

DERBYSHIRE AND DERBY MINERALS LOCAL PLAN

**Towards a Minerals Local Plan
Pre-Submission Draft Plan**

Spring 2023 Consultation

**Developing the Proposed Draft Plan
Safeguarding Mineral Related
Infrastructure**

February 2023

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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 we have taken into account 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 leading to outcomes for the current approach set out in the proposed draft plan.

2. Issues and Options 2010

- 2.1 This issue was not covered in detail in the Issues and Options Report. The Report did ask, however, whether or not respondents agreed that the most appropriate place to consider the safeguarding of sites for substitute, recycled and secondary aggregates would be the Waste Local Plan. Thirteen out of fifteen respondents agreed with this approach and, as a result, this element will be taken forward in the emerging Waste Local Plan for Derbyshire and Derby.

Sustainability Appraisal

- 2.2 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.
- 2.3 The issue in the Issues and Options Paper referred only to the emerging procedure for safeguarding recycled aggregates at this time. The Sustainability Appraisal reported as follows:
Determining which Plan is best placed to deal with Safeguarded sites for Recycled Aggregates is a procedural issue.

2.4 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

3. Towards a Minerals Local Plan - Rolling Consultation 2015/2016

3.1 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. 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 safeguarding of minerals related infrastructure.

3.2 Given that this subject was not covered in great detail at previous stages, a number of issues were presented at this stage. Issue 1 related to whether a policy should cover all facilities. Issue 2 as to whether a consultation area should be designated around each facility and what form this should take, and Issue 3, the flexibility of the policy and the protocol between county and district authorities regarding the safeguarding of minerals related infrastructure.

3.3 There were three comments from one respondent to this strategy at this stage.

- Issue 1. There should be a blanket approach to safeguarding all minerals infrastructure.
- Issue 2. Support definition of MCAs around sites on a site by site basis
- Issue 3. Policies should be flexible to allow for change i.e. if facilities are removed.

Assessment of Comments and Outcomes for the Plan

1. This has been taken into account in developing the preferred approach to this issue. All minerals related infrastructure will be safeguarded, whether this is in this Minerals Local Plan or district/borough local plans.
2. Having considered this approach further, including discussions with other mineral planning authorities, it appears that it may not be practicable to develop this approach. Generally, the preferred approach emerging amongst other mineral planning authorities is to develop a standard consultation area around each facility.
3. This would appear to be the most practical and reasonable approach to this issue and will be incorporated into the proposed approach.

Duty to Cooperate

- 3.4 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 safeguard minerals related infrastructure to protect them from being lost to other forms of development.
- 3.5 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 that mineral related infrastructure is safeguarded from other forms of development in district/borough local plans. Outcomes from the co-operation have fed into the Proposed Approach, Spring 2018 Consultation.
- 3.6 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 Report.

Sustainability Appraisal

3.7 A number of options were set out at this stage of the emerging Plan, which the SA appraised as follows:

The issues of safeguarding infrastructure were not explicitly explored at previous stages of the issues and options process. However, the MPA identified a number of key issues that need to be addressed to be able to develop the final strategy. Some of the options identified for these issues are procedural in nature and therefore, the impacts in the SA would not be particularly discernible between the different approaches. The issues are as follows.

Issue 1 - How should minerals infrastructure be safeguarded?

Issue 2 - The use of consultation areas.

Issue 3 - Allowing redevelopment for other uses.

Issue 4 – The need for a protocol for setting out safeguarding consultation procedures.

Options have been identified for issues 1-3. A discussion is presented below.

Issue 1

Option 1 - Safeguard only the strategic facilities

Option 2 - Determine the need to safeguard facilities on a case by case basis

Option 3 - Apply an overarching policy covering all infrastructure

Each approach relates to how safeguarded areas would be determined. Whilst this would affect the process of determining appropriate development, the options are unlikely to result in significantly different impacts from one another (the options are procedural). Therefore, it is not considered necessary or helpful to appraise these options in the SA.

Issue 2

Option 1 - Determine the need and size of consultation areas on a case by case basis.

Option 2 - Establish a standard consultation area around all facilities

Option 3 - Define consultation areas around the strategic infrastructure facilities only with the area defined on a site by site basis.

Whilst these options would affect the number of schemes that would potentially fall within consultation areas, the outcome of consultation is likely to be very similar irrespective of the option (these options are procedural). Option 2 would lead to a greater consideration of a wider range of facilities, which could be more beneficial for minerals and transport, but have negative implications in terms of other forms of potential development. Effects on other aspects of sustainability are unlikely to occur regardless of the option.

Issue 3

Option 1 - All safeguarded sites to remain protected for the duration of the plan.

Option 2 - Allow for the removal of safeguarding protection in some circumstances.

These options differ in their approach to the protection of safeguarded infrastructure and could lead to differences in effects for a number of sustainability factors.

Option 1 provides the strongest level of protection in terms of waste and minerals and in the longer term would best ensure that there is infrastructure to support minerals workings and transport (without having to develop new facilities). However, it does not provide the flexibility for other uses to be supported if appropriate. This could have negative implications in terms of other forms of development. It may also lead to facilities falling into dereliction, which could be negative with regards to landscape and townscape character. Option 2 is more flexible and could therefore lead to possible loss of infrastructure in the long term. However, this is unlikely given that there would be a need to demonstrate that infrastructure was not needed and/or inadequate. This option

would also provide opportunities for economic growth in other sectors if appropriate which is positive for the economy and for the public realm.

The full appraisal is set out in the following document:

Derbyshire and Derby Minerals Local Plan 2nd Interim Sustainability Appraisal (SA) Report, December 2017

4. Towards a Minerals Local Plan – Spring 2018 Consultation

4.1 Two comments were received to this part of the Plan at this stage. These are as follows:

- Support in principle but the policy is not considered to be compliant with the NPPF. Should delete reference to "within quarries" as safeguarding of infrastructure extends beyond these.

Outcome for the Proposed Draft Plan

NPPG sets out that safeguarding much of the infrastructure, other than that in quarries and wharves and railheads, rests with district/borough planning authorities. This is why the policy refers only to infrastructure within quarries. The wording of the policy will be amended to clarify this issue.

The other comment supported the proposed approach.

Duty to Cooperate

4.2 In order to obtain as much relevant information as possible about safeguarding of mineral related infrastructure, Derbyshire County Council and Derby City Council have continued to engage in meetings and discussions with relevant authorities, including mineral operators. We have also corresponded with other organisations and individuals with relevant knowledge and experience of minerals related infrastructure to develop our evidence base for the Plan, in

terms of gathering further information regarding the location of current mineral related infrastructure and for developing the approach to safeguarding infrastructure.

- 4.3 Whilst the responsibility for minerals planning matters rests with Derbyshire County Council and Derby City Council, the full implementation of the safeguarding policies will require the cooperation and assistance of the district and borough councils who will be required to safeguard some elements of minerals infrastructure outside quarries, as set out in NPPG. All the relevant local authorities have been involved in developing an approach to minerals infrastructure safeguarding under the Duty to Cooperate and this will continue throughout the remaining stages of Plan preparation and its implementation in the future.
- 4.4 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. These should document the cross-boundary matters being addressed and progress in cooperating to address these.
- 4.5 In preparing the Proposed Draft Plan, the Councils have revisited and updated the strategic cross-boundary issues relating to planning for minerals related infrastructure. The following issues remain identified:
- To safeguard minerals related infrastructure to protect them from being lost to other forms of development.
- 4.6 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 minerals related infrastructure has been identified for safeguarding and has fed into the Proposed Draft Plan, Winter 2021/2022 Consultation.

- 4.7 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 Statement of Common Ground 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

- 4.8 The 3rd interim Sustainability Appraisal did not report on this emerging policy.

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

- 4.9 The 4th Interim Sustainability Appraisal of the Proposed Draft Plan (January 2022) has considered the proposed approach taken to safeguarding minerals infrastructure and reported as below. No amendments were required to be made to the approach as a result of this appraisal as set out below:

Policy SP19 seeks to safeguard minerals related infrastructure including rail heads and links, which should support the long term efficient transportation of minerals in a sustainable manner, when compared to alternatives such as road transportation which would likely strain highway capacity and cause substantial air and noise pollution. A positive effect is therefore predicted.

- 4.10 The full report can be found at:

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

5. Proposed Draft Plan - Winter 2021/2022 Consultation

NPPF and PPG

- 5.1 Since the Spring 2018 Consultation was published the Government has revised the NPPF and partly revised the PPG. We have revisited our proposed approach in planning for minerals related infrastructure in the light of this new policy guidance. There is a new requirement in terms of Duty to Co-operate whereby planning authorities are required to produce one or more statements of common ground (SOCG). These should document the cross-boundary matters being addressed and progress in co-operating to address these.
- 5.2 In accordance with the NPPF the Proposed Draft Plan sets out the strategic priorities for the Plan which are encompassed in the draft vision and objectives. It includes a framework of strategic policies aimed at addressing those priorities together with non-strategic development management policies aimed at avoiding, minimising and mitigating the adverse impacts of minerals development. The strategic policies set out an overall strategy for the pattern and scale of mineral development and make provision for the supply of minerals (including cross-boundary supplies) over the Plan period. Where appropriate they identify specific sites for working. The paragraphs below set out the outcomes for the Pre-Submission Draft Plan, in the light of previous consultation, in relation to sand and gravel.
- 5.3 10 representations were received to this part of the Plan at this stage. These are summarised as follows:

Representations

- 5.4 As the mineral and waste lead Authority, the County Council has a responsibility in providing clear guidance to District and Borough Councils on the importance of safeguarding when allocating land and determining planning applications. As such the proposed policy is unsound, as it fails to do this. In addition, the 'agent of change' principle should also be applied. Policy should be amended.

Actions/Considerations

- 5.5 The policy has been reworded to address the comments

Outcomes for the Pre-Submission Draft Plan

- 5.6 Amend Policy SP19.

Representations

- 5.7 Whilst active mineral operations tend to be in areas at further distance from sensitive receptors, rail heads, concrete/asphalt plant operations and some aggregate recycling operations may fall within more built areas where sensitive uses in proximity to operations may cause conflict. Paragraph 9.2.18 states that 'facilities within the control of the County Council will be safeguarded and it isn't necessary to add another layer of safeguarding as facilities are protected by being located within an active mineral working'. This is disputed and is contrary to the NPPF. Although some applications for mineral related infrastructure may be determined by a district authority, the Development Plan is taken as a whole and in two tier Authority areas, this includes the County/Minerals and Waste Plans and the District/Borough Plan. As the mineral and waste lead Authority, the County Council has a responsibility in providing clear guidance to District and Borough Councils on the importance of safeguarding when allocating land and determining planning applications. The NPPF does not advocate that only mineral related infrastructure situated, within quarries are safeguarded.

Actions/Considerations

- 5.8 Agree. The policy and justification have been amended to address these comments.

Outcomes for the Pre-Submission Plan

- 5.9 Amend Policy SP19.

Representations

- 5.10 Policy SP19 should include specific reference to sites safeguarded on a policies plan or map extract. Clear criteria should be included for how it may be demonstrated that a safeguarded facility is no longer required, and how development in the vicinity of the facility should be identified and any policy considerations that should apply to such developments. Also, reference in Appendix B to 'Brimington Road' should be altered to read 'Brimington Road North'.

Actions/Considerations

- 5.11 The reasoned justification has been amended to help address the issues raised. Appendix B has been amended as requested.

Outcome for the Pre-Submission Draft Plan

- 5.12 Amend text to help address the comments. Amend Appendix B.

Representation

- 5.13 Require clarification as to what the table at Appendix 9.2B is setting out. Unclear as to what the information is specifically relating to.

Actions/Considerations

- 5.14 The table sets out the minerals related infrastructure facilities within the districts, which will be safeguarded by the relevant District/Borough Authorities. Reference is made to this table in the reasoned justification.

Outcome for the Pre-Submission Draft Plan

- 5.15 Provide clearer cross reference to this table at the relevant paragraph.

Representations

- 5.16 In Policy SP19, include the words (underlined): “sites for concrete batching and processing and distribution of recycled and secondary aggregate within quarries and on former mineral waste tips are safeguarded...” or similar clarification.

Actions/Considerations

- 5.17 Agree that the suggested addition to the policy could be included.

Outcomes for the Pre-Submission Draft Plan

- 5.18 Amend Policy SP19 as suggested.

Representations

- 5.19 Should the reference in the table at Appendix 9.2A to the railhead at Hindlow Quarry be stated as operational as caveated by the comment in the last column. Albeit it is “Active for imports from Tunstead Quarry only” that is still active and operational as a railhead. At Appendix 9.2B, for Chestnut House, it is assumed that DCC are satisfied that the answer “No” to “Part of Existing Mineral Site” is correct having regard to the processes undertaken at the site of the quarry. Possibly a comment in relation to the quarry may be useful for clarification

Actions/Considerations

5.20 Agree that the suggested amendments to the appendices should be made for greater clarification.

Outcomes for the Pre-Submission Draft Plan

5.21 Amend Appendices as suggested.

6. Pre-Submission Draft Plan – Spring 2023 Consultation

NPPF and PPG

- 6.1 Since the last consultation in 2022, there have been no revisions to the NPPF or PPG in relation to planning for minerals related infrastructure. The Pre-Submission Draft Plan sets out the strategic priorities for the Plan which are encompassed in the draft vision and objectives. It includes a framework of strategic policies aimed at addressing those priorities together with non-strategic development management policies aimed at avoiding, minimising and mitigating the adverse impacts of minerals development. The strategic policies set out an overall strategy for the pattern and scale of mineral development and make provision for the supply of minerals (including cross-boundary supplies) over the Plan period. Where appropriate they identify specific sites for working.

Duty to Cooperate

- 6.2 All the relevant local authorities have been involved in developing an approach to minerals infrastructure safeguarding under the Duty to Cooperate and this will continue throughout the remaining stages of Plan preparation and its implementation in the future.
- 6.3 In preparing the Pre-Submission Draft Plan, the Councils have revisited and updated the strategic cross-boundary issues relating to planning for minerals related infrastructure.

Sustainability Appraisal of the Pre-Submission Draft Plan – January 2023

- 6.4 The report concludes that with regards to transport and air quality, Policy SP18 seeks to safeguard minerals related infrastructure including rail heads and links (including a 250m buffer zone), which should support the long-term efficient transportation of minerals in a sustainable manner, when compared to alternatives such as road transportation, which would likely strain highway

capacity and cause substantial air and noise pollution. A positive effect is therefore predicted for SA5.

6.5 The full appraisal is set out in the following document:

Derbyshire and Derby Minerals Local Plan: Sustainability Appraisal, SA Report, January 2023

Health Impact Assessment

6.6 A Health Impact Assessment has been undertaken on the Pre-submission Draft Plan. The full text can be found in the following document:

Derbyshire and Derby Minerals Plan 2022-2038: Health Impact Assessment January 2023

6.7 The HIA raised no specific concerns regarding Policies relating to minerals related infrastructure.

Actions/Considerations

6.8 None.

Outcome for the Pre-submission Draft Plan

6.9 None.

Strategic Flood Risk Assessment

6.10 A Strategic Flood Risk Assessment (SFRA) has been undertaken on the Pre-submission Draft Plan. The SFRA incorporated a Sequential Test required to be carried out on proposed site allocations to ensure that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. The full text can be found in the following document:

Derbyshire Level 1 Minerals Strategic Flood Risk Assessment Update (February 2023)

