

DERBYSHIRE AND DERBY MINERALS LOCAL PLAN

Towards a Minerals Local Plan: Spring 2018 Consultation

CHAPTER 8

8.1 Coal and Colliery Spoil

December 2017

Introduction

- 8.1.1 Coal has been a very important mineral resource in the UK and has played a major role in the development of the country. It has been mined for several centuries to utilise the energy that can be obtained from its combustion and other forms of processing. That energy has been harnessed to fuel industrial development and it has also been one of the main sources of domestic heating.
- 8.1.2 The abundance of coal resources in the Plan area has shaped the way the county now looks and operates, particularly along the eastern area, around Swadlincote in the south and Glossop in the north-west. Coal mining has traditionally been one of the main employment sources in the area, providing up to 60,000 jobs in the 1950s and 1960s. As a result of the use of imported coal supplies and the move away from coal as a source of energy generation, the industry declined significantly thereafter and all deep mined collieries closed by the mid-1990s.
- 8.1.3 It is known that all UK coal-fired power stations are set to close by 2025, or move to using alternative fuels which would indicate a very limited demand for coal, other than for domestic heating, throughout the Plan period. However, future energy policy and the technologies that can and will be used to meet our energy needs are somewhat uncertain. Whilst earlier mining activity has removed and used significant quantities of coal, it is known that the Plan area still contains substantial resources which could be extracted by either surface mining or deep mining methods. It is possible that circumstances could once again lead to a demand for that coal and it is important that the new Plan sets out the approach to any new development proposal that may come forward.

How is Coal Extracted?

8.1.4 There are two principal methods of extracting coal. Where coal seams are at shallow depths below the surface, i.e. within the 'exposed coalfield' area, the coal can be extracted by surface mining methods. Where the seams are deeper, underground methods are employed. The Coal Authority defines shallow mining as extraction at depths of less than 30 metres but surface mining can take place at much greater depths. Both methods have been used in Derbyshire, and in some cases both have been used at the same site with surface mining taking place at former deep mine collieries. Further information about the geological formation of coal, its' properties and how they affect the way it is used, and how coal is mined can be found in the following Background Paper:

**Towards a Minerals Local Plan: Spring 2018 Consultation
Background Paper – Deep Mined and Surface Coal Mining,
December 2017**

Vision and Objectives

8.1.5 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. The policies in this chapter will seek to help deliver the following draft objectives of the Plan.

Objective 1 - Ensuring a Steady and Adequate Supply of Minerals

Objective 2 - Delivering Sustainable Minerals Development

Objective 4 - Safeguarding Mineral Resources and Facilities

Objective 5 – Minimising Impacts on Communities

Objective 6 - Protecting the Natural and Built Environment

Objective 7 – Protecting the Peak District National Park

Objective 8 – Minimising Flood Risk and Climate Change

Further information regarding the Vision and Objectives is set out in Chapter 3.

Evidence Base

Coal in Derbyshire

8.1.6 There are two coalfield areas within Derbyshire shown on the Map below. The North Derbyshire Coalfield is the southern part of the much wider Yorkshire/ Nottinghamshire/ Derbyshire Coalfield stretching from southern Leeds in the north to the Nottingham area in the south. The South Derbyshire Coalfield is part of the Midlands Coalfield, which extends from Staffordshire in the west through southern Derbyshire into Leicestershire. The coal seams vary in thickness up to several metres and, in Derbyshire around 30 seams in all are substantial enough to be worked commercially.

8.1.7 The South Derbyshire Coalfield is a north-west to south-east trending coalfield located to the south-east of Burton-on-Trent. It covers an area of 36km², and is contiguous to the west, beyond the Neverseal fault, with the East Staffordshire area of concealed coal measures. It is connected to the adjacent Leicestershire Coalfield to the east by the north-west trending Ashby anticline. Coals are known from the Lower, Middle and Upper Coal Measures. The main seams are the Upper Kilburn, Block, Little, Little Kilburn, (Over & Nether) Main, Little Woodfield, Lower Main, Woodfield, Stockings, Eureka, Stanhope, Kilburn,

Fireclay and Yard. The seams in the South Derbyshire Coalfield are mainly high volatile and non-caking. There is very little variation in rank across the coalfield. Seams in the South Derbyshire Coalfield are fairly shallow, typically less than 450m in the deepest parts of the coalfield.

8.1.8 Within Derbyshire, the shallow coal measures occur in a substantial tract of the County in the area around Chesterfield, between Bolsover in the east and the Peak District National Park in the west, extending southwards, east of a line from Holymoorside to Belper, as far west as Ilkeston. Around Swadlincote, shallow coal deposits occur in the area from Burton-on-Trent and Repton Common in the north to Measham, in Leicestershire, in the south. Shallow coal deposits also occur in the north-west of the County, mainly outside the National Park boundaries between Charlesworth and Whaley Bridge, but these are not, generally, of commercial quality.

8.1.9 There is also the underground coal resource; located to the east of the main Derbyshire shallow coal measures, below an area of Permian Limestone. Whilst there is no potential for surface extraction in this area (the thickness of the limestone beds would make this uneconomic), there may be some potential for either underground mining or alternative extraction methods such as coal gasification or coal bed methane extraction.

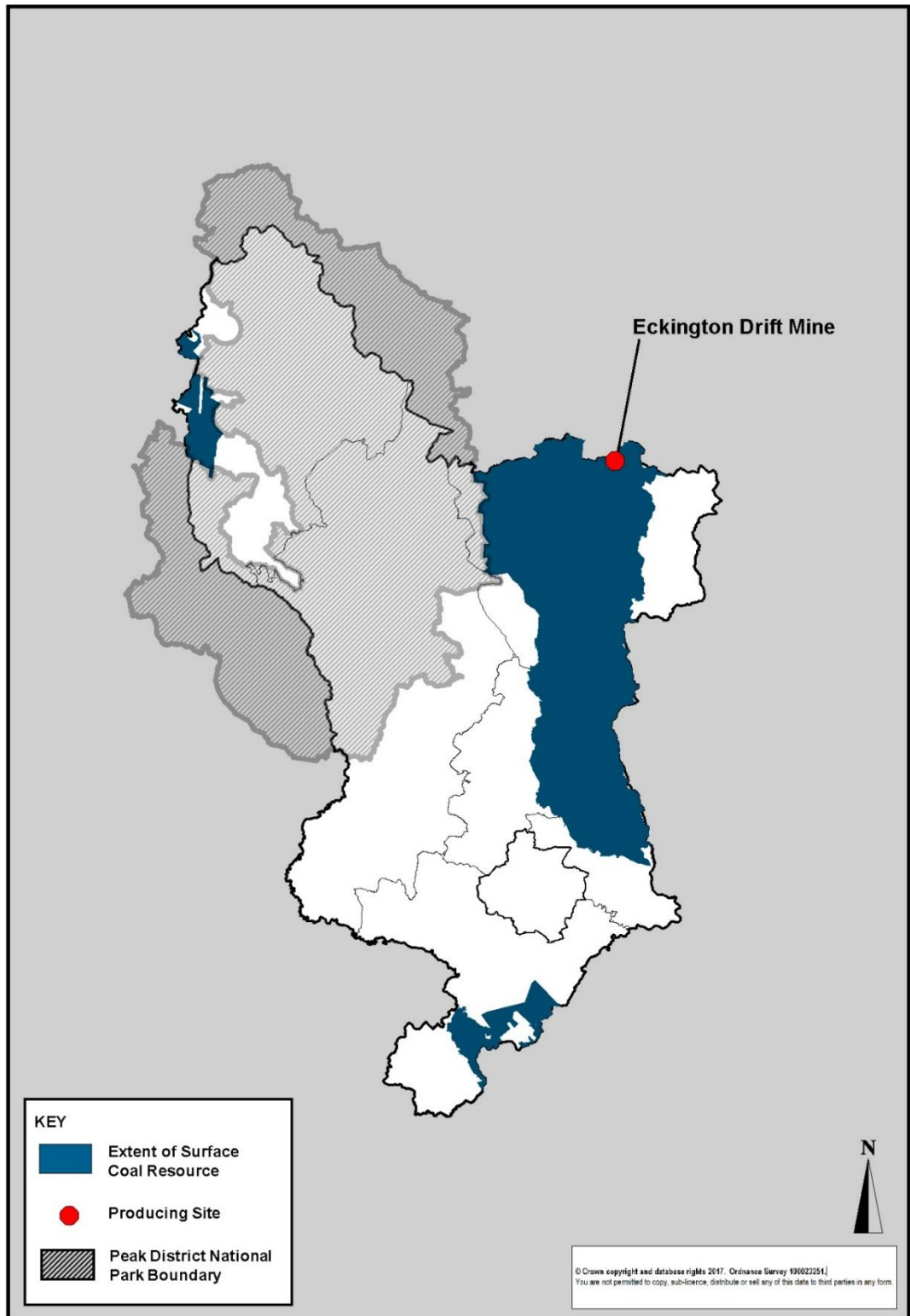
Coal Production

8.1.10 In 2016, global coal production reached a record level of 7460 million tonnes, down by 6.5% in comparison to 2015. Production of coal in the UK peaked in 1913 at 290 million tonnes. Thereafter, output declined, due in part to the loss of export markets during and subsequent to the First World War and also in part to competition from oil and other fuels. However, the UK remained a net exporter of coal until the early 1980s.

8.1.11 Production of coal in Derbyshire has fallen from over 2.6 million tonnes per annum in 1996 to about 200,000 tonnes in 2012, a decline of over 90%. Over that period, Derbyshire's proportion of national coal production has fallen from over 5.1% to about 1.2%. The last traditional deep mined colliery in Derbyshire

closed in 1993 so all recent production has been from surface coal mining operations, apart from a small drift mine near Eckington which produces up to 20,000 tonnes per year and operates by virtue of a planning permission that expires in 2023. At present there are no other coal mining sites in operation.

Derbyshire Surface Coal Resource and Operating Sites (December 2017)



National and Local Coal Related Policy

National Planning Policy Framework

- 8.1.12 National policy for the extraction of coal and the disposal of colliery waste is set out in the National Planning Policy Framework, which replaced most previous policy guidance and statements, specifically that in Mineral Planning Guidance Note 3: Coal Mining and Colliery Spoil Disposal, 1999.
- 8.1.13 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."
- 8.1.14 The NPPF includes advice on the need to balance the need for minerals with appropriate environmental considerations and sets out the broad approach to mineral plan making and procedures. Specifically in regard to coal, it states at paragraph 147 that minerals planning authorities should "indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable". Further guidance is provided at paragraph 149 relating to the extraction of coal which states that, "Permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission."
- 8.1.15 The main changes from MPG3 are the removal of the requirement to identify coal constraint areas, the omission of any specific mention of coal extraction in green belts and the addition of 'national' benefits to the consideration of coal extraction proposals. The NPPF does not contain any Government target for coal production, either from underground sources or by surface mining. It states that decisions concerning the supply of energy derived from different fuels is a matter for the markets, reinforced by long-term policy measures.

8.1.16 In addition, paragraph 147 states that mineral planning authorities should provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use. This issue is addressed in more detail in Chapter 7: Supply of Non-Aggregates, Brick Clay and Fireclay.

National Planning Practice Guidance, 2014

8.1.17 The National Planning Practice Guidance states that “The environmental impacts of coal extraction should be considered in the same way as for other minerals. However, both coal operators and mineral planning authorities must have regard to the environmental duty placed on them under section 53 of the Coal Industry Act 1994 when preparing and determining planning applications.”

8.1.18 In addition it states that underground mining can raise additional issues to surface coal mining which mineral planning authorities may wish to take into consideration. These are identified as; the potential effects of subsidence, including potential hazards of old mine workings; the treatment and pumping of underground water; monitoring and preventative measures for potential gas emissions; and the method of disposal of colliery spoil.

National Energy Policy

8.1.19 The Government position on national energy policy is now changing and evolving quickly in comparison to the situation in the last century. With its abundant reserves, indigenous coal was previously a very important element of the energy infrastructure of the United Kingdom. Whilst coal is still an important element (at least in the short-term), it is now one of many options for energy production and of the coal that we do use, the proportion obtained from outside the UK has risen significantly in the years since the large-scale colliery closures of the 1980s. Issues about how we will produce energy in the future and how reliant on external sources of fuel we will be to produce that energy are matters of increasing importance. The Government has identified two long-term energy challenges which bring into question the role that coal will play in the medium term over the Plan period and thereafter:

- Tackling climate change by reducing carbon dioxide emissions both within the UK and abroad as part of wider EU initiatives; and

- Ensuring secure, clean and affordable energy as we become increasingly dependent on imported fuels.

8.1.20 Whilst the Department of Trade and Industry paper, Meeting the Energy Challenge, 2007 stated that England, Wales and Scotland's substantial remaining coal reserves have the potential not only to help meet our national demand for coal and to reduce our dependence on imported primary fuels, but also to contribute to the economic vitality and skills base of the regions where they are found, the position of coal is also influenced by other external forces. Industry responses to the Large Combustion Plant Directive indicates that the number of coal-fired power stations in the UK is set to decline throughout the Plan period as some have decided not to invest in the emission reduction features required for longer-term use.

8.1.21 The draft National Policy Statement for Energy, published in 2009, builds on the 2007 Energy White Paper. Together they form an evolving international and domestic energy strategy in response to the changing circumstances in global energy markets. They set out to address the long-term energy challenges of security of supply, whilst acknowledging the implications of climate change. Whilst emphasis is on the development of renewable energy supplies, the Government recognises the important and continuing role that coal will play in meeting national energy requirements. It is seen as a flexible source of energy generation, an alternative to an over dependence on gas and as a back-up to intermittent renewable energy supplies.

8.1.22 These issues were highlighted in Government statements leading up to the publication of the 2009 Energy statement. In a written reply to the House of Commons on 18 November 2008 Mike O'Brien, Minister of State for Energy and Climate Change stated that "coal needs to remain an important part of our energy mix. It provides the most flexible generation (increasingly needed as back up as the percentage of intermittent renewables increases in the overall mix) and an alternative to over dependence on gas. We are supporting development of clean coal technologies including carbon capture and storage (CCS), higher efficiency processes, and co-firing with biomass. Our ambition is to see CCS commercially deployable by 2020. The extent of coal's future use

will depend on decisions by operators and technological development”. It would now appear that CCS will not be progressed, casting further doubt on the future of coal as a major energy generation source.

Energy Act 2013

8.1.23 The Energy Act received final assent on 18 December 2013. The Act has several objectives and in relation to hydrocarbons it seeks to make provision for the setting of a decarbonisation target range and duties in relation to it; or in connection with reforms to the electricity market for purposes of encouraging low carbon electricity generation, or ensuring security of supply. It is also about the designation of a strategy and policy statement concerning domestic supplies of gas and electricity. It does not actually proscribe a new strategy or policy at this stage but instead sets the procedural requirements for doing so. It is likely however that future policy and strategy will reflect the overall objective of the Act to reduce our carbon footprint and in turn this will affect the future demand for fossil fuels, including coal.

Written Ministerial Statement November 2015, ‘Priorities for UK Energy and Climate Change Policy’

8.1.24 This Written Ministerial Statement (WMS) was presented to Parliament in November 2015 by the Secretary of State for Energy and Climate Change. The WMS does not change national planning policy or guidance but it does set out Government thinking on the approach to energy supply. The Secretary of State stated that one of the greatest and most effective contributions we can make to emissions from electricity generation is by replacing coal fired power stations with gas. The programme was to be subject to consultation but indicated a restriction on the use of coal by 2023 and the possible closure of all coal-fired power stations by 2025. This was subject to the development of the infrastructure to enable the shift to take place. This could have implications for the UK onshore oil and gas industry and the utilisation of indigenous resources.

Derby and Derbyshire Minerals Local Plan 2000 (amended in 2002)

8.1.25 Local policy is set out in policy MP27: Coal Extraction and Colliery Spoil Disposal, of the Derby and Derbyshire Minerals Local Plan. It was based on national policy of the period and stated that coal extraction and colliery spoil

disposal proposals would not be permitted unless the impact on the environment was acceptable, or capable of being made so by conditions or obligations. Exceptions were permitted where it could be demonstrated that the impact would be clearly outweighed by local or community benefits that the development would provide. The policy sets out tests and factors to be used in the assessment of impacts and benefits.

Environmental Issues of Coal Mining

8.1.26 The experience gained by the County and City Councils in processing coal mining development proposals and from the messages provided by the people of Derbyshire in response to previous local plan consultation exercises have enabled the identification of the main environmental impact issues that will need to be taken into account in the development of the approach of the new Plan to future coal mining and the form and content of any policy or policies to be used to determine development proposals.

8.1.27 The relevant impacts are as follows:

- Visual intrusion
- Noise
- Dust
- Transport
- Impacts on the water environment
- Impacts on ecology
- Impacts on agricultural land
- Impacts on heritage and archaeological features
- Ground stability and subsidence
- Rights of way and recreation facilities
- Cumulative impacts

Social and Economic Impact of Coal Mining

8.1.28 In addition, coal mining can give rise to social and economic impacts. Social impacts can be experienced by the community or communities who live and

work close to a mining development. Impacts can be direct and physical, such as the loss of local facilities, including footpaths and recreational areas or the loss of the ability to visit and enjoy an area of countryside. Other impacts can be ones perceived by the community at large which affect the quality of life and their living experience. The perception of these impacts will be greater where the community has experienced other similar effects in the past. This relates to the issue of cumulative impacts which is addressed below.

8.1.29 In contrast, where mining activity has formed the main focus of an area, the sudden loss of a mine, the jobs it provided and the income it generated can have adverse social implications. Where the mine was the main reason for the existence of a settlement, the impact of the loss could be profound leading to the decline of the area and deprivation.

8.1.30 There are a number of direct economic benefits which are derived from coal mining. The coal produced has a value which contributes to the national, gross domestic product. Coal produced in this country contributes to our energy requirements and also reduces the amount we need to import, which helps to reduce our international trade deficit. The income derived also contributes to the profitability and viability of the operating company. Coal mining developments create job opportunities, although for surface mining the jobs are limited in duration. Surface mining companies normally maintain a group of key staff with particular skills and knowledge who travel from site to site and not all of the employment opportunities may be available to local residents. Nevertheless the presence of the additional income will result in an increase in spending in the area.

8.1.31 Mining developments can also give rise to negative economic impacts. The main issue is the potential discouraging effect on the economy of an area by the presence of mining activity. The decline of the Derbyshire coal industry left many areas suffering long-term adverse social, environmental and economic effects. Many initiatives have been brought forward during the last 40 years to help regenerate these areas. The focus has been on measures to improve the image of the area, to encourage economic regeneration and assist in alleviating economic and social deprivation. Some former colliery sites have been

redeveloped as new industrial estates, providing alternative employment opportunities. Observations received by the County Council in response to coal mining development proposals indicate that some people consider the introduction of further mining activities in areas where regeneration activities are in train would deter developers from moving to the area, stifling the success of such initiatives.

Cumulative Impact of Coal Mining

8.1.32 This is a particularly important issue for the former coalfield areas of the County where the long-term cumulative effects of previous and ongoing mining and other traditional industries has made it more sensitive to further development. These areas have suffered from the presence of the underground and surface mines. They have suffered the visual effects of the mines and associated tips and other ancillary facilities, from the adverse impacts on the landscape, on the quality of the environment and the overall image of the area. These impacts have often been exacerbated by the simultaneous presence of other heavy industries which utilised the coal obtained from the mines. The loss of the mining industry and associated businesses has also left a legacy of environmental pollution and degradation, of social deprivation and inequalities and profound impacts on the economies of the respective towns and villages.

8.1.33 The sensitivity of these areas to further adverse impacts will be an important element in the determination of future mining proposals. The ways in which the sensitivity of an area will be assessed and how cumulative impacts could be evaluated will be addressed in a separate paper.

Consultations Undertaken and Comments Received

8.1.34 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.

Stakeholder Workshops 2009

8.1.35 We held a stakeholder workshop in 2009, which scoped the issues that the MLP should address. At this event, people recognised and identified the need for mineral extraction, provided that its social and environmental impact is minimised.

8.1.36 These comments were taken into account in the preparation of the Issues and Options Report. The group identified that the importance of coal as an energy mineral could increase over the Plan period due to the need to provide greater security over energy production, but this was balanced by the need to reduce the impacts of climate change.

Issues and Options 2010

8.1.37 The Issues and Options exercise identified two coal related issues. These were firstly, the areas where future coal extraction could take place and, secondly, the continued use of surface mining restraint areas.

8.1.38 For the former issue it was suggested that the most appropriate manner in which to deal with the issue would probably be to indicate the general extent of the shallow coalfield and define within that area the main areas of environmental constraints. Beyond this, a criterion based policy such as that in the Minerals Local Plan would most likely be the most appropriate route by which to assess individual proposals. All respondents agreed with this approach.

8.1.39 The approach to the second issue referred to national guidance at the time which advocated that areas of the coal resource where working would be unacceptable should be shown. In support, it stated that the application of Constraint Areas in the current Minerals Local Plan had been an effective way of protecting areas of environmental importance. In contrast, the exercise recognised that the use of Constraint Areas may have had adverse consequences for other areas and canvassed opinion on their continued use. In response 80% favoured their continued use. Further information can be found in the following documents.

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

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

Interim Sustainability Appraisal of the Issues and Options Paper 2010

8.1.40 The Interim Sustainability Appraisal concluded that a criterion based policy should be adequate to avoid sterilisation of coal resources, particularly in light of the lack of technical information about the location, scale and viability of those resources. It was also considered an appropriate approach in climate change terms by not pre-empting the use of coal in preference to other alternatives. It was considered that the designation of constraint areas would protect the most sensitive areas with positive implications for biodiversity, landscape, heritage and natural resources. In contrast, the lack of detailed information about the extent of constraints could mean that non-designated areas with unknown constraints could be more vulnerable to development pressures.

8.1.41 The full Appraisal is set out in the following document:

**Towards a Minerals Local Plan: Rolling Consultation 2015-2017
Interim Sustainability Appraisal (SA) Report, November 2013**

Towards a Minerals Local Plan – Rolling Consultation 2015/2016

8.1.42 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 base were also considered to be important factors that should be taken into account in the formulation of the vision, objectives and policies for the new Plan, including the approach of the Plan to the provision for coal extraction and related developments.

8.1.43 This consultation exercise contained three coal mining papers; including a background support paper and two separate strategy papers for surface mining and deep coal mining. The support paper provided facts and figures together with historical coal mining information, and a review of current national and local policy. It also identified the planning issues pertaining to coal mining.

8.1.44 The two strategy papers identified a series of topic related issues and then set out options to help develop the approach of the new Plan to future coal mining developments. As a context for the issues and options put forward, the deep mine paper identified the factors which may need to be taken into account and the issues to be addressed in developing an approach for the provision of deep mined coal and the policies which will apply in the assessment and determination of future planning applications for coal development over the Plan period. These were to:

- the volatility of the price of coal
- the impact of the Large Combustion Plant Directive on the future demand for coal
- the role of CCS in enabling coal to continue to be used as a raw material for the generation of electricity
- the need for indigenous coal against the availability of imported sources at lower prices
- the limited amount of information available to the Councils about the location and level of coal resources in the area and the economic viability of extraction
- the future, if any, of deep mine working in the country as a whole
- the adverse impacts of subsidence from deep mined coal extraction
- the scale of further surface working during the Plan period

- the impact of extraction on the environment and local communities, particularly the cumulative impact on those communities with a long history of previous mining activities or other traditional industries which have had an adverse impact on the area concerned
- the development of a policy approach, including detailed criteria, which would be used to assess and determine future coal extraction applications
- the definition of potential benefits, how they should be assessed and the role to be played in the determination of proposals for new working
- the development of policies to be adopted to inform and guide the reclamation of extraction sites to acceptable standards
- the overriding requirement of the NPPF that all local plans take full account of the viability and deliverability of their proposals and do not impose restrictions that adversely affect these requirements.

8.1.45 The issues set out for deep mined coal extraction included a) how the Plan could make provision for possible future colliery developments, b) how to develop a policy for such development proposals, c) whether it was necessary to have a separate policy for deep mined coal developments and, d) if so, what tests and criteria should it include.

8.1.46 The issues set out for future surface mining included, a) how to identify possible extraction areas, b) the use of constraint areas, c) how to approach the provision for further coal extraction, d) need for a surface coal mining policy separate from deep mining, e) the matters to be included in such a policy, f) the methodology for the assessment of cumulative impacts, g) how to assess the benefits of coal extraction, h) guidance on prior coal extraction in advance of other developments and, i) the approach to the working of former colliery spoil tips. The full details can be found in the following documents:

Towards a Minerals Local Plan – Rolling Consultation 2015-2016:

Towards a Strategy for Coal and Colliery Waste, December 2015

Towards a Strategy for Deep Mined Coal, December 2014

Assessment of Comments

8.1.47 A limited number of responses were received to the consultation on deep mined coal extraction. There was some support for having a separate policy but also opposition on the basis that a general coal policy based on national guidance should suffice.

8.1.48 In comparison, there were significantly more responses to the surface coal mining consultation. Eight individuals or organisations provided written responses with a further forty-one respondents providing comments via the website. Of the written responses:

- Four respondents support the option of identifying the shallow coal resource and listing the constraints to coal mining development to assess any future proposals for extraction.
- There is support shown for the option of not identifying surface mining constraint areas in the Plan.
- Respondents agree that the proposed sustainable principles for coal extraction are correct and should be related to NPPF.
- There is support for a general policy for cumulative impacts covering all minerals rather than there also being a separate one for coal.

8.1.49 Other responses (submitted electronically) supported the proposed approach and reflect the support for the various options as indicated above. Further details can be found in the following document:

Towards a Minerals Local Plan: Spring 2018 Consultation

Report of Representations, December 2017

Duty to Co-operate

8.1.50 The Duty to Co-operate was created by the Localism Act 2011 which places a legal duty on local planning authorities, county councils and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation relating to strategic cross-boundary matters. This is embodied in the NPPF and NPPG. The distribution of coal resources in the UK and the energy needs of the country represent significant cross-boundary matters for this Minerals Local Plan and those of neighbouring authorities. Details of the Duty to Co-operate issues identified to date can be found in the following document.

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

8.1.51 The Councils have undertaken discussions with neighbouring authorities with an interest in coal related issues. The outcome of these discussions so far is that the authorities have jointly agreed to set out how they will proceed to ensure the development of a consistent and complementary approach towards minerals policy, to new development and proposals, and to undertake joint monitoring and evidence base production as required.

Sustainability Appraisal

8.1.52 A sustainability appraisal was undertaken on all the Papers that constituted the Towards a Minerals Local Plan Rolling consultation 2015-2017. The full appraisal is set out in the following document:

**Towards a Minerals Local Plan: Spring 2018 Consultation
Interim Sustainability Appraisal (SA) Report, November 2017**

8.1.53 The SA considered that there would be benefits from the identification and allocation of sites for coal extraction but acknowledged that it was not a realistic option given the limitations on the information available. It considered that the option for identifying the area of the known coal resource does not assume that the coal would be extracted and enables the setting of criteria that ensure extraction is concentrated in areas where environmental impact is acceptable and which reduces the need to travel. In terms of climate change it concluded that it is desirable to encourage the use of alternative sources of fuel, so allocating sites would not be attractive in this respect as it pre-empts the use of coal, although allocation could be good for the economy. With regard to the potential approach for deep mined coal it concluded that, generally, the inclusion of a policy was positive as it would help to set out what was expected of proposals.

The Proposed Approach

Identification of Future Coal Extraction Areas

8.1.54 Although limited in number, respondents favoured the option for the Minerals Local Plan to identify on a map, the general extent of the shallow coal resource and also to identify the main constraints, although the way in which the constraints would be presented was not established. This approach would not conflict with the policy and advice in the NPPF and NPPG, which, unlike the situation for some other minerals, does not require the identification of specific areas or sites for future coal extraction or set out the need for a specific landbank provision figure.

8.1.55 This option could be achieved within the information which is available to the County and City Councils. It would represent a flexible approach where all the remaining coal resources (in effect one large area of search) could be subject to appropriate, detailed consideration and would avoid imposing any targets or limits on the amount of coal that could be extracted. It would not automatically exclude any of the resource from future consideration. It would also avoid the potential for planning blight arising from the identification of specific sites or areas for future coal working. In accordance with the advice in the NPPF, the

responsibility for developing individual proposals would be placed in the hands of the mining industry. Whilst the identification of specific sites for future coal extraction would be of benefit to the industry, the information that would be required to do so is not available to the mineral planning authorities.

Surface Mining Constraint Areas

8.1.56 The use of surface mining constraint areas was a feature of the current minerals plan and there was support in the Issues and Options consultation for their continued use. Whilst it was known that their further use is not included in the NPPF, the issue was presented in the consultation exercise so that the reasons why they were no longer advocated could be explained and to examine what alternatives may be available. The consultation repeated the stated reason that such a designation would not now grant any statutory, additional levels of protection to the particular areas. Designation would not mean that all planning applications for coal extraction on sites falling within constraint areas would be automatically refused. For these reasons, surface mining constraint areas will not be used in the new Plan and no practical alternative has been put forward. Planning applications for coal mining developments in all parts of the Plan area will be assessed and determined against the criteria set out in the relevant policies.

Sustainable Principles for the Provision for Coal Extraction

8.1.57 Coal mining has been a major aspect of the mineral industry of Derbyshire for a long time and has affected the lives of many people in the area, possibly more so than any other industry. Whilst the industry has now declined to the point where it is no longer active, apart from one small development, it remains a very important issue for the area and the emerging Plan. The area still contains large resources which may, at some point in the future, become the focus of further developments. It was in recognition of this that the consideration of sustainable principles for the provision for coal extraction was included in the consultation exercise. This was a deliberate choice in addition to the inclusion of issues relating to the form and content of policies for the assessment and

determination of development proposals. The intention was to determine the sustainability principles which would form the foundation of the policies prior to the establishing their specific formulation.

8.1.58 The sustainability principles set out in the consultation are specific to coal mining and are in addition to the more general sustainability principles that will be included for the Plan as a whole. It is intended that these principles, as set out in the consultation, will be incorporated into the new Plan.

The Need for a Specific Criterion Based Policy for Coal Extraction and Related Development Proposals

8.1.59 In addition to the identification of the sustainable principles for coal mining developments, the consultation sought to determine whether or not the new Plan should continue to include a separate policy setting out the criteria and minimum requirements for coal mining and related development proposals.

8.1.60 The NPPF requires that local minerals plans should set out environmental criteria against which planning applications for all types of mineral development will be assessed, although it does not prevent the use of additional policies for the assessment of specific minerals such as that provided by Policy MP 27: Coal Extraction and Colliery Spoil Disposal of the adopted Derby and Derbyshire Minerals Local Plan. In response to the options put forward people indicated a preference for the inclusion of another policy with similar requirements.

8.1.61 Given the support for the continued use of such a policy and the effectiveness of the current policy over the last 17 years it is intended that the new Plan will include a similar policy which has been updated to accord with current national planning policy.

In Addition to the Environmental Criteria Policy, What Additional Matters Should be Included in a Separate and Specific Coal Development Policy?

8.1.62 It was recognised that the terms of the current coal development policy did not match those in the more recent guidance in the NPPF and it was considered

appropriate to canvas opinion on all the matters which could be included in a new policy. Whilst the NPPF had added national benefits to those to be considered in the event of a development proposal being assessed to generate unacceptable environmental impacts it was considered that a policy based solely on those elements listed in the guidance may not wholly reflect the range of coal issues pertaining in Derbyshire.

8.1.63 In recognition that, historically, coal mining operations have, and would probably continue to have further economic and social implications, the consultation included an option for such issues be included in the coal related policy. It was acknowledged that the NPPF guidance highlighted the environmental factors that could be taken into account but in the case of coal mining it was considered that this would not encompass the social and economic aspects which actually form integral parts of the definition of sustainable development. It was considered that any coal policy for the area should take full account of all the potential benefits and costs of coal related development. Based on the comments received and the need to make the Plan fully reflect the circumstances of the area it is intended that these elements be included in the coal policy.

Methodology for the Assessment of Cumulative Impacts

8.1.64 This issue was the subject of a separate and specific consultation topic, but due to the importance of cumulative impacts in Derbyshire and the connection to the local coal mining industry over a long period, it was considered appropriate to repeat the options here for the benefit of those who may have missed that part of the consultation exercise. The continued consideration of cumulative impacts as part of the development management process was supported and the way forward on this subject is provided elsewhere in the coverage of that part of the consultation exercise.

How to Assess the Benefits of Coal Extraction and Other Coal Related Developments

8.1.65 The NPPF states that permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or if not, it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission. This adds national benefits to the list of benefits included in the existing policy (MP27) in the adopted Derby and Derbyshire Minerals Local Plan which increases the need to reassess the approach of the new Plan.

8.1.66 The NPPF does not define the range of benefits in each category and does not advise how to assess those benefits or how to weigh them against adverse impacts, so the consultation exercise included this as an issue to help develop the approach of the new Plan to this matter.

8.1.67 The determination of all development proposals involves an assessment of the respective benefits and any adverse impacts, and decisions often rest on the balance between the two. The point at which the value of national, local and community benefits of coal mining developments could outweigh any adverse impacts is difficult to determine but it is a judgement that the mineral planning authorities will have to make. It is therefore important that the MLP provides an appropriate framework for these decisions.

8.1.68 Two options were presented. One adhered to the terms of the NPPF where benefits were not further defined and the consideration and assessment of any benefits would be on a case by case basis, taking account of local circumstances and consultation with the local community. The second option would be based on a policy where the range and nature of acceptable community and local benefits that will be taken into account would be defined and which included guidance on the level of benefits that would need to be achieved to offset and outweigh adverse environmental impacts.

8.1.69 The consultation listed the most obvious and common benefits and drew a distinction, where appropriate, between those benefits that would be derived directly from the development and could not be delivered otherwise, and those benefits that have been offered by developers but do not stem from the development itself.

8.1.70 No conclusions could be drawn from the consultation responses on this issue.

Prior Extraction of Coal

8.1.71 Due to the abundance of shallow coal measures in some parts of the County it is likely that there will continue to be some non-mineral development proposals where it will be necessary or expedient to extract and remove the coal lying close to the surface prior to the development proceeding. This can be for a variety of reasons, including structural integrity issues where it is necessary to remove the soft coal to ensure that buildings have suitable foundations, and for health and safety reasons where the removal of the coal or the treatment of old mine entrances would prevent the release of contaminants or gases into the new buildings. An added benefit of the prior extraction of coal at that stage is that it would provide an amount of coal and avoid the long-term and possibly permanent sterilisation of those reserves.

8.1.72 The issue of safeguarding of all important mineral resources was explained in a separate paper; Minerals Safeguarding Supporting Paper, September 2014, and the objective of this consultation was to determine whether or not the MLP should include a specific policy concerning situations where there may be a need to extract coal close to the surface prior to another development.

8.1.73 Government policy supports the prior extraction of coal in principle. The NPPF requires local planning authorities to set out policies to encourage the prior extraction of all minerals, where practicable and environmentally feasible, if it is necessary to enable non-mineral development to take place. The existing Derby and Derbyshire Minerals Local Plan includes two policies which refer to the prior extraction of minerals. Policy MP17 refers to the prior extraction of

minerals in general, whereas Policy MP27 focuses on the prior extraction of coal only. Responses to the Issues and Options consultation favoured a preference to continue with this approach, but it is necessary to revisit the subject in light of the NPPF and to obtain your current views as to the approach we should take now.

8.1.74 Only limited responses were received on this issue but in light of the importance of the coal industry to the area it is likely that the new Plan will maintain the approach of the existing MLP and retain a general prior extraction policy and a separate one for coal, setting out the criteria for acceptability.

Reworking of Colliery Spoil Tips

8.1.75 The NPPF does not address the issue of the reworking former colliery spoil tips directly but it does advocate the sustainable and prudent use of our mineral resources. In this respect it highlights the advantages of using secondary materials in preference to the extraction of primary materials. It therefore gives implicit support for this form of development. Responses to the Issues and Options consultation exercise indicated support in principle for the reworking of old tips and favoured the inclusion of a criterion based policy to determine the acceptability of development proposals. Policy MP15 in the current adopted Minerals Local Plan refers to the working of former tips but specifically excludes developments for the purposes of producing secondary aggregates. The guidance and tests it provides are also limited, being restricted to stating that proposals where the land has been satisfactorily reclaimed or naturally regenerated to an acceptable degree will be considered as a new proposal on a greenfield site.

8.1.76 The coal processing plant used at collieries in the 20th Century were generally inefficient by modern standards and resulted in substantial quantities of coal being deposited in the spoil tips along with other discarded materials. Advances in coal processing technology now make it possible to recover the coal from these tips, although the viability varies in accordance with the price of coal and the quantity available. Some of the tips also contain other materials which were

previously regarded as waste (for example red shale) but are now in demand. Whilst many of the former colliery tips in the plan area have been removed or restored a number of substantial sized tips remain and could be the subject of proposals to rework them in their own right, or for removal/re-contouring as part of a wider development proposal. Coal and other material obtained from these tips could help reduce the need for resources from other sites.

8.1.77 The recent consultation put forward two options; one continuing the current approach and the other not to have a separate policy for the reworking of former colliery tips but to rely on the criteria in a general policy covering all former mineral waste tips. Only a limited number of responses were received on this issue but in the absence of any desire to the contrary and to reflect the importance of the issue it is likely that the new Plan will continue the approach of the current adopted minerals local plan.

Coal Policies

Policy MS13: Coal Extraction and Colliery Spoil Disposal Criteria

General Considerations for Coal Mining and Colliery Spoil Disposal

Proposals for the extraction of coal by surface mining methods or deep mined coal and the disposal of colliery spoil will only be permitted where the applicant can demonstrate that the development satisfies the following requirements:

- that it is environmentally acceptable, or can be made so by planning agreements and obligations; or
- that it provides national, local or community benefits of a scale which clearly outweigh the likely impacts sufficient to justify the grant of planning permission.

Policy MS14: Reworking of Former Colliery Tips

Proposals for the extraction of coal and other minerals previously deposited minerals in colliery spoil tips will be permitted where the applicant has demonstrated that:

- it is environmentally acceptable, or can be made so by planning agreements and obligations;
- it would not adversely affect local amenity;
- it would not result in the loss of important wildlife and habitats on the site;
- it would not adversely affect any previous reclamation works that have been carried out on the site, or, if so, it would result in further, significant improvements to the previous reclamation scheme.

Where an application does not satisfy these requirements, planning permission may still be granted where the applicant can demonstrate that there would be other benefits which would clearly outweigh the adverse impacts of the development.

Policy MS15: Assessment of the Benefits of Coal Mining Development

In the assessment of benefits of coal mining development against adverse impacts the mineral planning authority will take into account:

- the contribution of the coal to national energy requirements;
- the contribution of the coal from that site in comparison to other sites;
- the potential benefits to the site, in terms of improved soil condition, drainage, landscaping, after-uses;
- the removal of pollution and dereliction or the resolution of ground stability problems;
- the relationship of the benefits to the actual development, including both on and off-site benefits;
- the relevance of the benefits to the local area and local requirements

Policy MS16: Incidental Coal Extraction

Proposals for the prior extraction of coal from sites where the applicant can demonstrate that:

- the removal of the coal is necessary for the safe implementation of another approved development;
- it would avoid the permanent or long-term sterilisation of coal resources;
- it would enable the stabilisation of abandoned coal mine workings and reduce the risk of gas leakage;
- it improves the efficiency of the intended land use by the treatment of unstable ground conditions;
- it enables the removal of ground obstructions (from previous developments) and locates high walls;
- it enables the remediation of contamination; and
- it would not give rise to unacceptable impacts on the environment and local amenity.

Where the scale and extent of ancillary coal extraction is small the respective district or borough council will be the appropriate planning authority. Where the scale and extent of ancillary coal extraction is of a significant level or the volume of coal to be extracted is greater than the minimum necessary to enable the development to proceed, then the mineral planning authority will be the appropriate planning authority. For the purposes of this policy ancillary coal extraction will be the responsibility of the mineral planning authority where the area of coal extraction exceeds 1 hectare or the volume of coal exceeds 5,000 tonnes.