one site has been promoted for allocation over the plan period and the MPA has insufficient information about the scale and commercial viability of the remaining resource that would enable the

identification of sites, preferred areas or areas of search from which future provision of brick clay or fireclay could be made. This option, in isolation, therefore would not provide sufficient flexibility to meet any unforeseen increased demand for additional reserves of brick clay to be worked during the Plan period.

- 6.19 Option 2 would provide flexibility to meet both known and unforeseen needs for new working, however, it would not provide the same clarity and certainty of delivery that identifying specific areas of land would bring for both companies and local communities, and which NPPG prioritises as the way to ensure supply ahead of preferred areas and areas of search.

Outcome for the Proposed Approach

- 6.20 The Proposed Approach proposes to make provision for the supply of brick clay through existing permitted reserves; it also includes a criteria based policy against which proposals for additional reserves will be considered and it will propose the allocation of any sites promoted by operators and considered acceptable for working, in principle, to commence during the Plan period to 2030. Policy MS10 allows for the working of additional reserves of brick clay. The allocation of specific sites, including Mouselow, is set out at Chapter 14 of the Plan.

Issue: A criteria-based policy

- 6.21 Option 3 for the supply of brick clay would require a criteria-based policy to be used to assess new proposals for brick clay working. Consultees were asked to comment on the components that such a policy should contain; no comments were received on this matter.
- 6.22 The suggested components were as follows:
A presumption in favour of proposals for the extraction of brick clay where additional reserves are required to meet an identified need for materials to supply a brickworks or clay products manufacturing site and where,

- they will contribute towards the maintenance of a landbank of at least a 25-year stock of permitted reserves and/or
- they are required to enable the appropriate blending of clays and/or
- they are required because of their particular chemical or physical composition.

6.23 In view of the lack of comments, it is considered reasonable to develop a policy approach in line with the 'suggested components' which accord with NPPF policies on planning for industrial minerals, with particular regard to maintaining stocks of permitted reserves, allowing for blending and taking into account mineral specifications.

6.24 Additionally, whilst there are currently no brickworks within the Plan area, the Plan has to make provision for any unforeseen demand. In the interests of achieving sustainable development, the policy approach will include a requirement that, where possible, proposals for new brick clay quarries should be located as near as possible to the brickworks that they supply.

Outcome for the Proposed Approach

6.25 Include a criteria policy, MS10, in the Plan to implement Option 3 in line with the components suggested above and contained in the Consultation Paper.¹

Issue: Making provision for the stockpiling of Brick Clay

6.26 The stockpiling of Brick Clay is a particular feature of clay working which can impact on the speedy restoration of sites. Responses to the Issues and Options consultation suggested that the MPA should look further at the most appropriate location for stockpiling i.e. at the quarry or at the brick works/clay products manufacturing site; some respondents felt that it was not always practicable or desirable to stockpile at the manufacturing unit. In the January 2015

¹ Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Rolling Consultation 2014-2016: Towards a Strategy for Brick Clay and Fireclay, January 2015.

Consultation Paper² consultees were asked to comment on the detailed wording of an emerging approach to clay stockpiling. No comments were received on this issue.

6.27 The suggested wording was as follows:

‘Planning proposals will need to include evidence to support the proposed location for stockpiling brick clay. This evidence should have regard to matters such as, size of site, topography, surrounding land uses, transport etc.

Where proposals include the location of stockpiles at the excavation site provision should be made for their progressive restoration as material is removed in order to minimise their impact.’

6.28 In view of the lack of comments it is considered reasonable to develop a policy approach that accords with the ‘suggested wording’ which would implement the NPPF policies on planning for industrial minerals with particular regard to stockpiling.

Outcome for the Proposed Approach

6.29 Include a policy in the Plan, MS11, in line with the wording suggested in the Consultation Paper.

Issue: Specific identification (allocation) of land for brick clay working

6.30 Option 3 for the supply of brick clay would involve the specific allocation of sites for working where it is established that there is an identified need for additional reserves. The operator of Mouselow Quarry has indicated that additional reserves of high quality brick making shale will be required during the Plan period and is therefore promoting an extension to the area of extraction within the site boundary of the existing quarry.

² Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Rolling Consultation 2014-2016: Towards a Strategy for Brick Clay and Fireclay, January 2015.

- 6.31 In order to assess the suitability of promoted sites for inclusion in the Plan as allocations, the MPA has prepared a revised Site Assessment Methodology and undertaken a revised initial assessment of the site. Further details of the assessment process and proposed site allocations are set out in Chapter 14 of the proposed approach.

Issue: Fireclay – Options for making provision for an adequate and steady supply of fireclay

- 6.32 Fireclay is not normally commercially viable on its own and almost all production is as a co or by-product of coal mining. In recognition of this the NPPF states that ‘coal producers should be encouraged to extract separately and, if necessary stockpile, fireclay so that it remains available for use.’ In view of this, consultees were asked whether the Plan should adopt the approach of taking into account the benefit of working fireclay resources in association with coal resources in determining the overall acceptability of proposals for new coal working. No responses were received to this suggested approach.

Outcome for the Proposed Approach

- 6.33 In view of the lack of response and local steer, the MPA is reliant on national policy in formulating an approach. It is considered reasonable therefore to incorporate the need to make provision for the supply of fireclay in the development of a policy to allow for new coal working. Policy MS13, Chapter 8: Coal, makes provision for the extraction of fireclay in association with coal extraction.

Issue: Safeguarding Brick Clay and Fireclay Resources

- 6.34 The NPPF requires Plans to define Minerals Safeguarding Areas and include appropriate policies so that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development. Whilst clay, shale and mudstones are widespread, only limited deposits have sufficient qualities to make them economically important for the manufacture of bricks and clay products. Chapter 10 of the Proposed Approach, through policies SG1 and SG2 makes provision for safeguarding important clay resources.

Issue: Making provision for an adequate and steady supply of clay and shale used for other purposes

- 6.35 Clay and shale can also be used for engineering and environmental purposes i.e. capping and lining areas of landfill, lining water bodies and for general constructional purposes (fill). Generally, the extensive clay and shale deposits within the Plan area can be used to source clay and shale for these uses (although it is recognised that sometimes the specialist properties of brick clay or fireclay may be required for some construction purposes). Clay and shale for these purposes is often worked incidentally both in association with the extraction of other minerals and prior to non-mineral development or as borrow pits in association with major construction projects. The MPA therefore put forward an approach in the most recent consultation³ that the working of clay for such purposes should be dealt with by other policies in the Plan covering borrow pits, prior extraction and the incidental working of clay in association with other minerals. No responses were received on this approach.

Outcome for the Proposed Approach

- 6.36 In view of the lack of response and local steer, the MPA is reliant on national policy in formulating an approach. The NPPF and PPG do not include specific policies about clay working in such instances. It is considered reasonable therefore to include general policies in the Plan which would cover the working of clay from borrow pits in association with construction projects and the incidental working of clay in association with other minerals or prior to other development. These policies MS19 and MS21 can be found in Chapter 9 of the Proposed Approach.

Issue: Allocation of Specific Sites for Brick Clay working

- 6.37 Chapter 14 of the proposed approach summarises revised initial assessments undertaken on the promoted hard rock quarries using the revised sites methodology and proposes site allocations. By this stage a smaller extension

³ Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Rolling Consultation 2014-2016: Towards a Strategy for Brick Clay and Fireclay, January 2015

site was being promoted by Wienerberger Ltd for working at Mouselow Quarry. Where negative factors were identified that could potentially constrain the allocation of a site, further assessment was undertaken to ascertain if those constraints could be overcome.

Outcome for the proposed approach

- 6.38 The proposed approach included, through policy SA3, the proposed allocation of land at Mouselow Quarry for mineral working.

7. Towards a Minerals Local Plan: Winter 2021/2022 Consultation – Proposed Draft Plan

Revised NPPF and NPPG

- 7.1 Since the Spring 2018 Consultation was published the Government has revised the NPPF and partly revised the PPG. The Councils have revisited their proposed approach in planning for the supply of brick clay and fireclay in the light of this new policy guidance. There are no specific changes to government policy in respect of brick clay and fireclay provision. There is a new requirement in terms of Duty to Co-operate, with planning authorities being required to produce one or more statements of common ground (SOCG). These should document the cross-boundary matters being addressed and progress in co-operating to address these.
- 7.2 In accordance with the NPPF the Proposed Draft Plan sets out the strategic priorities for the Plan which are encompassed in the draft vision and objectives. It includes a framework of strategic policies aimed at addressing those priorities together with non-strategic development management policies aimed at avoiding, minimising and mitigating the adverse impacts of minerals development. The strategic policies set out an overall strategy for the pattern and scale of mineral development and make provision for the supply of minerals (including cross-boundary supplies) over the Plan period. Where appropriate they identify specific sites for working. The paragraphs below set out the outcomes for the proposed draft plan, in the context of previous consultation, in relation to brick clay and fireclay. The complete text is set out in the following document:

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation: Proposed Draft Plan, December 2021 – Chapter 7.3 Brick Clay and Fireclay.

- 7.3 More detailed background information about Brick Clay and Fireclay was updated and set out in the following document:

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation: Proposed Draft Plan, December 2021
Background Paper Brick Clay and Fireclay – December 2021

Representations on the Proposed Approach Spring 2018 Consultation

- 7.4 The MPA received only a few comments on the Proposed Approach in relation to Brick Clay and Fireclay. Supporting comments were received from Greater Manchester Combined Authority to the proposed approach to maintaining the supply of brick clay, in recognising the importance of Mouselow Quarry in supplying Denton brickworks which lies across the county boundary, and in recognising the importance of the need for ongoing monitoring to maintain supplies. The National Trust suggested an amendment to Policy MS10 to take into account other environmental considerations as well as proximity when considering proposals for new quarries.
- 7.5 Both Wienerberger and Greater Manchester Combined Authority supported the proposed allocation of an extension to Mouselow Quarry for brick clay and associated sandstone working. Representations made to the Proposed Approach have been taken into account. Detailed information on the representations made can be found in the following document:

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation: Proposed Draft Plan - Report of Representations, December 2021

Drop- In Sessions, Spring 2018

- 7.6 The Report of Representations also contains details of issues raised at drop-in sessions held by the MPAs in each of the 'Borough/District Local Planning Authorities within the Plan area. All comments received have been considered and where relevant used to inform the Proposed Draft Plan, Winter 2021/2022

Consultation. No specific issues were raised in relation to the supply of Brick Clay and Fireclay.

Duty to Co-operate

- 7.7 Local Planning Authorities and County Councils (in two tiers areas) are under a duty to co-operate with each other and with other prescribed bodies on strategic matters which cross administrative boundaries. Joint working is particularly important in identifying whether development needs that cannot be met within a particular plan area could be met elsewhere.
- 7.8 Strategic policy making authorities should collaborate to establish cross border matters which they need to address in their plans and in accordance with the new NPPF produce one or more statements of common ground. These should document the cross-boundary matters being addressed and progress in cooperating to address these.
- 7.9 In preparing the Proposed Draft Plan the Councils have revisited the strategic cross-boundary issues relating to planning for the provision of Brick Clay, the strategic issues previously identified remain relevant:
- The supply of brick clay from Mouselow Quarry in Derbyshire to Denton Brickworks in east Manchester; and
 - The supply of brick clay from Waingroves Quarry in Derbyshire to brickworks in Nottinghamshire and Leicestershire.
- 7.10 The Councils have engaged in meetings and discussions with relevant authorities, mineral operators and other stakeholders. Co-operation has focussed on the need to ensure a continuous supply of brick clay to brick works lying outside of the Plan area and fed into the Proposed Draft Plan, Winter 2021/2022 Consultation.
- 7.11 The Councils have produced a Duty to Co-operate Report setting out the background and overview to duty to co-operate issues. In line with the new provisions of the NPPF they have produced a SoCG which sets out the

progress made to date on co-operating to address the strategic cross-border duty to co-operate issues. Two issues have been identified in relation to Brick Clay. Further information can be found in the following document:

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation: Proposed Draft Plan - Duty to Co-operate Report: Introduction and Overview, SOCG, December 2021

Sustainability Appraisal (SA) of the Proposed Approach Spring 2018 Consultation

- 7.12 An SA was undertaken on the policies of the Proposed Approach in May 2018. The appraisal was updated to take account of promoted sand and gravel sites which were the subject of consultation in October 2020. The updated appraisal is set out in the following document:

*Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation
3rd Interim Sustainability Appraisal (SA) Report, August 2020*

- 7.13 The SA concludes that the two policies put forward for ensuring the supply of brick clay in the Proposed Approach would achieve minor positive effects when measured against sustainability objectives. Where appropriate the findings of the SA have been incorporated into the Proposed Draft Plan, Winter 2021/2022 Consultation.

Sustainability Appraisal of the Proposed Draft Plan Winter 2021/2022 Consultation

- 7.14 An SA was undertaken on the policies of the Proposed Draft Plan December 2021. The appraisal is set out in the following document:

*Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation
4th Interim Sustainability Appraisal (SA) Report, January 2022*

- 7.15 The SA Report assesses the two policies SP13 and SP14 in Chapter 7.3 against the eight SA objectives/topics. It predicts that for each of the two policies there will not be significant negative effects and it recommends that no changes need to be made to the Proposed Draft Plan.

Strategic Transport Assessment (STA)

- 7.16 A STA was undertaken on the policies of the Proposed Draft Plan. The appraisal is set out in the following documents:

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan: Winter 2021/2022 Consultation

Strategic Transport Assessment Stage 1 and 2, September 2021 and December 2021

- 7.17 Stage 1 concluded that the majority of existing minerals sites are either situated within a good location in terms of transport connectivity or have appropriate planning controls to govern HGV movements to / from the site. All proposed minerals sites are located within a good location in terms of transport access. Stage 2 concluded that, considered cumulatively, the existing and proposed Minerals Local Plan sites would not generate a 'severe' impact on the highway network that would be greater than otherwise expected based upon observations of the existing use of sites.

Outcomes for the Proposed Draft Plan: Brick Clay and Fireclay

- 7.18 The Proposed Draft Plan sets out a proposed draft vision and objectives and overarching strategic policies which will underpin the Plan, together with proposed draft policies for the provision of each of the important minerals found in the Plan area. The paragraphs below set out the outcomes for the Proposed Draft Plan, in the context of previous consultation, in relation to brick clay and fireclay issues.

Vision and Objectives

- 7.19 Chapter 3 of the Winter 2021/2022 Consultation contains the Plan's proposed Vision and Objectives. The contribution that the individual draft policies set out

in the Brick Clay and Fireclay Chapter will make towards achieving the overall draft Vision and Objectives of the Plan will be monitored in accordance with the proposed monitoring framework set out at Chapter 12 of the Plan.

Brick Clay and Fireclay

- 7.20 The Spring 2018 Consultation included key Issues and Options that needed to be addressed in order to develop a strategy for ensuring the supply of Brick Clay and Fireclay and proposed two policies MS10 and MS11 concerning Brick Clay provision and stockpiling. It also proposed, through Policy SA03, the allocation of land for brick clay and associated sandstone working at Mouselow Quarry, Glossop. These key issues will be referred to again in explaining the development of the Proposed Draft Plan, Winter 2021/2022 Consultation.

Issue: The supply of brick clay

- 7.21 The NPPF identifies brick clay and fireclay as important minerals and requires Mineral Planning Authorities (MPAs) to plan for their steady and adequate supply, by co-operating with neighbouring and more distant authorities, to ensure adequate provision is made to support their likely use in industrial and manufacturing processes. In terms of brick clay supply, the approach set out in the Spring 2018 Consultation proposed that provision should be made in three ways. Firstly, through existing permitted reserves at active quarries which were considered sufficient to maintain production until the end of the plan period. Secondly, through a plan wide criteria policy, MS10, which would allow for new clay working to meet any unforeseen demand and thirdly, through the specific allocation of land at Mouselow Quarry. Planning permission was granted for the site in April 2019; the consequences for the local plan are set out at paragraphs 7.22 and 7.23. This policy approach was considered to be the most positive in terms of sustainability appraisal.

Outcome for the Proposed Draft Plan

- 7.22 Maintain the supply of brick clay through permitted reserves and a plan wide criteria based policy.

Issue: A criteria based policy

- 7.23 The wording of criteria policy MS10 in the Spring 2018 Consultation allows for the working of additional reserves to meet an identified need for materials to supply a brick works or clay products site and where they are required to maintain a minimum 25 year stock of permitted reserves, and/or where they are required for blending, and/or they are required because of their technical specifications. In order to focus on supply rather than meeting a need as set out in the NPPF it is proposed to amend the policy wording. This amendment more closely aligns with the style of other policies in the Proposed Draft Plan.
- 7.24 Policy MS10 of the Spring 2018 Consultation adds that proposals that accord with this policy will be supported where they are extensions of time and/or physical extensions to existing quarries. The policy sets out that where a new quarry is proposed it should be located as near as possible to the site where the clay will be used; one representation suggested that this locational requirement should be qualified with the phrase 'when weighed with other environmental considerations'. The principle of seeking to locate a new quarry as close as possible to where the mineral will be used is an important way of reducing transport movements and thereby minimising transport impacts. Any proposals will be assessed against all of the relevant policies in the local plan and therefore other 'environmental considerations' will be taken into account in this way.

Outcome for the Proposed Draft Plan

- 7.25 Amend Policy SP13 in the Proposed Draft Plan in accordance with the approach set out above.

Issue: Allocation of land at Mouselow Quarry

- 7.26 The Spring 2018 Consultation proposed the allocation of land for brick clay working at Mouselow Quarry which supplies high quality brick making shale across the county boundary to Denton brick works in neighbouring east Manchester. Two supporting representations were received to the proposed allocation from Wienerberger, the operator of the brickworks and quarry, and Greater Manchester Combined Authority. No objections were received to the proposed allocation. Planning permission was granted for an extension to

Mouselow Quarry for brick clay and associated sandstone working⁴ in April 2019 and the development has commenced. The reserves therefore are taken into account in terms of supply as permitted and consequently there is no longer a need to allocate the site for working.

Outcome for the Proposed Draft Plan

- 7.27 Remove the proposed allocation of land at Mouselow Quarry.

Issue: Stockpiling

- 7.28 The stockpiling of Brick Clay is a particular feature of clay working which can impact on the early restoration of sites. The Spring 2018 Consultation included policy MS11 which requires applicants to submit evidence to justify the location of stockpiles of clay either at the quarry or manufacturing site. Where stockpiles are to be located at the excavation site provision should be made for their progressive restoration to minimise their impact. No comments were received on this policy. Further consideration was given to the practical application of this policy and it was decided to remove the requirement for applicants to submit evidence to justify the location of stockpiles; the MPA will determine the proposals as they are submitted.

Outcome for the Proposed Draft Plan

- 7.29 Amend Policy SP14 in the Proposed Draft Plan to remove the requirement to submit evidence to justify the location of stockpiling.

Issue: The supply of Fireclay

- 7.30 Fireclay is not normally commercially viable on its own and almost all production is as a co or by-product of coal mining. In recognition of this, the NPPF states that, 'coal producers should be encouraged to extract separately and, if necessary, stockpile fireclay so that it remains available for use.' The supply of fireclay is addressed in Chapter 8.1 – Coal.

Issue: Safeguarding

⁴ Planning application CM1/0618/23

7.31 The supply of brick clay and fireclay will further be maintained through safeguarding. The NPPF requires Plans to define Minerals Safeguarding Areas and include appropriate policies so that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development. Whilst clay, shale and mudstones are widespread, only limited deposits have sufficient qualities to make them economically important for the manufacture of bricks and clay products. The safeguarding of fireclay needs to be considered in association with the safeguarding of coal resources. Policies for safeguarding important minerals are set out in Chapter 9 of the Proposed Draft Plan.

Issue: Making provision for an adequate and steady supply of clay and shale used for other purposes

7.32 Clay and shale can also be used for engineering and environmental purposes i.e. capping and lining areas of landfill or lining water bodies and for general constructional purposes (fill). Generally, the extensive clay and shale deposits within the Plan area can be used to source these uses (although it is recognised that sometimes the specialist properties of brick clay or fireclay may be required for some construction purposes). Clay and shale for these purposes is often worked incidentally both in association with the extraction of other minerals and prior to non-mineral development or as borrow pits in association with major construction projects. Chapter 11 of the Proposed Draft Plan includes policies to address borrow pits, prior extraction and the incidental working of clay in association with other minerals.

Issue: Monitoring

7.33 The Plan, as set out at in Chapter 3, will contain a number of objectives to be achieved over the Plan period, in order to deliver the Plan's overall Vision. The effectiveness of the Plan's policies and proposals, put in place to meet those objectives, will be monitored so that, if necessary, issues can be identified and addressed through a revision of the Plan, either in whole or part.

7.34 Policy SP13 of the Proposed Draft Plan requires an adequate and steady supply of brick clay to be maintained throughout the Plan period which will be

monitored through proposed monitoring indicators set out at Chapter 12. Additionally, the maintenance of stocks of permitted reserves (landbanks) is a way of ensuring supply and will also be monitored. The NPPF requires a minimum stock of 25 years of permitted reserves of brick clay to be maintained at individual quarries to support new and ongoing investment at brickworks. The MPA will monitor the supply of brick clay and liaise with the relevant adjoining MPAs to ensure that supply is maintained.

8. Spring 2023 Consultation - Pre-Submission Draft Plan

NPPF and PPG

- 8.1 Since the last consultation there have been no revisions to the NPPF or PPG in relation to planning for industrial limestone. The Pre-Submission Draft Plan sets out the strategic priorities for the Plan which are encompassed in the draft vision and objectives. It includes a framework of strategic policies aimed at addressing those priorities together with non-strategic development management policies aimed at avoiding, minimising and mitigating the adverse impacts of minerals development. The strategic policies set out an overall strategy for the pattern and scale of mineral development and make provision for the supply of minerals (including cross-boundary supplies) over the Plan period. Where appropriate they identify specific sites for working. The paragraphs below set out the outcomes for the proposed Pre-Submission Draft Plan, in the light of previous consultation, in relation to brick clay and fireclay. The complete text is set out in the following document:

Derbyshire and Derby Minerals Local Plan (2022-2038) Spring 2023 Consultation: Pre-Submission Draft Plan, January 2023 – Chapter 7.3 Brick Clay and Fireclay.

- 8.2 More detailed background information about brick clay and fireclay has been updated and is set out in the following document:

Derbyshire and Derby Minerals Local Plan (2022-2038) Spring 2023 Consultation: Pre-Submission Draft Plan, January 2023 Background Paper Brick Clay and Fireclay – January 2023

Representations on the Winter 2021/2022 Consultation

- 8.3 The MPA received very few comments on the Proposed Draft Plan in relation to brick clay and fireclay provision. An objection was made to the principle of extracting coal (with ancillary fireclay) in view of climate change implications. Support was received in recognition of the supply of fire clay from the Plan area to support brick works lying in adjoining authority areas. Concern was expressed by Historic England that the policies should take into account the need to protect the historic environment in relation to new sites and the restoration of sites. Details of the representations received, together with considered responses and outcomes for the Spring 2023 Consultation are set out in the following document.

Derbyshire and Derby Minerals Local Plan (2022-2038) Spring 2023 Consultation: Pre-Submission Draft Plan, January 2023 - Report of Representations, January 2023

Drop- In Sessions, Spring 2022

- 8.7 The MPA held Drop-in sessions at six locations throughout the Plan area where planning officers were present to discuss any issues raised by visitors. All of the comments received have been considered and where relevant used to inform the Pre-Submission Draft Plan. No specific issues were raised in relation to the Brick Clay and Fireclay chapter. A note of the Drop-in sessions can be found in this document:

Derby and Derbyshire Minerals Local Plan: Towards a Minerals Local Plan - Proposed Draft Plan - Winter 2021/2022 Consultation, Report of Publicity and Consultation, July 2022

Duty to Co-operate

- 8.8 Local Planning Authorities and County Councils (in two tiers areas) are under a duty to co-operate with each other and with other prescribed bodies on strategic matters which cross administrative boundaries. Joint working is particularly important in identifying whether development needs that cannot be met within a particular plan area could be met elsewhere.
- 8.9 Strategic policy making authorities should collaborate to establish cross-border matters which they need to address in their plans and in accordance with the new NPPF produce one or more SoCG These should document the cross-boundary matters being addressed and progress in cooperating to address these.
- 8.10 In preparing the Pre-Submission Draft Plan there have been no changes to the strategic cross-border issues relating to planning for the provision of brick clay and fireclay. The following issues remain identified:
- The supply of brick clay from Mouselow Quarry in Derbyshire to Denton Brickworks in east Manchester; and
 - The supply of brick clay from Waingroves Quarry in Derbyshire to brickworks in Nottinghamshire and Leicestershire.
- 8.11 The Councils have engaged with the relevant authorities, mineral operators and other stakeholders. Co-operation has focussed on the need to ensure a continuous supply of brick clay and has fed into the Pre-Submission Draft Plan, Spring 2023 Consultation.
- 8.12 The Councils have produced a Duty to Co-operate Report setting out the background and overview to duty to co-operate issues. In line with the provisions of the NPPF they have produced a SoCG which sets out the progress made to date on co-operating to address the strategic cross-border duty to co-operate issues. Two issues have been identified in relation to brick clay. Further information can be found in the following documents:

Derbyshire and Derby Minerals Local Plan (2022-2038): Spring 2023 Consultation: Pre-Submission Draft Plan - Duty to Co-operate Report: Introduction and Overview, SOCG, January 2023

Sustainability Appraisal of the Pre-Submission Draft Plan Spring 2023 Consultation

- 8.13 A SA was undertaken on the policies of the Pre-Submission Draft Plan. The appraisal is set out in the following document:

Derbyshire and Derby Minerals Local Plan (2022-2038) - Spring 2023 Consultation: Sustainability Appraisal - SA Report, January 2023

- 8.14 The SA Report assesses Policy SP13 (incorporating SP14) in Chapter 7.3 against the eight SA objectives/topics. It predicts that there will not be any significant negative effects from the policy, and it recommends that no changes need to be made to the Pre-Submission Draft Plan.

Habitats Regulations Assessment (HRA) of the Pre-submission Draft Plan Spring 2023 Consultation

- 8.15 HRA is required to ensure that the policies of the Plan would not cause a likely significant effect on any European sites. A HRA was undertaken on the policies of the Pre-Submission Draft Plan which concluded that Policy SP13 would have no likely significant effects on European designated sites. It further commented that whilst individual proposals may or may not pose likely significant effects on European sites, but that these would be assessed as part of the scrutiny process when any applications are made. The Assessment is set out in the following document:

Derbyshire and Derby Minerals Local Plan (2022-2038) - Spring 2023 Consultation: Habitats Regulations Assessment, January 2023

Strategic Flood Risk Assessment

- 8.16 A Strategic Flood Risk Assessment has been undertaken on the Pre-submission Draft Plan. The full text can be found in the following document:

*Derbyshire Level 1 Minerals Strategic Flood Risk Assessment Update
(February 2023)*

8.17 The SFRA did not identify any issues associated with Policy SP13.

Actions/Considerations

8.18 None

Outcome for the Pre-submission Draft Plan

8.19 None

Health Impact Assessment

8.20 A Health Impact Assessment has been undertaken on the Pre-submission Draft Plan. The full text can be found in the following document:

*Derbyshire and Derby Minerals Plan 2022-2038: Health Impact Assessment
January 2023*

8.21 The HIA raised no specific concerns regarding Policy SP13.

Actions/Considerations

8.22 None

Outcome for the Pre-submission Draft Plan

8.23 None

Equalities Impact Assessment (EqIA)

8.24 An EqIA has been undertaken on the Pre-submission Draft Plan. With regard to Policy SP13 Brick Clay and Fireclay the EqIA concludes that there is no clear link between the policy and inequality. The full EqIA is set out in the following document:

Outcomes for the Pre-Submission Draft Plan: Chapter 7.3 Brick Clay and Fireclay

- 8.25 The Pre-Submission Draft Plan, at Chapter 3, sets out its strategic priorities in the draft vision and objectives and includes strategic policies to address those priorities including ensuring the supply of each of the important minerals found in the Plan area. The paragraphs below set out the outcomes for the Pre-Submission Draft Plan in relation to issues surrounding the supply of brick clay and fireclay. The Plan has been updated and refined as plan preparation has progressed taking into account changes to national planning policy and other strategies, representations received, duty to co-operate requirements and Plan assessments and appraisals.
- 8.26 The Pre-Submission Draft Plan has been streamlined in order to present the Plan that the Councils consider should be taken forward for submission to the Planning Inspectorate for public examination before final adoption. Chapter 7.3 contains an Introduction and Background section, the Policies followed by the Reasoned Justification which incorporates national policy, need and supply. The Chapter includes one criterion-based policy concerning the supply of brick clay. In the interests of streamlining the Plan, Policy SP14 at the Draft Plan stage regarding stockpiling has been incorporated into Policy SP13 Supply of Brick Clay.

Issue: The supply of Brick Clay

- 8.27 The NPPF identifies brick clay as an important mineral and requires MPAs to plan for its steady and adequate supply, by co-operating with neighbouring and more distant authorities, to ensure adequate provision is made to support its likely use in industrial and manufacturing processes. In terms of brick clay supply, there is no change from the approach set out in the Proposed Draft Plan Winter 2021/2022 Consultation. The Plan proposes that provision should be

made in two ways firstly, through existing permitted reserves at active quarries which were considered sufficient to maintain production towards the end of the Plan period. Secondly, through a Plan-wide criteria-based policy, SP10, which would allow for brick clay working to meet any unforeseen demand. Supporting comments were received for recognising the importance of maintaining brick clay supply from quarries within the Plan area to brick works in adjoining authorities.

Outcome for the Pre-Submission Draft Plan

- 8.28 Maintain the supply of brick clay through permitted reserves and a plan wide criteria-based policy.

Issue: Stockpiling Brick Clay

- 8.29 The stockpiling of brick clay is a particular feature of clay working which can be visually intrusive and impact on the speed that sites can be restored. The proposed Draft Plan included a separate policy SP14 on stockpiling but in the interests of streamlining the MPA consider that its provisions should be included in Policy SP13. Proposals for working brick clay will need to include the progressive restoration of areas used for stockpiling in order to minimise their environmental impact.

Outcome for the Pre-Submission Draft Plan

- 8.30 Delete Policy SP14 and include its provisions on stockpiling in SP13.

Issue:SP13 Brick Clay Supply Policy Wording

- 8.31 The wording of the criteria-based policy SP13 in the Pre-Submission Draft has not changed in the main from the Proposed Draft Plan. The policy allows for the working of additional reserves where they are required to supply a brick works or clay products manufacturing site; where they are required because of their particular chemical or physical composition; where they would contribute towards the maintenance of a minimum 25-year stock of reserves; and where the need for stockpiling would not significantly delay the reclamation of the site. Policy SP13 supports extensions to existing sites and new sites where they are located as near as possible to where the clay will be used. Concern was

expressed by Historic England that the policy should take into account the need to protect the historic environment in relation to new sites and the restoration of sites, however the MPA consider that it is important to note that in assessing planning proposals all policies of the Plan apply, where relevant, and therefore historic environmental interests will be protected through other policies of the Plan and particularly Policy DM7 Historic Environment. Additional wording has been added to include the requirements of Policy SP14.

Outcomes for the Pre-Submission Draft Plan

- 8.32 Policy SP13 has been amended to include the requirements that, '*Where practicable, proposals that include the location of stockpiles at the excavation site will need to make provision for their progressive restoration, as material is removed, in order to minimise their impact and ensure the timely restoration of the site.*'

Issue: The extraction of fireclay in association with coal working

- 8.33 An objection was made to the working of fireclay in association with coal extraction in relation to climate change concerns.

Outcomes for the Pre-Submission Draft Plan

- 8.34 This issue is dealt with in Chapter 8.1 Coal and Colliery Spoil Disposal through Policy SP15 which allows for the incidental extraction of fireclay subject to meeting certain criteria. In general climate change considerations have been strengthened in the Pre-Submission Draft Plan and this is reflected in the Plan's policies particularly SP2 Climate Change.