

DERBYSHIRE AND DERBY MINERALS LOCAL PLAN

Towards a Minerals Local Plan: Spring 2018 Consultation

CHAPTER 10

10.1 Safeguarding Mineral Resources

December 2017

Introduction

- 10.1.1 Minerals provide essential raw materials for developing and sustaining our society – whether this is for construction, manufacturing, agriculture or energy production. Minerals are a non-renewable resource, and can only be worked where they occur. To protect these valuable resources for the long term and to ensure that they are available for use by future generations, it is important that they are not sterilised by non-mineral development being built over, or in close proximity to, them, such as housing, retail or industry.
- 10.1.2 Mineral Safeguarding Areas (MSAs) are designated to provide long term protection to areas of proven mineral resource that are considered to be of local and national importance.
- 10.1.3 The designation of MSAs does not convey any presumption that mineral extraction is acceptable; nor do they preclude other development from being permitted; their purpose is to provide a policy tool to ensure that mineral resources are taken into account alongside all other considerations when they are at risk from being lost to other forms of non-mineral development. There is also no presumption against mineral extraction in areas that are not safeguarded, as MSAs may not necessarily capture every viable resource.

Vision and Objectives

- 10.1.4 The Vision will help to define the direction of the Plan by stating where we want to be in terms of mineral development by the end of the Plan period. It will set out what the Plan area will be like in terms of mineral development in 2030 if the policies and proposals of the Plan have been delivered successfully over the Plan period. The Objectives will set out how the Vision will be delivered and implemented.

Objective 1 - Ensuring a Steady and Adequate Supply of Minerals
Objective 2 - Delivering Sustainable Minerals Development
Objective 4 – Safeguarding Mineral Resources and Facilities
Objective 6 - Protecting the Natural and Built Environment

10.1.5 The following objectives are relevant to this chapter:

Of these, Objective 4 is particularly relevant to this chapter. This sets out that mineral resources and the facilities which are used to process and transport extracted minerals will be protected from inappropriate development that would impair their availability and use for future generations. This will include the identification and safeguarding of surface and underground mineral resources of local and national importance, important aggregates supply and transport infrastructure such as rail heads, coating and concrete plants and effective co-operation with the district and borough councils in the area.

Evidence Base

10.1.6 Derbyshire County Council and Derby City Council obtained information on safeguarding of minerals from a variety of sources as a foundation for preparing the new Minerals Local Plan as a replacement for the adopted Derby and Derbyshire Minerals Local Plan, 2000. A summary of the information obtained is presented below.

British Geological Survey: Good Practice Guidance

10.1.7 The British Geological Survey (BGS) published the document “Minerals Safeguarding in England: Good Practice Advice” in September 2011. This complements the NPPF by supporting and facilitating MPAs in their implementation of national policy with respect to the safeguarding and prior extraction of minerals. It provides independent advice and a step by step methodology on how to define MSAs to prevent the needless sterilisation of minerals, as required by the NPPF. It advises that in most cases, MSAs should cover the full extent of mineral resources considered to be of economic importance and that they should also cover urban areas under which mineral resources lie.

National Planning Policy Framework

10.1.8 Government policy in the National Planning Policy Framework (2012) sets out that mineral resources should be considered equally alongside all other natural

assets when determining planning applications for new development. It requires, therefore, that all mineral planning authorities define Mineral Safeguarding Areas (MSAs) so that known locations of specific mineral resources of local and national importance are not needlessly and unnecessarily sterilised by non-mineral development.

National Planning Practice Guidance

10.1.9 This guidance was published in 2014. In terms of safeguarding of minerals, it states that minerals are a non-renewable resource, and that safeguarding ensures that non-minerals development does not needlessly prevent the future extraction of mineral resources, which are of local and national importance. It states that minerals should be safeguarded in designated and urban areas where considered necessary, and that policies may be included that encourage the prior extraction of minerals if it is necessary for non-mineral development to take place in Mineral Safeguarding Areas. It explains also that Mineral Planning Authorities (MPAs) should determine the extent of MSAs using the best available information on the location of all mineral resources in the authority area. This, it states, may include the use of British Geological Survey maps, as well as industry sources.

10.1.10 The British Geological Survey (BGS) published the document “Minerals Safeguarding in England: Good Practice Advice” in September 2011¹. This complements the NPPF by supporting and facilitating MPAs in their implementation of national policy with respect to the safeguarding and the prior extraction of minerals. It provides the most up to date, independent advice on an approach to defining MSAs.

Consultations Undertaken and Comments Received

10.1.11 The development of the new Minerals Local Plan has included a series of consultations to ascertain the views of relevant local authorities, organisations and bodies with an interest in mineral development and the potential

¹ Minerals Safeguarding in England: Good Practice Advice, September 2011.

implications of mineral development and the people of Derbyshire and their representatives.

Stakeholder Workshop 2009

10.1.12 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 people thought the 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 Council's website and in a newsletter that was circulated to stakeholders. Safeguarding was identified by stakeholders as a key issue which should be addressed in the MLP in the preparation of the Plan.

Issues and Options 2010

10.1.13 In the Issues and Options Paper (2010), two issues were included relating to the safeguarding of mineral resources. The first asked people how they think we should define mineral safeguarding areas. Responses indicated support for an approach which safeguards all proven mineral resources of local and national importance (83%). This approach is broadly in accordance with national policy and guidance and with the approach to safeguarding set out in the 2011 BGS guidance on minerals safeguarding, which is the most recent up to date guidance regarding mineral safeguarding.

10.1.14 The second issue set out an initial policy approach to safeguarding. 94% (16 out of 17 responses) thought that we should continue broadly the approach set out in Policy MP17 of the adopted Minerals Local Plan. One response disagreed, saying that Policy MP17 is inadequate because it merely says that proposals for development which would sterilise minerals will be resisted and does not constitute an effective means of safeguarding those resources. It goes on that there should be a presumption against competing development, conveyed by policies in the Development Plan, which will only allow permission to be granted in exceptional circumstances as defined by those policies. The emerging policy has been drafted to address this comment.

Towards a Minerals Local Plan – Rolling Consultation 2015/2016

10.1.15 The draft proposals set out in the Issues and Options exercise were prepared prior to the introduction of significant changes in international and national planning policy, notably the publication of the National Planning Policy Framework. Other emerging local policies and strategies and new evidence were also taken into account in the formulation of the vision, objectives and policies for the new Plan, including the approach of the Plan to the safeguarding of mineral resources.

10.1.16 There were 43 responses to this part of the document from 20 individuals or organisations. The following is a summary of the main issues raised:

- One comment suggests that the high grade industrial element of the Permian Limestone should be safeguarded separately to distinguish them from the aggregate grade mineral.
- Three consider that safeguarding of building stone should not be as restrictive and it should cover all the resource. One of these refers also to clays and Sherwood sandstone
- Most agree that urban areas should be washed over but one considers it impractical except for shallow coal or sand and gravel.
- One asks whether the policy can safeguard non- designated minerals for example on the line of proposed HS2.
- It is suggested by the Coal Authority that there may be cases where deep coal could be safeguarded so as not to conflict with sensitive surface land development.
- The opinion regarding the definition of buffer zones is split. The MPA states that we should build the buffers into the MSAs in accordance with good practice rather than use the MCA. It is also stated by others that there should be no set buffer zones but that they should be determined on a case by case basis and only where absolutely necessary.
- There are 11 comments of support for the overall approach as proposed and for the minerals which are proposed to be safeguarded.

- Support is expressed for the exempt categories of development but to include also applications for Listed Building consent and revised to ensure that any alterations/intensifications of use does not increase sensitivity.
- There are other comments requesting wording changes.

A full report on representations is available in Towards a Minerals Local Plan: Spring 2018 Consultation, Report of Representations.

Assessment of Comments and Outcomes for the Plan

10.1.17 The following is the Councils response to the issues raised above. All comments received have been used to determine the content of the Plan.

- The Councils do not have the same detailed information available regarding the specific grades of mineral in the Permian Limestone deposit.
- The proposal to safeguard only parts of the sandstone/gritstone resource resulted from the fact that this resource is so extensive and only small areas are found to be of sufficient quality to use as building stone. Safeguarding those areas which are known to contain good quality resources (i.e. existing building stone quarries) and the area around these quarries is considered to be a pragmatic approach.
- BGS guidance advises that MSAs should be defined to cover all urban areas, in order to highlight the potential for extracting significant quantities of mineral which can exist beneath urban regeneration projects and brownfield sites, and which may otherwise be overlooked. A series of exemptions will apply so that district councils will not have to consult the MPA on minor developments in these areas.
- The County Council will be consulted on the final route for HS2, and the issue of mineral sterilisation will be one of the issues that we will raise at that time.

- There is no requirement in the NPPF or Planning Practice Guidance to safeguard deep coal resources. The only issue of mineral sterilisation that needs consideration in relation to deep coal resources is whether licensed underground coal workings may become operationally sterilised by non-mineral surface development.
- BGS Good Practice sets out that it will be appropriate to include buffer zones beyond the mineral resource to address potential risks from incompatible development. The buffer zones will be determined according to the particular mineral and these, together with the mineral resource, will form the Mineral Safeguarding Area. This whole area will also be the Mineral Consultation Area and this will be used to ensure that district/borough councils consult the mineral planning authority on non-mineral planning applications that may affect the mineral.
- Noted.
- Changes made as appropriate.

Duty to Cooperate

10.1.18 National Planning Practice Guidance sets out that in planning for minerals extraction, mineral planning authorities are expected to cooperate with other authorities on strategic cross boundary matters.

10.1.19 In order to obtain as much relevant information as possible about safeguarding of mineral resources, Derbyshire County Council and Derby City Council has engaged in meetings and discussions with relevant authorities. We have also corresponded with organisations and individuals with relevant knowledge to develop our evidence base for the 2015/2016 consultation exercise and for developing the approach set out below.

10.1.20 The safeguarding of mineral resources is considered to be a strategic cross boundary matter by virtue of the fact that minerals are of national and local economic importance, which straddle administrative boundaries and are often transported significant distances to where they are used. It is important, therefore, to ensure that a co-ordinated approach is taken to the safeguarding of minerals which cross administrative boundaries and to ensure also that safeguarding policies are compatible between authorities. We have liaised with, and will continue to liaise with, adjoining MPAs regarding this issue.

Further detail is included in the Duty to Cooperate Paper, December 2017.

Sustainability Appraisal

10.1.21 The Sustainability Appraisal process is a way of testing the impact of the Plan against a series of Sustainability Objectives. Where the process recommends improvements to the Plan, these will be incorporated. A sustainability appraisal was undertaken on all the Papers that constituted the Towards a Minerals Local Plan Rolling consultation 2014-2017, including those concerning safeguarding of mineral resources. The following is a summary of the report regarding safeguarding.

The proposed approach would have positive implications by ensuring a steady supply of minerals for economic development. It would also help to ensure that the need for mineral imports was minimised, which would reduce carbon emissions. Larger development will need to demonstrate that resources cannot be extracted as part of the development. This could discourage the redevelopment of some sites but also provide the opportunity to extract resources which could partially fund the development. An uncertain effect is predicted for economy and housing, although it is not expected that significant effects would occur as the policy ought to take account of the viability and feasibility of resource extraction.

The full appraisal is set out in the following document:

Interim Sustainability Appraisal Report 2017

The Proposed Approach

- 10.1.22 Taking account of comments received and all other considerations referred to above, the following approach to safeguarding of mineral resources is proposed.

Minerals to be Safeguarded

- 10.1.23 The following minerals will be safeguarded to ensure that they are taken into account in proposals for non-mineral development:

- Glaciofluvial sand and gravel.
- Carboniferous limestone (aggregate, industrial and building stone grades).
- Fluorspar (found within the carboniferous limestone).
- Permian limestone (industrial and aggregate grade).
- Surface mined coal.
- Namurian sandstone (building stone).
- Sherwood sandstone.
- Fireclay (found within the coal measures).
- Brick clay.

- 10.1.24 For this Plan period, it is proposed to safeguard the entire resource of the Carboniferous Limestone (including associated Fluorspar) Permian Limestone, alluvial sand and gravel and surface mined coal (including associated Fireclay). These areas are shown on the maps in Appendix 1.

A more selective approach is proposed for resources of sandstone/gritstone used for building/roofing purposes, other clays and Sherwood Sandstone, for which it is proposed to only safeguard those resources within existing quarries and disused quarries with known remaining resources and potential areas for

extension around these quarries. The precise areas of these resources will be published shortly.

Development Close to Mineral Resources

10.1.25 Development which is close to, but not actually within, a mineral resource may also lead to the sterilisation of part of the resource. For example, if a house was built in this zone close to a mineral resource, a quantity of the resource may not be able to be worked (it would be sterilised) as the property would lie within the area that could be affected by the effects of mineral working to an unacceptable degree. To take account of such risks and to also account for the inexact nature of mapped geological boundaries, particularly for more scarce resources, it has been considered whether it will be necessary to extend the MSA beyond the actual resource boundary, using a buffer zone. Responses to this approach have not provided a clear steer either way. We have to rely on national guidance and BGS Good Practice therefore, which supports an approach which includes buffer zones. It is considered to be a pragmatic and appropriate approach to this issue, which is also used by many other mineral planning authorities. In accordance with recent examples of good practice, for resources where blasting is not required, this buffer zone has been set at 250m. The use of blasting requires the buffer zone for crushed rock resources to be greater and has therefore been set at 500m.

10.1.26 It may well be the case that, with modern blasting techniques, the issue can be resolved satisfactorily and development can take place close to mineral workings with neither party being affected to a significant extent, but at least this approach will ensure that the issue can be considered at an early stage in the process of determining a planning application, hopefully at pre-application stage.

10.1.27 The resource, together with the additional buffer zone, is designated as the Mineral Safeguarding Area to ensure that the mineral is afforded the

appropriate protection from non-mineral development. Because Derbyshire is a two tier area, this area will also be the Mineral Consultation Area. In areas covered by this designation, the District/Borough Planning Authorities will be required to consult the Mineral Planning Authority on planning applications within this area.

Further more detailed information regarding the background to the approach taken to mineral safeguarding is available in the Background Paper on Mineral Safeguarding, December 2017.

Policy SG1: Safeguarding Mineral Resources

The following mineral resources and associated buffer zones will be safeguarded from other forms of surface development to protect the resource for the future:

- i) All crushed rock resources (Carboniferous (with associated Fluorspar) and Permian Limestone) with an additional 500m buffer;
- ii) All sand and gravel and shallow coal resources (with associated fireclay) with an additional 250m buffer;
- iii) Safeguarding of resources of sandstone/gritstone for building and roofing purposes, Sherwood Sandstone and clays will be limited to existing quarries and disused quarries with known remaining resources and potential areas for extension around these quarries with an additional 250m buffer.

Development within Mineral Safeguarding Areas

10.1.28 There will be cases where non-mineral development can take place within mineral safeguarding areas. The following policy shows when this will be possible. Where it can be shown to take place, to prevent the unnecessary

sterilisation of mineral resources, there may be opportunities for extraction of the mineral prior to or as part of the development. The developer will be required to provide the necessary justification.

10.1.29 The extraction of mineral prior to or as part of the redevelopment of the site may be of economic advantage due to the availability of mineral on site for the development proposed or the shorter distance to market if sold. There will be different issues regarding prior extraction depending on the mineral involved, but it is most likely to be viable for shallow resources such as sand and gravel and surface coal. In the case of coal, in particular, prior extraction can help to rectify issues associated with land stability.

10.1.30 As a two-tier planning system exists in the planning authority area, the District and Borough councils in that area will be responsible for ensuring that development proposals that they determine in Safeguarding Areas are assessed appropriately. This will be done by using defined Minerals Consultation Areas, within which the District/Borough Councils would consult with Derbyshire County Council, as minerals planning authority, before decisions are taken on certain forms of non-mineral development which could sterilise minerals resources.

Exempt Development

10.1.31 Given that the majority of planning applications are submitted for development within urban areas, the designation of MSAs covering urban areas could potentially lead to a large amount of unnecessary notification between district planning authorities and mineral planning authorities. To overcome this, we have included a list of exempt developments, which will have no significant implications for mineral safeguarding and therefore on which the district planning authority will not be required to consult the mineral planning authority. These are set out below.

- Applications for householder development (extensions).

- Applications for alterations and extensions to existing buildings and for change of use of existing development, unless intensifying activity on site.
- Applications for advertisement consent.
- Applications for reserved matters, including subsequent applications after outline consent has been granted.
- Development which is in accordance with the development plan where the plan took account of the prevention of mineral sterilisation and determined that prior extraction should not be considered when applications in a MSA/MCA came forward.
- Prior notifications (telecoms, forestry, agriculture, demolition).
- Certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development.
- Applications for works to trees.
- Applications for temporary planning permission.
- Applications for Listed Building Consent

Policy SG2: Development within Mineral Safeguarding Areas

Within a Mineral Safeguarding Area, non-mineral development will only be permitted where:

- a) It can be shown that it would not sterilise the mineral or prejudice future extraction; or
- b) it constitutes exempt development (as defined in the Safeguarding Exemption Criteria list, above) or
- c) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or
- d) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource; or
- e) The non-mineral development is of a temporary nature that does not inhibit extraction within the timescale that the mineral is likely to be needed or;
- f) it can be shown that the proposal for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations, or;
- g) where it is necessary for non-minerals development to take place, the mineral will be extracted prior to the development (where this can be achieved in practicable and economic terms without unacceptable impact on the environment or local communities and having regard to the benefits of the restoration of the site),

Applications for development other than mineral extraction in Minerals Safeguarding Areas must include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

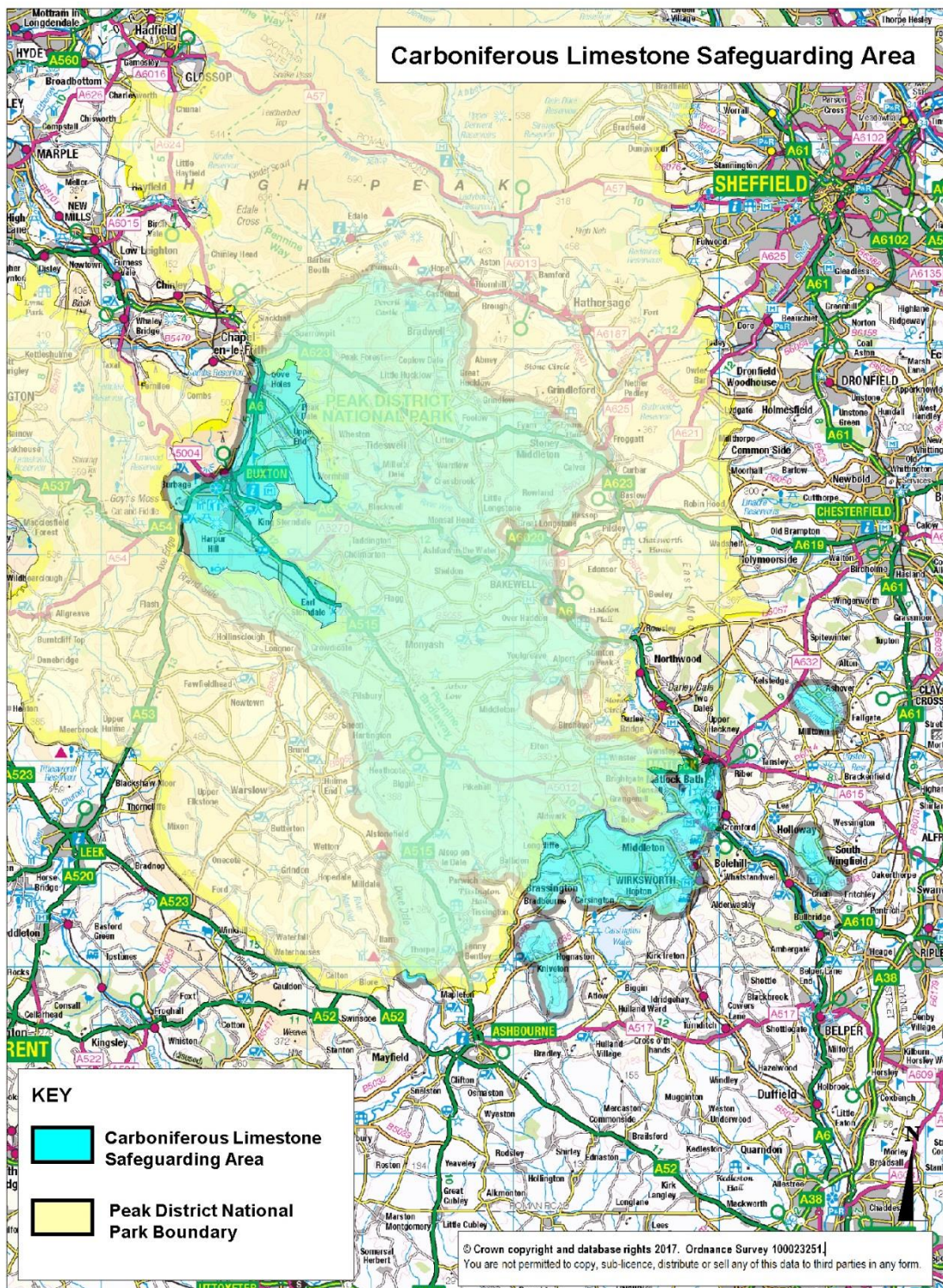
Monitoring

- 10.1.32 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 achieve the Plan's overall Vision.

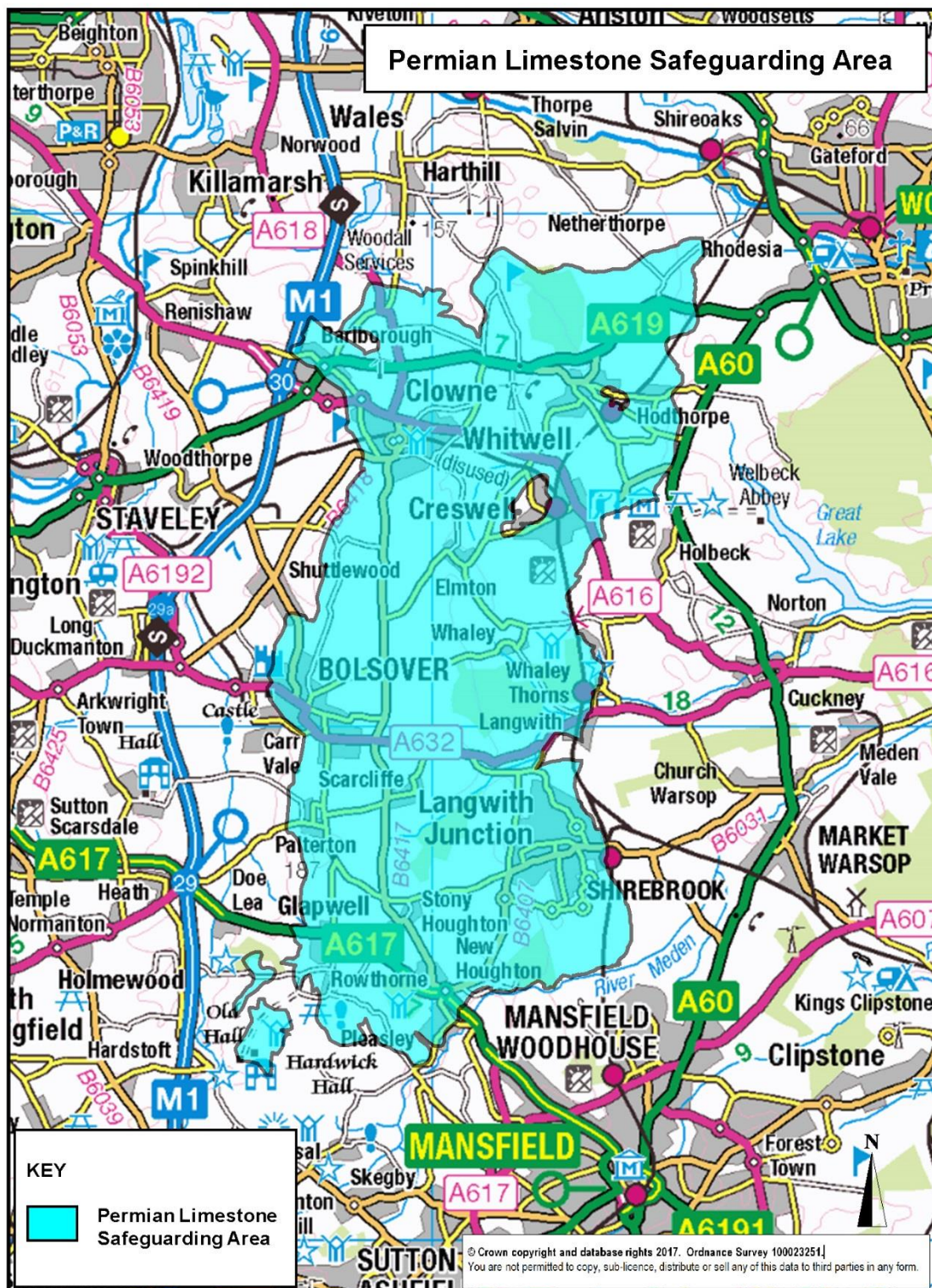
The effectiveness of the Plan's policies and proposals, put in place to meet those objectives, will be monitored so that, if necessary, issues can be identified and addressed through a revision of the Plan, either in whole or part.

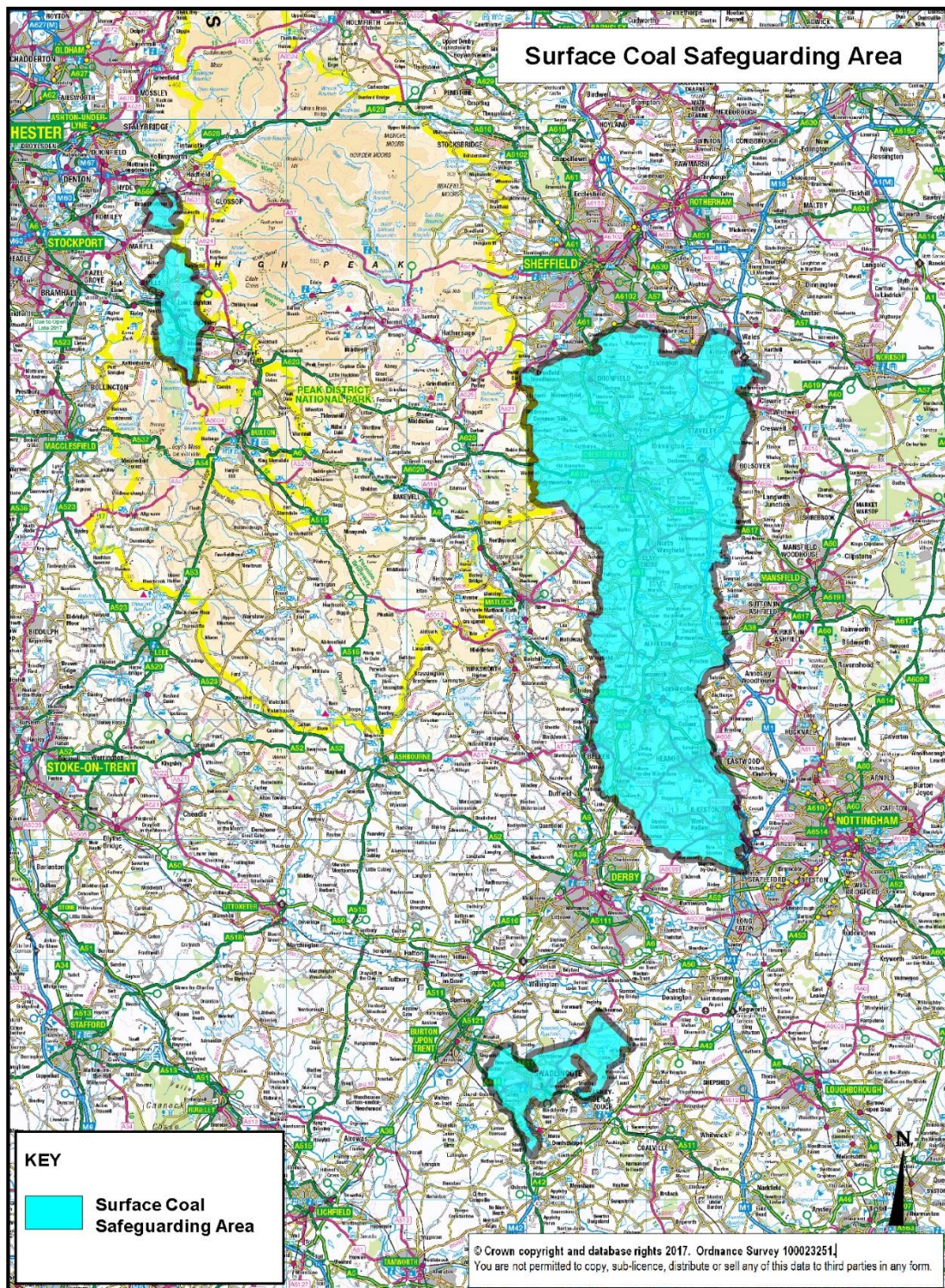
Do you have any comments on the proposed approach to safeguarding mineral resources, as set out in this Chapter?

APPENDIX 1

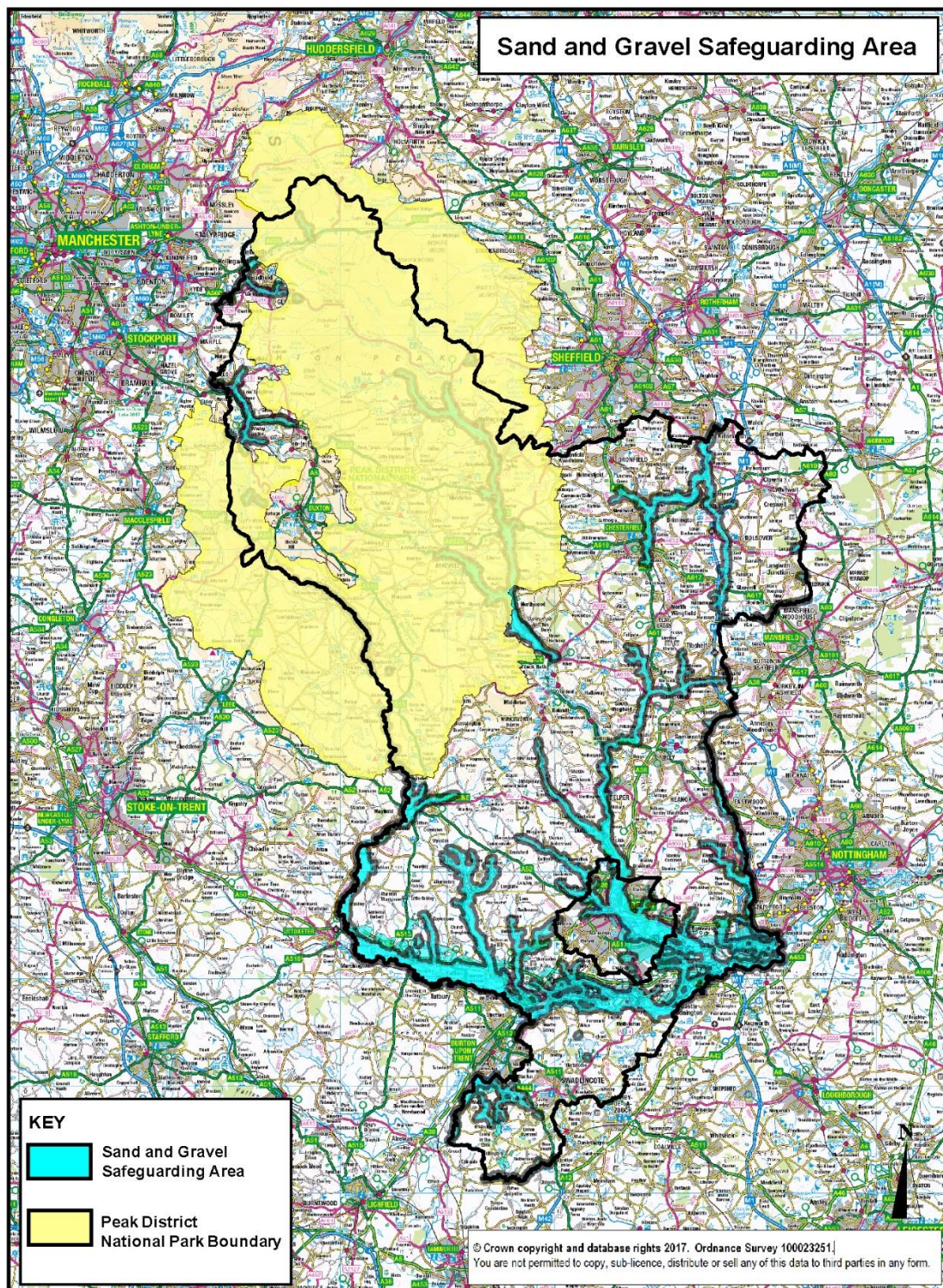


Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. (C) Crown Copyright.
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.





Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. (C) Crown Copyright.
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. (C) Crown Copyright.
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.