

# **DERBYSHIRE AND DERBY MINERALS LOCAL PLAN**

## **Towards a Minerals Local Plan: Spring 2018 Consultation**

### **CHAPTER 13**

### **DEVELOPMENT MANAGEMENT POLICIES**

**DECEMBER 2017**

## **Introduction**

- 13.1 The new Plan will have to perform three complementary tasks. It will have to set out the Vision, Objectives and a Spatial Strategy for the area; it will have to set out how the Plan will make provision for those minerals found in the area, and thirdly, how proposals for new minerals developments will be assessed and determined. The first task will be covered by the specific vision and objectives to be included in the Plan and the general policies setting out the strategic approach of the new Plan, the second will be addressed via policies for each of the respective minerals likely to be worked in the area over the Plan period, whilst the task of setting out how new development proposals will be assessed and determined will be established through appropriate Development Management policies. This chapter identifies the range of development management policies that will be included in the new Minerals Local Plan.

## **National and Local Planning Policy**

### **National Planning Policy Framework (NPPF)**

- 13.2 The NPPF sets out national planning policy for the extraction of minerals. In general terms, the NPPF states that, "Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation."
- 13.3 The NPPF recognises that mineral development can generate adverse impacts on the environment and on local communities and, when determining planning applications, it advises local planning authorities to "ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality".

- 13.4 In addition, it requires local planning authorities to “ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties”.
- 13.5 The NPPF advises that when preparing local plans, local planning authorities should “set out environmental criteria, in line with the policies of the Framework, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable impacts...” These criteria are set out in the Development Management policies of a local plan.

### **National Planning Practice Guidance (NPPG)**

- 13.6 The National Planning Practice Guidance (NPPG) was published in March 2014 and contains revised and updated planning policy and practice guidance on a wide range of planning issues, including planning for the extraction of minerals. It acknowledges that minerals are a finite resource with restricted availability, such that locations where they are economically viable and where extraction would be environmentally acceptable may be limited. It also repeats the statement in the NPPF that minerals make an essential contribution to the country’s prosperity and quality of life.
- 13.7 The NPPG provides further advice and guidance on planning for mineral extraction and the planning application process. It identifies the principal issues that mineral planning authorities should address when determining planning applications. These include:
- Noise associated with the operation
  - Dust
  - Air quality
  - Lighting visual impact on the local and wider landscape
  - Landscape character
  - Archaeological and heritage features
  - Traffic
  - Risk of contamination to land

- Soil resources
- Impact on best and most versatile agricultural land
- Blast vibration
- Flood risk
- Land stability/subsidence
- Internationally, nationally or locally designated wildlife sites, protected habitats and species, and ecological networks
- Nationally protected geological and geo-morphological sites and features
- Site restoration and aftercare
- Surface and, in some cases, ground water issues
- Water abstraction

13.8 The NPPG provides additional advice about the methods for evaluating the potential impacts for some of these issues in the assessment of individual planning applications.

### **Derby and Derbyshire Minerals Local Plan, 2000**

13.9 The current adopted Plan contains a series of policies which have been used to set the requirements of acceptability for new mineral development. These include:

- MP1 – The Environmental Impact of Mineral Development
- MP2 – The Need for Mineral Development
- MP3 – Measures to Reduce Environmental Impact
- MP4 – Interests of Acknowledged Environmental Importance
- MP5 – Transport
- MP6 – Nature Conservation – Mitigation Measures
- MP7 – Archaeology – Mitigation Measures
- MP8 – Planning Conditions
- MP9 – Planning Obligations
- MP10 – Reclamation and After-Use

- MP11 – Borrow Pits
- MP12 – Mineral Related Development
- MP13 – Mineral Exploration
- MP14 – Disposal of Non-Mineral Waste in Association with Mineral Development
- MP15 – Reworking of Tips (for purposes other than Secondary Aggregate Production)

13.10 Monitoring of development proposals over the current Plan period indicates that these policies have been effective in delivering mineral development, maintaining supplies, whilst providing protection of the environment and to local communities. The policies however, were formulated prior to the introduction of the National Planning Policy Framework and it is necessary to reconsider them in light of this new policy guidance.

### **Consultations undertaken and Comments Received**

13.11 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 implications of mineral development and the people of Derbyshire and their representatives. These views, where appropriate, have been taken on board in the ongoing development of the new Minerals Plan.

### **Stakeholder Workshops 2009**

13.12 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 new Minerals and Waste Local Plans should address and sought the input of stakeholders in developing the vision and objectives for the respective Plans. The outcomes of the workshop were published on the Council's website and in a newsletter that was circulated to stakeholders.

13.13 These comments were taken into account in the preparation of the Issues and Options Report. Whilst the Workshops did not consider any specific policies,

those attending did support mineral development provided it did not result in unacceptable impacts on the environment and local communities. This implicitly supports the use of appropriate policies to determine the acceptability of individual mineral development proposals.

### **Issues and Options 2010**

13.14 This consultation exercise identified specific issues relating to the future provision for individual minerals but, as above, did not address the number or wording of policies to be used to determine mineral developments, although the issues identified did include the use of criterion based policies for particular minerals.

### **Towards a Minerals Local Plan – Rolling Consultation 2015/2016**

13.15 The consultation included a support paper entitled ‘Policies for Inclusion in the New Mineral Local Plan’ which set out why it was necessary to include policies in the new Plan and set out a list of potential policies under particular headings, including development management policies.

13.16 There was a limited response to this paper but those that did were generally supportive of the range of policies put forward, including the Development Management policies. Observations included suggestions on the criteria that could be included and these have been considered in the proposed policies below and those included in the other chapters. A full account of the representations made and considered responses can be found in the following document:

**Towards a Minerals Local Plan: Spring 2018 Consultation  
Report of Representations, December 2017**

## **Duty to Cooperate**

13.17 The wording of individual policies was not considered to be a strategic cross-boundary issue, although the outcome of discussions by the County and City Councils with relevant authorities has been to develop a consistent approach to the supply of the respective minerals and the policies to be used to determine individual proposals.

## **Sustainability Appraisal**

13.18 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 strategy Papers that constituted the Towards a Minerals Local Plan Rolling consultation 2014-2017 but it did not address the support paper on policies for inclusion in the Plan. The individual development management policies will be subject to the SA process at the next stage of Plan preparation.

## **Proposed Approach**

13.19 As stated in the Introduction above, the Plan will have to perform several functions and these will be achieved through the implementation of the Plan policies. The policies that will be included in the other chapters of the Plan include:

### **Strategic Policies**

SMP1: General Principles

SMP2: Economic, Social and Environmental Principles for Minerals Development in Derbyshire and Derby

SMP3: Climate Change

SMP4: Sustainable Transport Modes

## **Spatial Strategy**

SS1: Spatial Strategy

## **Minerals Supply**

MS1: Supply of Sand and Gravel

MS2: Allocations for Sand and Gravel

MS3: Other Sites for Sand and Gravel Extraction

MS4: The Provision of Aggregate Crushed Rock

MS5: The Provision of Sites for Aggregate Crushed Rock

MS6: Helping to Reduce Quarrying in the Peak District National Park

MS7: The Provision of Building Stone

MS8: Industrial Limestone Provision

MS9: Provision for Cement Making Materials

MS10: Brick Clay Provision

MS11: Stockpiling Brick Clay

MS12: Vein Minerals

MS13: Coal Extraction and Colliery Spoil Disposal Criteria

MS14: Reworking of Former Colliery Spoil Tips

MS15: Assessment of the Benefits of Coal Mining Development

MS16: Incidental Coal Extraction

MS17: Proposals for Oil and Gas Exploration

MS18: Proposals for Oil and Gas Production and Ancillary Development

MS19: Borrow Pits



MS20: Reworking of Former Spoil Tips

MS21: Incidental Working of Clay

MS22: Mineral Related Development

### **Safeguarding**

SG1: Safeguarding Mineral Resources

SG2: Safeguarding Mineral Related Infrastructure

### **Cumulative Impacts**

CP1: Cumulative Impacts

### **Restoration**

R1: Restoration and After-Use of Mineral Sites

R2: Emerging Approach for the Trent Valley Strategy

R3: Restoration of Carboniferous Limestone Quarries

### **Allocations**

SA1: Whitwell

SA2: Ashwood Dale

SA3: Mouselow

13.20 In addition to these specific policies, the Plan requires criteria to assess and determine the wider, more general potential impacts of mineral development. The Plan will include development management policies on the following topics:

DM1: Development Management Criteria

DM2: Planning Conditions and Obligations

DM3: Transport

DM4: Landscape and Green Infrastructure

DM5: Biodiversity

DM6: Historic Heritage (buildings, archaeology, conservation)

DM7: Water Management and Flooding

DM8: Extensions to Sites

DM9: Bird Strike Management

**Why these Development Management Policies are to be Included in the new Minerals Plan**

- 13.21 Most mineral development requires planning permission or other forms of prior approval from the mineral planning authority, and, as stated above, the new Plan will include specific policies to ensure that only those developments which constitute sustainable development and would not result in unacceptable adverse impacts will be allowed to take place.

## **DM1: Development Management Criteria**

13.22 The NPPF reiterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. It does not change the statutory status of the development plan but it does provide clarification about material considerations, including the role of the policies of the NPPF. In this regard it advocates a presumption in favour of sustainable development and the need for such developments to be approved without delay. The NPPF states that, when preparing minerals local plans, planning authorities should set out environmental criteria, in line with the policies of the Framework, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts.

### **Policy DM 1 Development Management Criteria**

**Proposals for minerals development, including extensions to existing sites, will be permitted where the applicant has demonstrated a need for the mineral and that there will be no significant adverse impacts arising from the development which cannot be mitigated to acceptable standards. In determining planning applications for mineral development, potential impacts related to the following issues will be taken into account, where relevant:**

- **Local amenity, including noise, dust, odour, air quality, light pollution, vibration, air over pressure impacts**
- **Human health**
- **Flood risk, including opportunities to enhance flood storage capacity, dewatering and its' potential impacts, land drainage, water quality and the availability of resources**

**Policy DM 1 Development Management Criteria continued...**

- **Agricultural, horticultural and forestry interests including soil resources and land stability**
- **Aircraft safety and the need to manage bird strike risk**
- **Highway safety and capacity**
- **Public open space, rights of way and recreation facilities**
- **The appearance, quality and character of the landscape and visual intrusion**
- **Natural environment including geological and biodiversity interests**
- **Heritage interests including archaeological features**
- **Any other environmental, social and economic matters relevant to the application**

## **DM2: Planning Conditions and Obligations**

13.23 The NPPF reaffirms the role of planning conditions and obligations imposed on, or attached to planning approvals; that is that they make acceptable those development proposals which would otherwise be unacceptable. The current Derby and Derbyshire Minerals Plan provided policy guidance on the use and form of planning conditions and obligations and it is proposed that the new Plan will include a revised policy taking account of current NPPF guidance.

### **Policy DM 2 Planning Conditions and Obligations**

**When granting planning permission for minerals development, the Minerals Planning Authority will impose conditions and/or legal agreements to mitigate and control the effects of development and to maintain and enhance the quality of the environment, local communities and amenity.**

### **DM3: Transport**

13.24 All extracted minerals require transport to either a facility for processing or to the place of use. Minerals are bulky and heavy materials which require large containers for efficient movement. Development Management Policy 1 referred to above may, subject to agreement, include a criteria relating to the impact of development proposals on the highway network, but it is considered that the range of issues which the transport of minerals generates requires the inclusion of a specific transport policy which will reflect the guidance in the National Planning Practice Guidance.

#### **Policy DM 3 Transport**

**Minerals developments will be permitted where the applicant has demonstrated that:**

- **There is no practicable alternative to the use of road-based transport that would have a lower impact on communities and the environment;**
- **Arrangements for site access would not have any significant adverse impacts on highway safety, air quality, residential amenity, the environment or the effective operation of the highway network.**
- **The highway network is of an appropriate standard for use by the traffic generated by the development or can be suitably improved;**

**In order to ensure these requirements are met and maintained, developments may be subject to the completion of appropriate legal agreements relating to signage, traffic routing or any necessary improvements to the highway.**

## **DM4: Landscape and Green Infrastructure**

13.25 The NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation and soils. The Minerals Plan will include policies to ensure that these interests are properly taken into consideration in the determination of minerals development proposals.

### **Policy DM4 Landscape and Green Infrastructure**

**Minerals developments will be permitted where the applicant has demonstrated that they would not have a significant adverse effect on the existing landscape and should protect and/or enhance the landscape character, quality and visual amenity.**

**Proposals will be supported where the applicant has demonstrated that throughout the life of the development, including restoration:**

- **There is no loss of important or locally distinctive landscapes and no unacceptable visual intrusion;**
- **Any visual impact can be mitigated or minimised by appropriate measures,**
- **Protection of designated and other important landscape features and sites are maintained;**
- **Continued long-term improvements are made to the wider ecological networks and green infrastructure, and**
- **The landscape is strengthened, enhanced and the highest practicable environmental standards are achieved.**

## **DM5 Biodiversity**

13.26 The NPPF states that the planning system should contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystem services and by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The Minerals Plan will include policies to ensure that these interests are properly taken into consideration in the determination of minerals development proposals.

### **Policy DM 5 Biodiversity**

**Minerals development will be permitted where the applicant has demonstrated that it would not have a significant adverse effect on the biodiversity interests of the site and surroundings. Where developments affect such interests and sites applicants will be required to demonstrate that, throughout the life time of the development, including restoration:**

- **The impact on biodiversity through loss of or damage to habitats and/or species is minimised;**
- **There is net gain in biodiversity, during restoration and aftercare, where appropriate;**
- **Biodiversity networks can be enhanced and contribute to the wider ecological networks and local green infrastructure;**



### **Policy DM 5 Biodiversity continued...**

- **There is no irreversible or significant adverse impact on Internationally designated sites including Special Protection Areas, Special Areas of Conservation, Ramsar sites, Sites of Special and Scientific Interest, national Nature Reserves, Ancient Woodland any sites identified to counteract adverse impacts on internationally designated sites, and European Protected Species;**
- **Nationally designated sites including Sites of Special Scientific Interest and national Nature Reserves, nationally protected species and Ancient Woodland;**
- **The protection and enhancement of other sites of priority habitats, locally designated and non-designated sites of biodiversity interest are promoted and maintained**

**Development which is likely to have a significant adverse impact upon such sites, habitats and species will only be permitted where it is judged, in proportion to their relative importance, that the merits of the development outweigh any likely environmental damage. Appropriate mitigation and compensation measures will be required where development would cause harm to biodiversity interests.**

## **DM6: Historic Heritage**

13.27 The NPPF states that local planning authorities should set out in their local plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. The Minerals Plan will include policies to ensure that these interests are properly taken into consideration in the determination of minerals development proposals.

### **Policy DM 6 Historic Heritage**

**Minerals development will be permitted where the applicant has demonstrated that it would not have an adverse impact:**

- **on important heritage assets (designated or non-designated), on the historic landscape or the setting of these features unless the applicant can demonstrate that there would be significant local, national or community benefits that clearly outweigh that harm or loss;**
- **on sites or features of local architectural, archaeological or historic importance.**

**Developments on sites of archaeological interest may be permitted subject to the agreement of an appropriate archaeological watching brief and/or measures to ensure that such features are protected in situ or provision is made for their recording or preservation elsewhere if appropriate.**

## **DM7: Water Management and Flooding**

13.28 Minerals are a finite resource and can only be extracted from where they are found. For sand and gravel, sites are often close to rivers and other watercourses where extraction results in the infiltration of water into the voids, changes in the level of the water table and changes to existing drainage systems. Extraction of limestone and other minerals can also significantly affect the existing drainage patterns of an area. The NPPF advises that inappropriate development (in general) in areas of risk of flooding should be avoided and that increased flood risk, together with other impacts on the flow and quantity of surface water and groundwater, are criteria to be assessed in the determination of mineral development proposals. The Plan will include a policy which incorporates the most up to date guidance for this issue.

### **Policy DM 7 Water Management and Flooding**

**Proposals for mineral development will be permitted where the applicant can demonstrate that:**

- **it would not have an adverse impact on water quality, water availability, nature conservation interests and the amenity value of water resources and features;**
- **it would not increase flood risk on site or elsewhere, and, where possible, will reduce flood risk overall;**
- **it would not increase surface water run-off.**

**Applicants will need to incorporate flood risk protection, flood resilience and resistance measures appropriate to the character and biodiversity of the area and the specific requirements of the site. Applicants will also need to demonstrate that the restoration of the site has been designed to enhance the water management of the site and alleviate the risk of flooding in the long-term.**

## **DM8: Extensions to Sites**

13.29 Mineral extraction can take place in new development sites or as extensions to existing sites. The current Mineral Plan includes a policy which indicates a preference for extensions provided they can be accommodated in an environmentally acceptable manner. The new Plan could also include a separate and specific policy on this issue or, alternatively, it could be addressed as one of the elements in the general criteria based policy (see DM1 above). At present it is proposed to include a separate policy in the new Plan.

### **Policy DM 8 Extensions to Sites**

**Proposals for the extension to established minerals extraction sites, or for variations to the site boundaries will be permitted in preference to new sites provided they satisfy all the environmental, social and economic criteria specified in the development management policies of the Plan.**

## **DM9: Bird Strike Management**

13.30 Many previous and current mineral sites, particularly sand and gravel sites, are located in the south-eastern part of the Plan area and are within the East Midlands Airport Safeguarding Area. Mineral extraction in this area often involves sites where the water table is close to the surface and excavations are prone to infiltration with water that could attract birds which pose a risk to aircraft using the airport. This temporary situation may become permanent where the proposed restoration includes new water areas. The risk to aircraft can be minimised by appropriate forms of development and restoration and it is proposed to include a policy specifying the criteria to avoid or reduce the risk to aircraft from large birds that may be attracted to water features created as part of the restoration.

### **Policy DM9 Bird Strike Management**

**Minerals development within the airport safeguarding area(s) will only be permitted where the applicant has demonstrated that the development and associated operations and the form of restoration would not constitute a significant hazard to air traffic. Restoration proposals in sites in these areas will be based on minimising the attractiveness to birds that constitute a risk to air safety and the operation of the site will be subject to the provisions of an agreed Bird Management Plan.**