Further Proposed Changes to:

- Policy 4: Minimising the impact of mineral development

15 April 2016
Introduction
When the Final Draft – June 2015 version of our new Plan was submitted for Examination in January 2016, ‘proposed changes’ were also submitted for consideration by the Inspector.

In response to discussions at the Examination hearings, which started on 30 March 2016 and end on 13 April 2016, we now wish to make ‘further proposed changes’. The ‘proposed changes’ already submitted, together with the ‘further proposed changes’ taken together will represent the ‘main modifications’ and ‘additional modifications’ to the new Plan.

Main modifications are being made to address soundness issues, i.e. to ensure that the new Plan is ‘positively prepared’, ‘justified’, ‘effective’ and ‘consistent with national policy’ (ref. National Planning Policy Framework – paragraph 182).

Additional modifications are being made to improve the new Plan e.g. to provide further clarification or to update the new Plan.

A schedule of main and additional modifications will be prepared and made available for public comment before the Examination closes and the Inspector completes his report, albeit that the Inspector will only consider representations on the main modifications at this stage (ref. Planning Practice Guidance – Local Plans – paragraph 024).

The further proposed changes
We proposed changes to the Policy 4 to address representations by Natural England. However, as a result of the discussions on Day 2 of the Examination, it became apparent that the original logic of the assessment process described in the policy had been lost. We therefore wish to make further proposed changes to Policy 4: Minimising the impact of mineral development for the reasons set out below:

1. To clarify the logic of the policy so that the policy begins, as before, by explaining the range of environmental considerations that will be taken into account (matters (a) to (p)); then explains the requirements necessary to overcome any unacceptable adverse impacts; before explaining how the overall assessment will be made, we now wish to make further proposed changes by removing the proposed changes previously made.

2. To reflect the terminology used in the NPPF paragraphs 120 and 143 (bullet 6), we wish to make a further proposed change to the policy at 4.2 (p) to replace ‘impacts’ with ‘effects’.

3. To clarify the policy by removing unnecessary words so that it is clear to all that planning is a balancing exercise and that there may be situations when ‘material planning benefits of the proposals outweigh the material planning objections’ (ref. the NPPF paragraph 14), we wish to make further proposed changes to the policy at 4.3 (‘Overall assessment’).
The new Minerals Local Plan for Staffordshire 2015 to 2030
Further Proposed Changes to:
Strategic Objective 1, Policy 1 and Table 1 (Policy Monitoring Framework)

4. Finally, to update the new Plan by removing reference to Transport Assessment guidance produced by the County Council which is no longer up to date and instead rely on the Government’s Planning Practice Guidance also referred to, we wish to make a further proposed change to paragraph 7.31 of the supporting text.

In preparing the further proposed changes we contacted Natural England who have confirmed that they have no objections to the further proposed changes (see copy of the text from an email in appendix 1).

Explanatory note: Extracts from the Final Draft – June 2015 (with tracked proposed changes) version of the new Plan are provided below. The ‘proposed changes’ are shown tracked in red and the ‘further proposed changes’ are shown tracked in blue.
Policy 4: Minimising the impact of mineral development

The environmental considerations

4.1 Proposals for mineral development will be supported where it has been demonstrated that there are no unacceptable adverse impacts on human health, general amenity and the natural and historic environment having assessed mitigation and compensatory measures, except where the material planning benefits of the proposals outweigh the material planning objections. In assessing the impact of proposals for mineral development on people, local communities and the environment, where relevant, the following environmental considerations will be taken into account:

4.2 Where unacceptable adverse effects cannot be avoided, adequate mitigation should be demonstrated. As a last resort, where unacceptable adverse effects cannot be avoided or adequately mitigated, compensatory measures to overcome or minimise the adverse impacts of the development will be taken into account.

4.3 In assessing the impact of proposals for mineral development on people, local communities and the environment, where relevant, the following environmental considerations will be taken into account:

   a) Noise;
   b) Air quality;
   c) Visual amenity, including the effects of light pollution;
   d) Vibration from blasting operations;
   e) Traffic on the highway network;
   f) Public rights of way and public open space;
   g) Green Belt;
   h) The countryside;
Policy 4: Minimising the impact of mineral development (continued)

i) Landscape, having regard to the relative importance of the Cannock Chase Area of Outstanding Natural Beauty, the Peak District National Park together with their settings, and any locally designated areas; and having regard to the County Council’s landscape character assessment ‘Planning for Landscape Change’ local landscape character assessment; to ensure that proposals protect and enhance valued landscapes and are informed by and sympathetic to landscape character.

j) Natural environment, including sites, habitats and species of principal importance for biodiversity, and, geodiversity features; having regard to maintaining the integrity of international sites and the relative importance of international, national and locally designated sites, habitats and species of principal importance for biodiversity and features of geodiversity interest; and having regard to the national biodiversity strategy and the local Staffordshire Biodiversity Action Plans, ecological networks, and green infrastructure and the Staffordshire Geodiversity Action Plan; to ensure that proposals conserve and enhance the natural environment and where possible enhancement of ecological networks and green infrastructure;

k) to protect and conserve the significance of designated and non-designated heritage assets, including their setting Historic environment, having regard to the relative importance of designated and non-designated heritage assets and their settings, the potential for previously unrecorded archaeological remains; and having regard to the Staffordshire Historic Environment Record, the Staffordshire Historic Landscape Characterisation and the Aggregates and Archaeology in Staffordshire to ensure that the proposals protect and conserve the historic environment; the potential for previously unrecorded archaeological remains; and, the impacts on historic landscape character to ensure that the proposals protect and conserve the historic environment.

l) Agricultural land, including soil resources having regard to safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources as well as preventing soil pollution;

m) Stability of land, including tips, quarry slopes, backfilled land and mining subsidence;
Policy 4: Minimising the impact of mineral development (continued)

n) Water environment, having regard to the flow and quantity of flood risk, surface and ground water quality, managing flood risk quantity and water quality; and having regard to the ability of impacted watercourses to meet the required ecological status under the relevant River Basin Management Plan; to ensure that proposals avoid increasing vulnerability to impacts arising from climate change and prevent contributing to unacceptable risks from water pollution.

o) Land contamination; and, 

p) Cumulative impacts effects from a single site, or from a series of sites in a locality.

4.2 In assessing proposals for mineral development, mitigation measures, or as a last resort, compensatory mitigation measures to overcome or minimise the adverse impacts of the development will be taken into account. Where unacceptable adverse effects cannot be avoided, adequate mitigation should be demonstrated. As a last resort, where unacceptable adverse effects cannot be avoided or adequately mitigated, compensatory measures to overcome or minimise the adverse impacts of the development will be taken into account.

Overall assessment

4.3 Having assessed the impacts of the proposals for mineral development, and the mitigation measures, permission will be granted where it has been demonstrated that there are no unacceptable adverse impacts on human health, general amenity and the natural and historic environment, except where the material planning benefits of the proposals outweigh the material planning objections. Having assessed the impacts of the proposals for mineral development and the mitigation and/or compensatory measures, permission will only be granted where it has been demonstrated that there are no unacceptable adverse impacts on human health, general amenity and the natural and historic environment, or except where the material planning benefits of the proposals outweigh the material planning objections.

Liaison with the local communities

4.4 Mineral operators will be encouraged to liaise with local communities when preparing new proposals and throughout the period of working and restoration of mineral sites.
Policy 4: Minimising the impact of mineral development (continued)

**Higher environmental standards**

4.5 Mineral operators will be encouraged to introduce higher environmental standards of working, restoration and aftercare.

**Ancillary development**

4.6 Proposals for ancillary development within or near to a mineral site will be assessed in accordance with this policy and where planning permission is granted, it will be limited to the duration of the mineral site.

**Reasons for the Policy**

7.25 Policy 4 contributes to that part of the Vision that envisages that all mineral operations are operating to high environmental standards and in accordance with Strategic Objective 2 operations are carried out either to prevent or reduce as far as possible adverse impacts. Mineral development (including the winning and working of minerals and the restoration and aftercare of sites) will have adverse impacts on the environment, some of which may be long term, but these impacts can be mitigated through careful location and management of site operations.

**The environmental considerations**

7.26 In accordance with national policy, Policy 4 sets out environmental considerations to assess the impacts associated with mineral development on people, local communities and the natural and historic environment when determining planning applications. The assessment will need to consider the relevant impacts of the proposals and consider whether any adverse impacts can be avoided or mitigated. 1 The standards to be applied in assessing impacts and the effectiveness of mitigation measures are based on national guidance and best practice. 2 In support of the environmental considerations listed under this policy, the following guidance will be taken into account.

7.27 **Noise:** National guidance indicates that in support of mineral development proposals a noise impact assessment should be provided together with proposals to mitigate the noise. 3 Where permission can be granted there will be a need to establish noise limits at noise sensitive properties and the

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1 Accepting that it is not the role of the planning system to assess the control of processes where these are subject to approval under pollution control regimes.


3 Refer to paragraphs 019 ref: ID 27-019-20140306 to 022 ref: ID: 27-022-20140306 of the PPG.
The new Minerals Local Plan for Staffordshire 2015 to 2030
Further Proposed Changes to:
Strategic Objective 1, Policy 1 and Table 1 (Policy Monitoring Framework)

guidance indicates the limits for short term noisy activities such as soil stripping. National policy also requires that areas of tranquillity should be protected from adverse noise impacts.\(^4\)

7.28 **Dust:** National guidance sets out the key stages for dust assessment including fine particulates (PM\(_{10}\)).\(^5\) Particular attention to air quality management will be required where proposals affect an Air Quality Management Area (AQMA).

7.29 **Blast Vibration:** Where blasting is necessary, an assessment will be required of associated ground vibration and whether acceptable limits for vibration can be achieved.\(^6\)

7.30 **Visual amenity:** National guidance suggests that a landscape strategy should accompany applications for mineral development which would include proposals for visual screening and for the sensitive layout of the site.\(^7\) National policy also requires good design to limit the impact of light pollution.\(^8\)

7.31 **Traffic:** National policy requires that any development that generates significant traffic movements should be accompanied by a Transport Assessment (TA) or Transport Statement (TS) and national guidance sets out the details required in a TA.\(^9\) Proposals should also take into account local guidance on traffic impacts provided by the County Council.\(^10\)

7.32 **Public rights of way and open space:** National policy requires that public rights of way should be protected and enhanced and existing open space should not be built upon.\(^11\) There may be a requirement to seek an Order to divert or extinguish a right of way to enable mineral operations to take place but in mitigation there may be opportunities to enhance public rights of way as well as to reinstate open space.\(^12\)

7.33 **Green Belt:** National policy requires the protection of Green Belt but recognises that mineral extraction need not be inappropriate in the Green Belt provided that the mineral extraction preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.\(^13\)

7.34 **The countryside:** National policy recognises the intrinsic character and beauty of the countryside and so there will be a need to assess proposals in terms of

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\(^4\) Refer to paragraph 123 of the NPPF.
\(^5\) Refer to paragraphs 023 ref: ID: 27-023-20140306 to 032 ref: ID: 27-032-20140306 of the PPG.
\(^6\) Refer to former guidance in Annex M to MPG14.
\(^7\) Refer to paragraph 059 ref: ID: 27-059-20140306 of the PPG.
\(^8\) Refer to paragraph 125 of the NPPF.
\(^9\) Refer to paragraphs 013 ref: ID: 42-013-20140306 to 015 ref: ID: 42-015-20140306 of the PPG.
\(^10\) Refer to Guidelines for Transport Assessments and Travel Plans required by Staffordshire County Council for Private Development Proposals - January 2008; and Code of Practice for the Assessment of the Impact and Determination of Mitigation Measures arising from HCV generated from Mineral and Waste Developments
\(^11\) Refer to paragraphs 74 and 75 of the NPPF
\(^12\) Refer to Staffordshire County Council’s Rights of Way Improvement Plan
\(^13\) Refer to paragraph 90 of the NPPF.
the overall impact on landscape, the natural and historic environment, and rural communities.\footnote{Refer to paragraph 17 of the NPPF}

7.35 **Landscape**: National policy recognises the importance of protecting and enhancing valued landscapes.\footnote{Refer to paragraphs 109 and 115 of the NPPF.} The Plan area includes the nationally designated protected landscapes comprising part of the Peak District National Park and the whole of Cannock Chase Area of Outstanding Natural Beauty. At a national level National Character Area Profiles produced by Natural England provide information on landscape character\footnote{Refer to National Character Area profiles: data for local decision making} and contain Statements of Environmental Opportunity providing guidance at a national character area scale. Staffordshire County Council has produced a county-wide landscape character assessment and guidance. These assessments and guidance should be taken into account by developers to ensure that minerals development proposals are informed by and sympathetic to landscape character and that the proposals deliver appropriate mitigation and landscape enhancement.\footnote{Refer to Planning for Landscape Change produced by Staffordshire County Council (2000).}

7.36 **Natural environment, including sites, habitats and species of importance for biodiversity and geodiversity**: National policy recognises the importance of minimising the impacts on biodiversity, providing net gains in biodiversity, protecting ecological networks and geological conservation interests and requires a distinction to be made between the relative importance of designated sites.\footnote{Refer to paragraphs 109 and 113 of the NPPF. Paragraph 113 also refers to Circular 06/2005.} Developers will need to demonstrate that they have carried out ecological surveys (including surveys for species and habitats of principal importance where appropriate) or geological surveys to enable a proper assessment of the potential impact on biodiversity or geodiversity on and off site to be carried out. Where necessary, developers will also need to show how they propose to protect, mitigate and / or enhance the biodiversity or geodiversity interest.\footnote{Refer to Biodiversity 2020: A strategy for England’s wildlife and ecosystem services} The Staffordshire Ecological Record holds data on designated sites, protected species, habitats and species of principal importance and those of conservation concern which should be used to inform impact assessment.\footnote{Refer to http://www.staffs-ecology.org.uk} Developers will be encouraged to work in partnership with GeoConservation Staffordshire which oversees the Staffordshire Geodiversity Action Plan.\footnote{Refer to http://srigs.staffs-ecology.org.uk/SGAP}

7.37 **Historic environment**: National policy recognises the importance of minimising the impacts on designated and non-designated heritage assets, their settings and historic landscape character and requires a distinction to be made between the relative significance of the heritage assets.\footnote{Refer to section 12 of the NPPF.} Policy 4 requires developers to provide an appropriate level of assessment, evaluation, mitigation and where warranted, preservation in situ, interpretation and/or enhancement in relation to...
Further Proposed Changes to:
Strategic Objective 1, Policy 1 and Table 1 (Policy Monitoring Framework)

of the historic environment heritages asset. The Staffordshire Historic Environment Record provides information on all recorded designated and non-designated heritage assets. This combined with the Staffordshire Historic Landscape Characterisation (HLC) can inform the potential for the presence of previously recorded archaeological remains. The HLC describes the historic character of the landscape and how it has developed over time. The publication ‘Aggregates and Archaeology in Staffordshire’ sets out approaches to mitigation for the variety of aggregate resources found across the county.

7.38 **Agricultural land**: National policy requires that the long term potential of best and most versatile agricultural land should be safeguarded in the restoration of mineral workings. National guidance also recognises that the handling and storage of soils is a key aspect of a restoration strategy.

7.39 **Stability of land**: National guidance is provided in relation to slope stability and although quarry ground stability is subject to separate regulation, it is important to ensure that restoration proposals incorporate appropriate assurances of the stability of final landform. In relation to underground mining, proper assessment should be provided to understand the impact of mining and the effect of any ground subsidence.

7.40 **Water environment**: In relation to flood risk, national policy and guidance sets out the requirements for assessing flood risk setting out a sequential, risk-based approach to the location of development. In most cases, a site specific flood risk assessment will be required for mineral proposals. In relation to avoiding pollution and over abstraction, hydrological and hydrogeological assessment will be required which could involve carrying out ground or surface water monitoring. It will be also necessary to meet the aims of the Water Framework Directive and ensure that there is no overall reduction in water quality or adverse impact on the ecological status of water courses and water bodies and that there is no impact on the ability to meet ecological status objectives found in the relevant River Basin Management Plan sites or habitats of principal importance.

7.41 **Land contamination**: National policy indicates that where a site is affected by contamination responsibility for securing a safe development rests with the developer and/or landowner. Where there is a risk of land contamination adequate site investigation information, prepared by a competent person, should be presented.

7.42 **Cumulative effects**: National policy recognises that it is important to take account of the cumulative effects of mineral development. When assessing proposals account will be taken of the combined impacts of the

24 Refer to “Mineral Extraction and Archaeology: A Practice Guide” (Heritage England)
25 Refer to paragraphs 025 ref: ID: 8-025-20140306 and 038 ref: ID: 27-038-20140306 of the PPG
26 Refer to paragraph 033 ref: ID: 27-033-20140306 of the PPG
27 Refer to section 10 of the NPPF.
28 Refer to paragraph 121 of the NPPF.
29 Refer to paragraph 120 of the NPPF
development and the impacts of concurrent and / or consecutive working in an area. For example, the potential environmental effects on the landscape, the highway network and the water environment, which should be addressed as part of the Environmental Impact Assessment. Also, in accordance with Policy 6.2 (a), it will be important to minimise the amount of land disturbed at any one time by phased working and restoration. Cumulative effects can be negative but also positive, for example the combined effect of a series of sites bringing about landscape –scale benefits in the Central Rivers Initiative area.

Liaison with the local communities

7.43 There are currently 17 site liaison committees in Staffordshire which provide a forum for site issues to be discussed. National policy encourages pre-application discussion and proactive working. Policy 4 aims to encourage mineral operators to establish and maintain good liaison with local communities.

Higher environmental standards

7.44 For longer term permissions, there is an opportunity to review planning permissions every 15 years under the Environment Act 1995 but having carried out reviews of all operational mineral sites subject to old mineral permissions, recent legislation now provides an opportunity for the Mineral Planning Authority to define appropriate timescales for these subsequent periodic reviews subject to those reviews not being undertaken more frequently than every 15 years. This means that reviews can be deferred where it is determined that existing planning controls are effective in managing the mineral operations. Alternatively, the policy also encourages proposals where environmental improvements can be secured by consolidating existing mineral permissions and by co-ordinating working and restoration; or by developing proposals to work mineral resources in less sensitive areas and relinquishing permitted reserves in more sensitive areas.

Ancillary development

7.45 In addition to processing planning applications for the winning and working of minerals, the Mineral Planning Authority will also determine applications for ancillary development at or near to a mineral site. Any proposals will be regarded as ancillary development were the principal purpose of the ancillary development would be any purpose in connection with the operation of the mineral site; the treatment, preparation for sale, consumption or utilisation of minerals won or brought to the surface at that mineral site, or the storage or removal from the mineral site of such minerals, their products or waste materials derived from them. Policy 4 requires that ancillary development

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30 Refer to paragraphs 187 to 189 of the NPPF.
31 Growth and Infrastructure Act 2013
32 Refer to Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015
The new Minerals Local Plan for Staffordshire 2015 to 2030
Further Proposed Changes to:
Strategic Objective 1, Policy 1 and Table 1 (Policy Monitoring Framework)

should be limited to the duration of the mineral site and that the impacts of proposed development will be assessed in accordance with Policy 4.
The new Minerals Local Plan for Staffordshire 2015 to 2030
Further Proposed Changes to:
Strategic Objective 1, Policy 1 and Table 1 (Policy Monitoring Framework)

Appendix 1: Email sent 8/4/16 by Natural England confirming response to Further Proposed Changes to Policy 4

Dear Matt

Further changes to MLP policy 4 - MLP Representation reference 17/01/C6
Our reference 182888

Thank you for your email of 5.4.16 and your email and voicemail today.

I can confirm Natural England has no objection to the proposed further changes and we have no further comments to offer.

If you require this to be stated in any other particular format please let me know.

Kind regards

Antony
Antony Muller
Lead Adviser
Sustainable Development & Wildlife Team - North Mercia Area