

# **DERBYSHIRE AND DERBY MINERALS AND WASTE LOCAL PLANS**

## **TOWARDS A STRATEGY FOR CUMULATIVE IMPACTS**

**JANUARY 2015**



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

The people and businesses of Derbyshire and Derby generate a significant amount of waste and we need to have a network of facilities to manage that waste in the most sustainable way possible. This is vital to maintain our quality of life and to enable our local economy to be competitive and to grow for the benefit of everyone in the area. As a priority we need to reduce the amount of waste we produce but we also need to make sure that we re-use as much as possible and obtain the most benefit we can from our waste rather than disposing of it to landfill.

A clear, long-term Waste Local Plan is a way of setting out what additional facilities we need and where best to locate them in order to deliver a sustainable waste management system to support economic growth whilst protecting the environment and local communities. It is also vital, therefore, that communities, businesses, organisations and people throughout Derbyshire and Derby are involved in developing the Waste Local Plan so that, as far as possible, it contains an agreed set of priorities that will deliver a sustainable waste management system 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 and Waste Local Plans. We now need your comments, suggestions and input on these papers, which will then be used to feed into the Draft Local Plans. We will ask for your views on these documents later in the process.**

**This paper focuses on the cumulative impacts of new and extended mineral extraction developments and similar impacts from new and extended waste management facilities. It examines what cumulative impacts are and how they can be measured. It summarises the industrial history of the Plan area and why cumulative impacts are such a significant issue for Derbyshire and Derby. It highlights Government policy on cumulative impacts and reports on the main messages from previous consultation exercises. It presents a number of potential options for the approach of the new Minerals and Waste Local Plans to the use of cumulative impact assessments for new minerals and waste developments.**

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# **1 Introduction and Background**

## **1.1 Origins and legislation**

The need to take account of the potential adverse impacts of development proposals as well as the benefits of those developments has been at the heart of the modern planning system. The concept of cumulative impacts has also been a recognized element of the planning system for a long time but the need to take account of such impacts was only formally enacted by legislation arising from EC Directive 85/337/EEC (as amended by 11/99/EC) which introduced Environmental Impact Assessment (EIA) regulations. In the UK the relevant legislation was the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, (notably Schedule 3). The need to take account of the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality is also included in current Government policy in the National Planning Policy Framework (paragraph 143).

## **1.2 What are cumulative impacts?**

Cumulative impacts are those which are caused by the combined effects of one action, or of several actions or developments at the same time or from a succession of actions or developments over time. It is recognized that cumulative impacts can be beneficial as well as adverse. The assessment of all development proposals requires that account be taken of both benefits and disbenefits and the ultimate decision often rests on the balance between these aspects. Reflecting the messages that you have previously made, this consultation focuses on adverse impacts. For this aspect, the critical issue is the point where the adverse impacts of developments combine to result in a significant adverse impact over and above individual impacts.

Cumulative impacts can be defined in many different ways depending on the circumstances. In generic terms, it can be defined as *“impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project.”*<sup>1</sup>

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<sup>1</sup> Guidelines for the Assessment of In direct and Cumulative Impacts as well as Impact Interaction, Hyder, May 1999.

An alternative definition is *“the net result of environmental impact from a number of projects and activities.”*<sup>2</sup>

A further definition with direct relevance to Derbyshire and Derby and the local minerals and waste industries is that cited in a practice guide developed in response to the issues generated by the Australian mining industry. It states that: *“Cumulative impacts are the successive, incremental and combined impacts of one, or more, actions on society, the economy and the environment. Cumulative impacts can result from the aggregation and interaction of impacts on a receptor and may be the product of past, present or future activities. Cumulative impacts can be both positive and negative and can vary in intensity as well as spatial and temporal extent. Cumulative impacts may interact such that they trigger or are associated with other impacts. They may aggregate linearly, exponentially or reach ‘tipping points’ after which major changes in environmental, social and economic systems may follow.”*<sup>3</sup>

This definition is relevant to the local situation for several reasons. It extends the range of impacts beyond those on the environment to include impacts on society and the economy. It recognises the impacts on people and areas and places importance on those people who have or are experiencing the impacts. It recognises that an impact can affect a wider area due to the linkages with other activities and, importantly, it recognises the role of tipping points or thresholds in the assessment of cumulative impacts, above which it can be considered that further impacts would not be acceptable. It suggests that the addition of further impacts over and above the tipping point could be the turning point where the overall vitality and viability of a community or area would be threatened.

These definitions indicate that cumulative impacts can arise from several aspects of developments. In the case of a single development for example, the combined effect of noise, dust, odours and traffic impacts could be so significant in combination that it

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<sup>2</sup> Environmental Assessment in a Changing World, Sadler 1996.

<sup>3</sup> Cumulative Impacts: A Good Practice Guide For The Australian Coal Mining Industry, University of Queensland.



would be regarded as unacceptable, even though the impacts may be considered less detrimental when assessed individually. Cumulative impacts could also arise from the additional effects of a single proposal with those of an existing development or developments nearby or one that is planned to take place in the locality in the future. Cumulative impacts could also be generated by the long-term effects of similar developments or even unrelated developments in an area, even where one or more of the original developments has ceased.

For more information about the cumulative impacts and the methodologies for assessment please see the paper, *Cumulative Impacts Supporting Paper, January 2015*, prepared in support of the Derbyshire and Derby Joint Minerals and Waste Local Plans.

### **1.3 How can cumulative impacts be assessed and measured?**

The Environmental Impact Assessment regime requires a methodical approach to the assessment of impacts. It requires the identification of a range of potential impacts and an assessment of the scale or significance of those impacts with and without mitigation measures. It establishes a logical approach to the overall assessment of the acceptability of a development proposal. It seeks to identify the point where impacts become so significant that they cannot be regarded as acceptable. This requirement applies to the assessment of cumulative impacts.

The point at which the cumulative impacts can no longer be regarded as acceptable can be treated as a tipping point. It is important therefore to have a robust and clear method of assessment which can establish that tipping point and enable a thorough assessment of a proposal against a set of policies and criteria.

There are a number of different methods available to assess cumulative impacts which vary according to the type of proposal or project under consideration<sup>4&5</sup>. Different methods have been devised which involve the application of models, whilst others use matrices and threshold analysis. At present, there is no one standard method which is used to address cumulative impacts of proposals subject to planning applications. Two recent cases, however, have set a precedent for a minimum approach (Mr Justice Burton on Long Moor and the Inspector/Secretary of State in the Telford case<sup>6</sup>). The methodology adopted in these cases consisted of addressing i) successive effects, ii) simultaneous effects from concurrent developments, and iii) combined effects from the same developments. These would appear to be a comprehensive and an appropriate set of categories for assessing the potential cumulative impacts of mineral and waste planning applications in Derbyshire and Derby.

Do you agree that, in the context of the Plan area, the summary above provides for an appropriate description of what cumulative impacts are and the methods for carrying out an assessment of cumulative impacts for future minerals and waste management development proposals? If you think that there are other issues that need to be included please state what they are and explain the reasons for your answer.

## **2 National and Other Policy Considerations**

### **2.1 National Planning Policy Framework**

The main policy objective of the National Planning Policy Framework is to help deliver sustainable development and in doing so it recognises the need to avoid any adverse impacts of developments which would significantly and demonstrably outweigh the benefits, when assessed against relevant policies. The policy guidance for minerals

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<sup>4</sup> Draft Guidelines on Cumulative Effects Assessment of Plans, EPMG, Imperial College London, 2003.

<sup>5</sup> EIA Newsletter 14, Cumulative Impacts, Manchester University, 2003

<sup>6</sup> High Court case, The Queen (on the application of Leicestershire County Council) v. the Secretary of State for Communities and Local Government and UK Coal Mining Ltd (2007) EWHC Admin 1427.

advocates that mineral planning authorities set out environmental criteria against which planning applications will be assessed to ensure that permitted operations do not have unacceptable adverse impacts, including the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality.

## **2.2 National Planning Practice Guidance**

The National Planning Practice Guidance reiterates much of the policy approach of the National Planning Policy Framework. For example, it identifies the environmental issues of mineral working that should be addressed by mineral planning authorities. At paragraph 17 however, it acknowledges that some parts of a mineral planning authority area may have been subjected to successive mineral development over a number of years and states that, where appropriate, mineral planning authorities should include appropriate policies in their minerals local plan to ensure that the cumulative impact of a proposed mineral development on the community and the environment will be acceptable.

## **2.3 National Planning Policy for Waste 2014**

The National Planning Policy for Waste 2014 supports the delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits by driving waste management up the waste hierarchy. It states that waste planning authorities should prepare local plans which identify sufficient opportunities to meet the identified needs of their area for the management of waste streams. With regard to the assessing the suitability of sites and/or areas for new or enhanced waste management facilities it states the criteria which should be taken into account, including the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.

## **2.4 Derby and Derbyshire Minerals Local Plan**

In the adopted Derby and Derbyshire Minerals Local Plan, April 2000, Policy MP4: Interests of Acknowledged Environmental Importance, states that proposals for

mineral development will not be permitted where irreparable or unacceptable damage would result to interests of acknowledged environmental importance. With regard to cumulative impacts it states that one of the aspects for deciding whether a development was acceptable or not would be where it would result in an unacceptable cumulative impact on the environment of an area, either in relation to an individual proposal having regard to the collective effect of different impacts, or in relation to the effects of a number of mineral developments occurring either concurrently or successively.

The supporting text to this policy indicates that cumulative impacts could arise where there is a concentration of mineral workings in a particular location, either concurrently or successively over a period of time, and where the local community has experienced more than its fair share of environmental disturbance. It notes that these concerns can be particularly relevant in the Derbyshire coalfield where the adverse effects of operations should not inhibit efforts to regenerate those areas. In addition it notes that proposals for mineral working may result in a series of environmental impacts which are not individually unacceptable, but which taken collectively and taking account of any impacts of other mineral or non-mineral developments in the same area may create unacceptable damage to the environment.

## **2.5 Derby and Derbyshire Waste Local Plan**

The Local Plan contains Policy W10: Cumulative impact. It states that waste development will only be permitted if the development would not result in significant and detrimental cumulative impact on the environment of local communities. The supporting text identifies the issues of concentration of development, period of exposure, effect on regeneration and overall effect on environment as matters which decision makers will need to consider when assessing whether a development is likely to have a significant and detrimental cumulative impact.

### **3 Historical Context for Derbyshire and Derby**

- 3.1 An important issue which affects the assessment of cumulative impacts is the baseline conditions of an area. The baseline conditions will vary from area to area and will reflect the characteristics and history of the respective areas. The baseline and the sensitivity of Derbyshire and Derby will be different from that of other counties and the level of sensitivity will also vary between different parts of the Plan area. The historical pattern and form of development are important elements in the determination of that sensitivity.
  
- 3.2 The industrial heritage of Derbyshire and Derby has had a profound impact on the economy, the quality of the environment and the social and living conditions of the area. The area is rich in minerals and the minerals industry, together with other industries it supported (particularly coal processing and metal engineering), has shaped the development of the main urban areas and villages and influenced how the area now looks. Whilst these industries provided jobs they also created adverse effects from noise, dust and pollution and have left a legacy of dereliction and contamination, which in some cases is still present many years after the industries ceased operations.
  
- 3.3 Many of these industries and the adverse impacts they generated were focused in particular parts of the Plan area. Derby was one of the leading locations of the Industrial Revolution and thereafter major industrial premises were established in the inner city area and around Sinfin. The coal mining industry and the heavy manufacturing businesses it supported was concentrated along the eastern side of the County, whilst the area around Buxton was the focal point for large scale limestone quarries. All of the traditional deep coal mines have now closed and many of the sites have been remediated to varying degrees and restored to other uses but the area still retains some physical reminders of this past, including the presence of surface coal mining operations. In addition, the communities living in those areas have experienced the loss of jobs and a decline in the social fabric of the areas.

3.4 All of these factors contribute to the cumulative impacts which the areas have experienced and increase the sensitivity of the areas to future developments.

#### **4 Vision and Objectives**

4.1 A separate paper will seek your views on the emerging vision and objectives for the new Plans.

#### **5 Duty to Co-operate**

5.1 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.

5.2 The Councils have undertaken discussions with neighbouring authorities on a number of shared mineral and waste issues. The outcome of these discussions so far is that the authorities have agreed jointly to set out how they will proceed to ensure the development of a consistent and complementary approach towards minerals and waste policy, to the capacity and resources within the respective areas, to new development and proposals, and to undertake joint monitoring and evidence base production as required.

5.3 Cumulative impacts have been recognised jointly as a strategic issue. It is also recognised that cumulative impacts from minerals and waste developments can affect district and borough council areas within the Plan area and adjacent authorities outside the county, and that other forms of development for which those authorities are the local planning authority can influence the assessment of cumulative impacts from new minerals and waste developments.

## **6 Progress So Far - What you have said and how we have responded**

- 6.1 The County and City Councils have undertaken a series of earlier consultation exercises. Whilst these exercises did not identify cumulative impacts specifically as a distinct issue, they did seek to obtain your views about the most appropriate way to assess the acceptability or otherwise of minerals and waste development proposals. The emerging view was that you favoured a criterion based approach, which took all relevant factors into consideration.
- 6.2 In response to individual planning applications, many people have indicated the need for cumulative impacts to be taken into account, particularly where development proposals were located in the coalfield areas. This message was also prominent in the responses from those attending the sand and gravel drop-in sessions.

## **7 Next Steps**

- 7.1 National planning policy is now contained in the National Planning Policy Framework, 2013, the National Planning Practice Guidance, 2014 and the National Planning Policy for Waste, 2014. Apart from the sand and gravel drop-in sessions in 2012, the previous consultation exercises were undertaken prior to the publication of these policy statements and it is necessary to revisit the emerging messages from those early consultation exercises in light of this new policy framework and guidance, particularly given the continued prominence of cumulative impacts in the new statements.

### **7.2 Issue 1: The inclusion of cumulative impacts in the overall policy framework of the Minerals and Waste Local Plans**

Government policy and guidance concerning the issues which mineral and waste planning authorities should take into account when assessing development proposals includes the need to take account of cumulative impacts. The need to take account of cumulative impacts is already included in the policies of the existing minerals and waste local plans and the responses to previous consultation exercises, and to individual planning applications, has been that this should continue into the new

plans. This consultation provides an opportunity for that message to be reaffirmed, if you still consider it to be appropriate, and also to help agree how such assessments should be undertaken in light of new Government policy and guidance. For the purposes of clarification, the policies of the new plans will address both beneficial and adverse cumulative impacts and both impacts will be taken into account in the consideration of new development proposals.

**Do you agree that the new Minerals and Waste Local Plans should continue to include a policy or policies which require that cumulative impacts are included in the criteria used to assess development proposals?**

**If you disagree, please indicate your reasons.**

### **7.3 Issue 2: Methodology for the assessment of cumulative impacts**

The review provided with this consultation indicates that, at present, there is not an adopted standard methodology for the assessment of cumulative impacts of new development proposals. The National Planning Policy Framework refers (paragraph 143) to the cumulative impacts from an individual site or a number of individual sites in an area. The reference is found in the minerals section but it could equally apply to waste management developments. The approach suggested by Mr Justice Brown (reference 6) includes a wider range of issues; which are i) successive effects, ii) simultaneous effects from concurrent developments, and iii) combined effects from the same developments. Both new plans could take an approach which strictly follows the guidance in the NPPF or they could adopt an approach which takes a wider range of factors into account. We are seeking your views to establish the most appropriate approach for assessing new development proposals in Derbyshire and Derby.

**Option 1: Adopt a methodology for the assessment of cumulative impacts based on the NPPF guidance which refers to the cumulative impacts from an individual site or a number of individual sites in an area.**



This option would be in line with the National Planning Policy Framework and could be justified on that basis. However, the review of the different methodologies provided above shows that there are a range of techniques which are available for use in different circumstances. Basing a policy strictly on this limited range of factors may not be appropriate for the circumstances pertaining in Derbyshire and Derby where you have previously indicated that cumulative impacts are a major issue due to the industrial legacy of the area.

**Option 2: Adopt a methodology for the assessment of cumulative impacts based on the approach suggested by Mr Justice Brown which includes i) successive effects, ii) simultaneous effects from concurrent developments, and iii) combined effects from the same developments.**

This option would enable a wider range of issues to be taken into account in the assessment of cumulative impacts. It would enable successive effects over time to be assessed which would allow a more thorough examination of the impacts of a new development proposal set against the effects of historic industrial developments.

## Issue 2: Methodology for the Assessment of Cumulative Impacts

**Option 1: Adopt a methodology for the assessment of cumulative impacts based on the NPPF guidance which refers to the cumulative impacts from an individual site or a number of individual sites in an area.**

**Option 2: Adopt a methodology for the assessment of cumulative impacts based on the approach suggested by Mr. Justice Brown which includes**  
i) successive effects,  
ii) simultaneous effects from concurrent developments, and  
iii) combined effects from the same developments.

Please indicate which option presents the most appropriate approach for the assessment of cumulative impacts in the Minerals and Waste Local Plans. If you consider that another alternative would be more appropriate, please state the terms of the option and the reasons for your choice.

**7.4 Issue 3: Recognition of differences in the baseline conditions in different parts of the Plan area.**

The assessment of cumulative impacts requires not only an appropriate methodology, but also a measure of the situation in the area or of the community which is being affected. The summary provided by the historical context (see support paper for further details) indicates that industrial developments were focused in certain parts of the Plan area and as a result these areas have experienced a greater level of adverse impacts. The messages from previous consultation exercises and from responses to other mineral and waste planning applications is that these areas are more sensitive to additional, further adverse cumulative impacts compared to areas where little or no development has taken place. Correspondingly those areas also have greater potential to benefit from the positive aspects of new developments.

We are seeking your views about how the new plans will recognize those differences in sensitivity.

**Option 1: The criteria that will be used to assess the cumulative impacts of development reflects the differences in the baseline conditions (historical context) between different parts of the Plan area.**

This option would overtly recognise the effects and implications of the historical legacy of different parts of the Plan area which would allow the corresponding differences in the levels of sensitivity to future change to be taken into consideration. It would enable the use of different assessment methodologies and/or factors which are appropriate to the area of a proposed development.

**Option 2: That the same criteria are used to assess the cumulative impacts of developments for all parts of the Plan area.**

You may consider that the crucial requirement is to establish a comprehensive set of criteria that could be used to assess the cumulative impact of developments on all parts of the Plan area. This option would place emphasis on the range of issues to be taken into account in the assessment of cumulative impacts. It would not automatically require an assessment of those issues which did not apply to the respective parts of the Plan area but it would not discount the possibility of those issues being a relevant consideration either now or at some point during the Plan period. The use of an appropriate methodology would enable differing weights to be given to particular impacts in specific parts of the Plan area.

**Issue 3: Recognition of Differences in the Baseline Conditions in Different Parts of the Plan Area.**

**Option 1: The criteria that will be used to assess the cumulative impacts of development reflects the differences in the baseline conditions (historical context) between different parts of the Plan area.**

**Option 2: That the same criteria are used to assess the cumulative impacts of developments for all parts of the Plan area.**

**Please indicate which option presents the most appropriate approach for the assessment of cumulative impacts in the Minerals and Waste Local Plans. If you consider that another alternative would be more appropriate, please state the terms of the option and the reasons for your choice.**