

DERBYSHIRE AND DERBY MINERALS LOCAL PLAN

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

**Developing the Proposed Draft Plan
Safeguarding Mineral Resources**

December 2021

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1. Introduction

1.1 The purpose of this Paper is to show how the current proposed draft plan has been developed over time, through several stages of consultation, starting initially with the key issues and options in 2010. It explains how national planning policy and guidance (including revisions), representations made at the consultation stages, interim sustainability appraisals and co-operation with appropriate bodies on strategic cross-border issues have been taken into account, leading to outcomes for the current approach set out in the proposed draft plan.

2. Stakeholder Workshop 2009

2.1 In July 2009, Derbyshire County and Derby City Councils held a workshop for key stakeholders. This helped to identify the key issues and themes that people thought the Minerals Local Plan (MLP) 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.

3. Issues and Options 2010

3.1 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 the Plan 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 British Geological Survey guidance on minerals safeguarding, which remains the most recent up to date guidance regarding mineral safeguarding.

3.2 The second issue set out an initial policy approach to safeguarding. 94% of respondents (16 out of 17 responses) thought that the new Plan should continue broadly the approach set out in Policy MP17 of the adopted MLP. 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.

Sustainability Appraisal

- 3.3 The Sustainability Appraisal (SA) process is a way of promoting sustainable development through the better integration of sustainability considerations throughout the preparation of the Plan. The process involves testing the impact of the Plan against a series of sustainability objectives. Where the process recommends improvements to the Plan, these will be incorporated.
- 3.4 A SA was carried out to assess the emerging approach to safeguarding. It set out that there is a need to include a policy to safeguard minerals and that 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. However, it may restrict certain developments that are not considered 'critical'. This could affect local housing targets perhaps. The nature and extent of impacts would depend upon what development is considered to be 'essential'. The policy also could be made more flexible by offering different levels of protection according to the scarcity of mineral resources and where the cumulative impacts of previous developments could lead to an unacceptable loss of resources.
- 3.5 The full appraisal is set out in the following document:
Derbyshire and Derby Minerals Local Plan - Sustainability Appraisal (SA) of the Minerals Issues and Options Paper, July 2013

4. Towards a Minerals Local Plan – Rolling Consultation 2015/2016

4.1 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 (NPPF). 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.

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

- a) 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.
- b) 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
- c) Most agree that urban areas should be washed over but one considers it impractical except for shallow coal or sand and gravel.
- d) One asks whether the policy can safeguard non-designated minerals for example on the line of proposed HS2.
- e) 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.
- f) The opinion regarding the definition of buffer zones is split. The MPA states that buffers should be built 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.
- g) There are 11 comments of support for the overall approach as proposed and for the minerals which are proposed to be safeguarded.

- h) 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.
- i) 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

4.3 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 comments are addressed in order as shown in 4.2 above.

- a) The Councils do not have the same detailed information available regarding the specific grades of mineral in the Permian Limestone deposit.
- b) 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.
- c) 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.
- d) 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.
- e) 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.

- f) 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.
- g) Noted.
- h) Changes made as appropriate.

Duty to Cooperate

4.4 Duty to Co-operate is a way of planning strategically for significant cross border issues and a legal requirement of Plan preparation. In preparing the Minerals Local Plan, the Councils identified the following strategic cross-boundary issues in respect of safeguarding mineral resources.

- To ensure a consistent and coordinated approach is taken to safeguarding mineral resources across administrative boundaries.

4.5 The Councils have engaged in meetings and discussions with relevant authorities, mineral operators and other stakeholders. Co-operation has focussed on the need to ensure a consistent approach is taken to the safeguarding of mineral resources across administrative boundaries. Outcomes from the co-operation have fed into the Proposed Approach, Spring 2018 consultation.

4.6 All Duty to Co-operate Issues together with the stakeholders involved have been set out in the following Background Paper which has been updated to add additional matters that have arisen since the Plan has progressed. Further information can be found in the following Reports.

Derbyshire and Derby Minerals Local Plan - Towards a Minerals Local Plan - Spring 2018 Consultation: Proposed Approach

Duty to Cooperate Report - Background and Progress, December 2017

Sustainability Appraisal

- 4.7 The SA 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. An SA has been undertaken on all the Papers that constituted the Towards a Minerals Local Plan Rolling consultation 2014-2017, including those concerning safeguarding of mineral resources. It reported as follows, essentially providing an update on the previous appraisal at Issues and Options stage: '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'.
- 4.8 The SA of the emerging approach suggested a more flexible approach to protection dependent upon the scarcity of mineral resources and their 'importance'. The revised policy (SMP6) take this into account by identifying that safeguarded areas for some minerals will be more selective; involving the land around existing workings.
- 4.9 The draft policy will safeguard minerals in urban areas where there are proven resources. There is an exemption list, to ensure that the majority of development is unaffected. However, larger housing and employment development in areas where minerals are known to exist would need to demonstrate that the resources cannot be extracted prior to their development. This could discourage the development of some sites, including brownfield land, but on the other hand, provides opportunities to extract resources which could possibly partially fund subsequent development for other uses. An uncertain effect is predicted at this stage for economy and housing as further detail is to be drawn up relating to redevelopment of a site in the urban area. However, it is not expected that significant effects would occur as the policy ought to take account of viability and feasibility of resource extraction.
- 4.10 The full appraisal is set out in the following document:
Derbyshire and Derby Minerals Local Plan 2nd Interim Sustainability Appraisal (SA) Report, December 2017

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

5.1 Nine representations were received to this part of the Plan at this stage. These are as follows:

- Should refer to the agent of change which places the emphasis on any mitigation on the developer of the new development being sited in proximity to an existing use. The applicant for the new development should be required to put in place suitable mitigation prior to the new development taking place.

Outcome for the Proposed Draft Plan

This will be incorporated into the Plan text.

- Specific MCAs should be drawn up around existing operations. These are a clearer and more useful tool in decision making.

Outcome for the Proposed Draft Plan

The Plan will clarify that MCAs include the MSA and any buffer zone and will be used in decision making when assessing proposals for non-mineral development.

- In terms of safeguarding, we note the list of minerals to be safeguarded to ensure that they are taken into account in proposals for non-mineral development. Given the importance of hydrocarbons we believe the onshore oil and gas should be added to the list of the safeguarded minerals and accordingly the PEDL areas safeguarded.

Outcome for the Proposed Draft Plan

The purpose of safeguarding is to ensure that minerals are taken into account should surface non-mineral development threaten their future long-term availability. The depth of hydrocarbon extraction and relatively small area required for the surface site workings means that surface non-mineral development is unlikely to sterilise such a resource, which makes it unnecessary to safeguard this resource. As such, there is no requirement in national planning policy to safeguard hydrocarbons. No change required.

- The Minerals Plan needs to address the question of how to deal with safeguarding when two minerals resources coincide.

The Written Ministerial Statement, Shale Gas and Oil, dated 16th September 2015 stated that:

There is a national need to explore and develop our shale gas and oil resources in a safe, sustainable and timely way. In our submission the clear conclusion to be drawn is that in areas of potential development conflict between the two resources, the identified national need to explore and develop hydrocarbon resources will take precedence over the local need to explore and develop other minerals. (Ineos)

Outcome for the Proposed Draft Plan

Hydrocarbon resources occur at a much deeper level and over a much wider area than other mineral resources such as crushed rock and sand and gravel, so there is unlikely to be any conflict in exploiting the two resources. No change required.

Duty to Cooperate

- 5.2 National Planning Practice Guidance sets out that in planning for minerals extraction, MPAs are expected to cooperate with other authorities on strategic cross boundary matters.
- 5.3 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. The Councils have also corresponded with organisations and individuals with relevant knowledge to develop our evidence base and for developing the proposed approach to safeguarding of mineral resources.
- 5.4 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.

5.5 Strategic policy making authorities should collaborate to establish cross border matters which they need to address in their plans and in accordance with the new NPPF produce one or more statements of common ground (SoCG). These should document the cross-boundary matters being addressed and the progress in cooperating to address these.

5.6 In preparing the Proposed Draft Plan, the Councils have revisited and updated the strategic cross-boundary issues relating to the safeguarding of mineral resources. The following issues remain identified:

- **To ensure that mineral resources are safeguarded effectively and that a consistent and co-ordinated policy approach is taken to safeguarding of mineral resources across administrative boundaries.**

5.7 The Councils have engaged in meetings and discussions with relevant authorities, mineral operators and other stakeholders. Co-operation has focussed on the need to ensure that a consistent approach is taken to safeguarding of mineral resources and has fed into the Proposed Draft Plan, Winter 2021/2022 consultation.

5.8 The Councils have produced a Duty to Co-operate Report setting out the background and overview to duty to co-operate issues. In line with the new provisions of the NPPF they have produced a SoCG which sets out the progress made to date on co-operating to address the strategic cross-border duty to co-operate issues. Further information can be found in the following documents:

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

Sustainability Appraisal of the Proposed Approach Spring 2018 Consultation

5.9 The 3rd interim SA concluded that Policies SG1 and SG2 aim to safeguard crushed rock, sand and gravel, shallow coal, sandstone/gritstone and Sherwood

sandstone/clay resources from non-mineral development that may sterilise the mineral resource. A positive effect on minerals provision (SA topic 3) is predicted as the policy will help to protect economically viable sources of minerals from being sterilised.

5.10 Housing and other non-mineral employment developments within designated minerals safeguarding areas will be required to either extract the resource prior to their development, to demonstrate that the resource is no longer exploitable or that the development would not result in the sterilisation of the resource. Given the extent of minerals safeguarding zones is substantial; this is likely to require a large number of development proposals to explore the potential effects on minerals. This could add to the costs and timing of achieving planning permission (SA8). However, there are exemptions in urban areas, and it is considered unlikely that mineral resources will be workable in all areas. Therefore, the anticipated effects would be minor. In the longer term, the effects on economic factors are positive as mineral resources are required to support construction activities.

5.11 With regards to environmental and social factors, minerals safeguarding would prevent development on land should there be a need to protect mineral resources from sterilisation. Where prior extraction is not involved, this could have positive effects on land which is (in some cases) within the open countryside, supporting biodiversity and / or providing community value for recreation and amenity. Therefore, the policy could have indirect benefits with regards to environmental and social factors. Uncertain effects are predicted at this stage for SA1, SA2, SA4 and SA7 to reflect the potential for short to medium term benefits in this respect. However, given the substantial land area covered by MSAs and uncertainty about which sites may come forward, it is difficult to establish definite effects.

5.12 The full report can be found at:

Derbyshire and Derby Minerals Local Plan: 3rd Interim Sustainability Report, August 2020

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

5.13 The 4th Interim SA of the Proposed Draft Plan (January 2022) has considered the proposed approach taken to safeguarding of mineral resources. No amendments were required to be made as a result of this. The full report can be found at:

Derbyshire and Derby Minerals Local Plan 4th Interim Sustainability Appraisal (SA) Report, January 2022