

# **DERBYSHIRE AND DERBY MINERALS LOCAL PLAN**

## **POLICIES FOR INCLUSION IN THE NEW MINERALS LOCAL PLAN**

### **SUPPORTING PAPER**

**MAY 2016**

Derbyshire County Council and Derby City Council (the mineral planning authorities) are working together to prepare a joint minerals local plan. It will be called the Derbyshire and Derby Joint Minerals Local Plan and will cover the geographical area of Derbyshire, excluding the Peak District National Park. It will cover the period to 2030.

Minerals are essential raw materials, which are used to provide the infrastructure, buildings, energy and goods that our country needs. They are vital for economic growth and our quality of life. They are, however, a finite resource and can only be worked where they are found. It is important therefore, that we make the best use of them to enable their long-term conservation.

The Plan area has a wealth of mineral resources. Mineral extraction and development has, for a long time, been a part of the Derbyshire landscape and an important part of the local economy, making an important contribution to the national, sub-regional and local need for minerals. Whilst mineral working can also provide environmental benefits, residents and local businesses are often concerned about any unwelcome impacts.

A clear, long-term Minerals Local Plan is a way of setting out the future scale and location of mineral working in the Plan area to support economic growth whilst protecting the environment and local communities. It is important that the Minerals Local Plan gets the balance right between the needs of the economy, the environment and local communities. It is vital, therefore, that communities, businesses, organisations and people throughout Derbyshire and Derby are involved in developing the Minerals Local Plan so that, as far as possible, it contains an agreed set of priorities that will deliver sustainable minerals development that is right for the Plan area.

**This consultation presents a series of papers, which seek to develop further the emerging Vision and Objectives, Strategies and Policies of the Minerals Local Plan. We now need your comments, suggestions and input on these papers, which will then be used to feed into the Draft Minerals Local Plan. We will ask for your views on this document later in the process.**

**This paper focuses on the range and scope of the policies to be included in the Plan. It seeks to identify the range of issues which would arise from the potential winning and working of those minerals which are present in the Plan area and which may require policy coverage in order to deliver the vision of the Plan and to assess and determine any future development proposals. It examines those policies which national guidance requires and those which will also be included to reflect local circumstances.**

**This paper should be read alongside other current consultations which ask specific questions about the approach of the new Plan and the need or otherwise for certain policies and what they should seek to do. When the full list of policies has been resolved a formal consultation will be undertaken concerning the form and wording of those policies.**

**This paper has been published as supporting information but if anyone has any specific comments at this stage please submit them in the usual manner.**

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## **1 Introduction**

- 1.1 This paper sets out a list of all matters, issues and topics which may require coverage by an appropriate policy or policies in the new Minerals Local Plan. They have been derived from reference to the current Plan (Derby and Derbyshire Minerals Local Plan), current national planning policy guidance, and your responses to earlier consultation exercises and from the issues and questions which have been put before you in the current round of consultation and your emerging responses to them. In addition, reference has also been made to the formal comments of Planning Inspectors to draft minerals local plans published elsewhere in the country. The list is intended to generate discussion about the content of the new Plan when the form and approach have been resolved by an assessment of your responses to the current consultation exercise. It is not published as a final list as other policies relating to emerging issues or issues which your consultation responses indicate do merit having a specific policy will be considered for inclusion.

## **2 Requirements for the Minerals Local Plan**

- 2.1 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 how proposals for new minerals developments will be assessed and determined. The first task will be covered by policies setting out the Strategic Approach of the new Plan whilst the task of setting out how new development proposals will be assessed and determined will be established through appropriate Development Management policies.
- 2.2 For some minerals, the amount of additional extraction that will have to be accommodated in the new Plan will be determined by reference to Government guidance and an assessment of the level of need in the Plan area and the surrounding area. These provision figures will be included in the Plan as specific Provision policies. For other minerals, Government guidance requires minerals plans to enable the extraction of those important minerals which are found in their areas but does not set out how much additional extraction should be provided for. In

addition, whilst the presence of some mineral resources is evident (for example coal), the mineral planning authorities do not have sufficient information about the scale of the resource or about how commercially viable it would be to extract those resources. Indeed the commercial viability of mineral resources is not fixed as the price for those minerals varies over time for a number of reasons. It is therefore considered appropriate that the policies relating to these minerals will not set out specific provision figures but will establish the criteria that would have to be met before new development proposals would be permitted. In effect these policies would be additional Development Management policies.

- 2.3 The following lists cover the likely issues which will have to be addressed in each category and includes an indicative title for potential policies under each of the headings. For the reasons discussed below, some of these issues may not lead to a corresponding policy under the respective heading, although in such cases the matters involved will be covered by in appropriate policy under another heading. The numbering system is included at this stage for ease of reference only.

### **3 Strategic Approach**

#### **3.1 Issues Requiring Policy Coverage**

SMP1: Overarching Sustainability Principles

SMP2: Climate Change

SMP3: Economic, Social and Environmental Principles for Minerals Development in Derbyshire and Derby

SMP4: Spatial Strategy

SMP5: Reducing the Use of Primary Mineral Resources

SMP6: Mineral Safeguarding Area

SMP7: Minerals Consultation Area

SMP8: Safeguarding of Mineral Sites and Facilities

## **Why These Issues Need to be Included and Addressed in the New Minerals Plan**

- 3.2 The broad, basic requirements for the planning system in general, and for the purposes and form of minerals local plans, are set out in Government policy and guidance via the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (NPPG) statements. These state that the underlying purpose of the planning system is to achieve sustainable development. Most of the suggested Strategic Approach policies are intended to demonstrate how the new Minerals Local Plan will help to deliver the sustainable development of minerals in the Plan area.
- 3.3 The policies will set out the broad parameters for the sustainable extraction and use of minerals, taking account of the three main dimensions specified in the NPPF, i.e. the economic, social and environmental elements. The NPPF and NPPG also set out a number of other requirements that minerals local plans must fulfil. The NPPF states that as minerals are a finite resource, plans should encourage the prudent use of those resources and encourage the use of alternative resources in the form of secondary and recycled aggregates wherever possible. In addition, to make sure that the remaining mineral resource is available to meet future needs, the Plan will also set out policies to safeguard them from other development which could prevent their extraction. The NPPF states that the safeguarding approach should also be applied to ancillary minerals facilities, both current and planned, which enable extracted minerals to be stored, processed and transported. The suggested Strategic Policies would set out how the new Minerals Local Plan would meet these requirements in a manner which reflected local circumstances. It is recognised that the implementation of this approach and policy will require the co-operation of the district and borough councils in the Plan area.
- 3.4 In accordance with the NPPF, the Strategic Approach policies will set out how the Plan will respond to the issues of climate change to make sure that new mineral development does not contribute to the causes of global warming.

One of the most important tasks for the Minerals Local Plan is to determine the broad areas where development can and cannot take place and this will be provided by a policy setting out the overall spatial strategy of the new Plan.

## **4 Policies Setting out the Provision For Mineral Extraction**

### **4.1 Minerals Which May Require Policies Setting Out the Provision for Further Extraction**

PP1: Sand and Gravel

PP2: Provision for Sherwood Sandstones

PP3: Industrial Limestone

PP4: Crushed Rock

PP5: Coal

PP6: Vein Minerals

PP7: Building Stone

PP8: Oil and Gas

PP9: Shale Gas

PP10: Clay

### **Why Policies for These Minerals Need to be Included in the New Minerals Plan**

4.2 The NPPF requires minerals planning authorities to identify and include policies for the extraction of those mineral resources of local and national importance found in their area. Minerals are a finite resource and can only be worked where they are found. The NPPG requires mineral planning authorities to plan for the steady and adequate supply of minerals in one or more ways, including designating specific sites, designating preferred areas where extraction might be reasonably anticipated or designating areas of search where knowledge of mineral resources may be less certain but within which planning permission may be granted. In addition to where minerals may be worked, it is also important to determine how much mineral



extraction should be provided for in the local plan. Government guidance on this important issue varies according to the particular need for, and circumstances of each mineral.

- 4.3 The NPPF requires mineral planning authorities to plan for a steady and adequate supply of aggregates and states that this should be done by preparing an annual Local Aggregate Assessment (with other neighbouring mineral planning authorities) and participating in the operation of an Aggregate Working Party. The purpose of these requirements is to establish an agreed figure for further aggregate production in their respective areas. Derbyshire County Council and Derby City Council have produced a Local Aggregate Assessment and the amount of further aggregate mineral extraction will be specified in the appropriate provision policies. This will include specifying the amount of additional sand and gravel extraction that will have to be provided for in the Plan.
- 4.4 The current Derby and Derbyshire Minerals Local Plan contains a policy specifically relating to the working of sand and gravel from the resource known as Sherwood Sandstones. This mineral has mainly been extracted for use as aggregate and, having regard to national and regional guidance at the time and the level and availability of permitted reserves, the policy sought to restrict further working of the resource, except in particular circumstances. In recent years the focus of attention of the minerals industry for obtaining sand and gravel for aggregate purposes has been on the larger, traditional resource in areas such as the Trent Valley. Due to the lack of interest in the Sherwood resource it is currently considered not necessary to maintain a separate policy. It is therefore proposed that any future proposals affecting Sherwood Sandstones will be determined against the general development management policies of the Plan.
- 4.5 The Plan area contains a significant resource of limestone which has a variety of uses, including use as aggregate and for specialist industrial uses. The quantity of limestone suitable for aggregate purposes which already benefits from planning permission far exceeds the amount that will be required throughout the Plan period and so the respective policy will not make any specific provision for further

extraction. However, in order to maintain flexibility it is likely that the proposed policy will make provision for certain exceptions where there would be demonstrable environmental benefits of doing so. The volume of industrial limestone reserves which are covered by extant planning permissions is also very high to the point where there is no need to make any additional provision. The operators of two of the main quarries however, have informed us that the limited reserves available at these sites threaten the future viability of the quarries and associated processing plant. Consideration is therefore being given to provision being made for extensions to these sites and this would be reflected in the draft policy.

- 4.6 The NPPF also requires minerals planning authorities to plan for a steady and adequate supply of other industrial minerals. The Plan area contains a substantial resource of clay; the type of clay found being classified as brick clay with obvious uses and also fireclay used for the manufacture of buff and pale coloured facing bricks. Clays are also used for engineering and environmental purposes. The location of this resource correlates directly to the location of the coalfields where they occur extensively, although only a small proportion is suitable for use in brick manufacture. The working of fireclays in particular is directly related to coal extraction by surface mining methods. The NPPF requires minerals plans to make provision for a landbank of clay equivalent to 25 years of production. It is not possible, however to quantify what this means for the Plan period. Following the closure of the brickworks at Waingroves and Barrow Hill there are no operational brickworks remaining in the Plan area. The clay extraction sites associated with the former brickworks still have reserves that can be extracted and which now supply clay to other brickworks outside the Plan area where it is blended with clay from other areas. The blend ratio is determined by the requirements of individual orders and it is not possible to accurately calculate how much clay will be required from sites in the Plan area. Further, the information available to the mineral planning authorities on the location, scale and commercial viability of the remaining brick clay resources is limited and does not allow specific sites to be allocated. Irrespective of this limitation the Plan will contain a policy concerning the future provision for clay but this will

probably focus on setting out the criteria for acceptability rather than numerical requirements.

4.7 The Plan area also contains other important minerals such as hydrocarbons (coal, oil and gas), vein minerals and building stone. The NPPF does not specify what constitutes a steady and adequate supply for these minerals and so no specific provision figure can be included in the policies of the Plan. For energy minerals the NPPG states that minerals planning authorities should not seek to assess demand but should take account of Government energy policy which makes it clear that energy supplies should come from a variety of sources where the mix is market led. Accordingly the policies for these minerals focus on setting out the minimum requirements required for such developments to be acceptable.

4.8 Many of the historic buildings in the Plan area are constructed of stone found within the area. This stone was traditionally obtained from small scale quarries and many have now closed. In addition, this resource is often found in the areas of high landscape value close to the Peak Park area. The NPPF recognises that small quantities of building stone will be required periodically to repair and maintain our important buildings and therefore requires that Plans make provision for an appropriate amount of such stone. The new Plan will include a policy for building stone in line with the existing Minerals Local Plan.

## **5 Development Management Policies**

5.1 Minerals planning authorities need to be able to assess and determine the acceptability of proposals for mineral extraction. The following policies set out the main topics and issues that will need to be addressed to undertake that process.

### **5.2 Development Management Policies**

DM1: Development Management Criteria

DM2: Planning Conditions and Obligations

DM3: Transport

DM4: Natural Heritage (landscape, biodiversity)

DM5: Historic Heritage (buildings, archaeology, conservation)

DM6: Water Management and Flooding

DM7: Ancillary Mining Development

DM8: Cumulative Impacts

DM9: Restoration/Aftercare

DM10: Extensions to Sites

DM11: Bird Strike Management

### **Why Development Management Policies Need to be Included in the new Minerals Plan**

- 5.3 Most mineral development requires planning permission or other forms of prior approval from the mineral planning authority. One of the most important functions of a minerals local plan is setting out how such proposals will be assessed and determined. In accordance with the guidance in the NPPF the objective of the new Plan will be to ensure that only those developments which constitute sustainable development would not result in unacceptable adverse impacts will be allowed to take place.
- 5.4 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.
- 5.5 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 on the natural and historic environment or human health, including noise, dust, visual intrusion, traffic, tip and quarry slope stability, differential settlement of quarry backfill, mining subsidence, increased flood risk, impacts on the flow and quantity of surface and groundwater and migration of contamination from the site; and to take account of the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality.

- 5.6 The draft policies set out above would incorporate this requirement and expand on the criteria that will be used to assess and determine planning applications to ensure that only sustainable development will be approved and that proposals that would give rise to unacceptable adverse environmental impacts would be refused, or that proposals which could not be made acceptable by conditions or other controls would be refused.
- 5.7 The NPPF requirements focus on environmental issues and impacts but the definition of sustainable development also includes economic and social elements. The draft policies seek to ensure that these important considerations are also taken into account.
- 5.8 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 the new Plan will include a revised policy taking account of current NPPF guidance.
- 5.9 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.

- 5.10 The NPPF supports the conservation and enhancement of the natural and historic environment and provides policy guidance about how this should be achieved through the implementation of the planning system. The Minerals Plan will include policies to ensure that these interests are properly taken into consideration in the determination of minerals development proposals.
- 5.11 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.
- 5.12 Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 grants planning permission for certain classes of development without having to apply for planning permission. Part 17 of Schedule 2 sets out the permitted development rights relating to the minerals industry. Part 17 also sets out the conditions which apply to those permitted development rights and the limitations which apply. Accordingly some ancillary mineral development does require formal planning permission but does prior planning approval and this policy would set out the tests of acceptability for those proposals.
- 5.13 The NPPF states that the assessment of minerals development proposals should include an assessment of the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality. You have told us in previous consultations and in response to individual planning applications that this is a particularly important issue in the local area due to the effects and legacy of the long history of

mining and other related heavy industries. The Plan will therefore include a specific policy on cumulative impacts setting out the criteria against which new development proposals will be assessed.

- 5.14 The NPPF states that minerals plans should put in place policies to ensure that worked land is reclaimed at the earliest opportunity. The existing Derbyshire and Derby Minerals Local Plan includes a policy which requires all mineral development proposals to include satisfactory provision for the reclamation and after-use of the site and you have consistently given support for the continuation of this approach. The new Plan will therefore include a revised policy maintaining this requirement.
- 5.15 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.
- 5.16 All local plans should reflect the unique nature of the area they cover. The draft policies seek to include in the list of factors for the consideration of planning applications, those issues which are of particular significance in this Plan area. For example, for those mineral extraction operations which are proposed in the area around East Midlands airport, 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.

## **6 Policies for Other Specific Minerals and Issues**

### **Why Additional Policies for these Minerals and Issues are Required**

- 6.1 From the review above it is evident that there are some aspects of minerals developments that do not fit neatly into any of those categories. However, these matters will need to be addressed somewhere in the new Plan to ensure that it is as

comprehensive and as robust as possible in order to set out the approach to all the different mineral extraction scenarios that may arise. It will need to ensure that the area contributes a fair share to the needs of the country whilst also ensuring that those needs are met from truly sustainable developments which do not give rise to unacceptable adverse impacts.

6.2 Most of the policies in this category will relate to specific minerals for which no detailed provision figures can be provided. The policies for these minerals will acknowledge that they are present in the Plan area, that they may be required to meet the needs of the people of the area and elsewhere in the country and that there will be as presumption in favour of their extraction, with some exceptions, provided the detailed proposals represent sustainable development and do not give rise to unacceptable impacts.

6.3 **Specific Minerals and Issues Which May Require Policies in the New Minerals Plan**

SP1: Coal criteria (including incidental coal and reworking of tips)

SP2: Vein Minerals Criteria

SP3: Oil and Gas Criteria (phases)

SP4: Shale Gas Criteria (phases)

SP5: Clay Criteria

SP6: Building Stone Criteria

SP7: Industrial Limestone Criteria

SP8: Crushed Rock Criteria

SP9: Borrow Pits Criteria

SP10: Secondary and Recycled Aggregates Criteria

6.4 The form and scope of policies for some of these issues is provided in Government policy guidance statements. The policies for coal will therefore include criteria for those aspects of coal mining identified in the NPPF; that is, criteria for the assessment of coal extraction, the reworking of former colliery tips and ancillary coal



extraction (coal to be extracted prior to some other development). In addition it is intended that it will provide a mechanism for assessing the benefits of coal mining which are listed in the NPPF but which does not indicate how they could or should be quantified, or how they can be measured against any adverse impacts.

6.5 The situation for vein minerals is similar to that for coal where the minerals planning authorities cannot estimate how much mineral will be required over the Plan period, and does not have sufficient information about the remaining resource to be able to determine where commercially viable reserves could be worked. The situation is further complicated by the current focus of active sites and planning permissions within the Peak District National Park area, notwithstanding an agreed preference for minerals from the Plan area to reduce the environmental impacts on the special character of the Park. It is therefore likely that the Plan will include a policy setting out the criteria against which any new vein mineral development proposals will be assessed.

6.6 Oil and gas from conventional sources have been worked in the Plan area for many years and further resources are known to exist, but again information about the scale and viability of those resources is limited and, as with all energy based resources, the level of demand for each type of mineral is very uncertain. With limited exceptions, the relevant oil and gas industries have yet to confirm any interest in sites in the Plan area. The policies will therefore set out the criteria that will be used to assess and determine any development proposals that do come forward. The situation is especially uncertain for developments using emerging technologies which can extract energy minerals from resources which have not previously been developed. For example, gas from shale the resources in the Plan area may prove not to be of commercial value, but again the policies will set out the criteria that would be used to assess and determine any proposals that may come forward in the Plan period. In line with Government guidance the policies for shale gas will set out the criteria that will be applied to each of the three separate phases of development, although in practice the stages of exploration and appraisal may be combined.

- 6.7 At the time the current Minerals Plan was prepared and adopted, the active clay extraction sites in the Plan area largely supported nearby brickworks. In recent years all the local brickworks have closed although the extraction sites still contain further reserves with the benefit of planning permission and could remain active for several years. The NPPF requires minerals local plans to provide for a stock of permitted reserves for at least 25 years extraction of brick clay. Brick manufacturing is now concentrated in fewer but larger facilities where the clay is sourced from a wider area. Brick production also fluctuates in response to the rate of construction work being undertaken. It is therefore difficult to estimate what constitutes a 25 year supply from the Plan area. An attempt to clarify this is being progressed in consultation with adjoining authorities. The clay policy will seek to resolve this conflict in an appropriate manner which sets out the criteria for new clay extraction proposals.
- 6.8 The NPPF states that local planning authorities should consider how to meet any demand for small-scale extraction of building stone at, or close to, relic quarries needed for the repair of heritage assets, taking account of the need to protect designated sites. The existing Minerals Plan recognised the ongoing need for this type of stone to repair historic buildings in the area and set out criteria for the acceptability of small-scale extraction for this purpose. It is intended that the new Plan will include a similar policy to continue this approach.
- 6.9 The review above indicates that the Plan area contains extensive permitted reserves of industrial limestone and hard, crushed rock and that there is no need to make further provision in the Plan period. The existing Minerals Plan recognised the need for a flexible approach to this issue as there may be particular circumstances where it would be appropriate and beneficial to grant limited new permissions. It is intended that the new Plan will also include policies which set out the criteria for these exceptions.
- 6.10 Borrow pits are temporary minerals operations serving major building or civil engineering projects, such as road schemes or reservoirs, where the sites are used solely to supply materials for those projects, and which are sometimes used for the

disposal of surplus materials from the site. They were used extensively during the construction of the three phases of the A50 in the 1990s. The major advantage of all these sites was that they were immediately adjacent to the new road line and enabled the supply of minerals required for construction as and when required and without the need for the materials to be transported longer distances to the site via the highway network. The existing Minerals Plan includes a specific policy setting out the criteria of acceptability for borrow pits and it is intended that the new Plan will include a similar policy.

- 6.11 The main objective of the NPPF is to deliver sustainable development and for minerals it states that this means making the best use of them to secure their long-term conservation. To this effect the NPPF states that local planning authorities should take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials before considering extraction of primary materials. In all previous consultations you have told us that you fully support this approach and it is intended that the new Plan will include a revised policy which promotes the use of such materials and sets out the criteria of acceptability.