

**Minerals and Waste Development Framework
Supplementary Planning Document:
Mineral Safeguarding**

Report of the Chief Planner

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that, having had regard to the responses received to the Consultation held by the County Council on the draft document, Members approve the adoption of the Mineral Safeguarding Supplementary Planning Document incorporating the amendments proposed in Appendix I.

1. Summary

- 1.1 The report outlines the responses to the consultation on the draft Supplementary Planning Document (SPD) prepared to aid the implementation of the mineral safeguarding policy within the Devon Minerals Plan, and recommends adoption of the SPD as amended in Appendix I to take account of comments received.

2. Background

- 2.1 The Devon Minerals Plan was adopted by the County Council in February 2017, and includes Policy M2 concerning Mineral Safeguarding Areas. Reflecting national planning guidance, Policy M2 seeks to safeguard mineral resources of economic or heritage value from sterilisation or constraint by non-mineral development.
- 2.2 Brief guidance on the procedure for consultation on applications affecting Mineral Safeguarding Areas is provided in Appendix B of the Devon Minerals Plan, which requires district councils to consult the County Council on most types of planning application falling within a Mineral Consultation Area. The proposed SPD will replace Appendix B and provide more detailed guidance on preparation and consideration of planning applications that may affect mineral resources, together with pre-application discussions and preparation of local plans.

3. Preparation and Revision of the Draft Supplementary Planning Document

- 3.1 The draft SPD outlines the policy context for mineral safeguarding and Devon County Council's approach to it, before explaining how the consultation process operates and the criteria on which the County Council will base its response. Case studies of good and bad practice are provided to assist understanding of the issues, followed by the arrangements for monitoring and review of the SPD.

- 3.2 The draft SPD¹ was published on 4 September 2017 for a six weeks consultation, with notification sent to a wide audience including Devon's district councils, mineral operators, developers, planning consultants and parish/town councils.
- 3.3 18 responses to the consultation were received, including from district and town/parish councils, the minerals industry and developers, and these are summarised in Appendix II with the Council's views on the points raised. Having had regard to the consultation responses received, the following amendments are proposed in brief below and in detail in Appendix I:
- (a) deletion of the requirement for the district council to consult the relevant minerals industry body, in favour of an arrangement whereby the County Council will notify the industry body, to reduce the administrative burden on the district council and improve consistency in notification;
 - (b) omission of a requirement for an additional 21 days consultation period in the event of an objection being made on minerals grounds and provision of additional text advising the district council of the need to have full regard to Policy M2 of the Devon Minerals Plan;
 - (c) revision of the reference to prior extraction of minerals to achieve consistency with Policy M3 of the Devon Minerals Plan;
 - (d) addition of reference to the cumulative effects of new development that may be sensitive to the impacts of mineral development;
 - (e) revision of the reference to site allocations in a Local or Neighbourhood Plan demonstrating an overriding strategic need to distinguish between such Plans published prior to adoption of the SPD and future Plans; and
 - (f) revision of the types of development listed in Appendix 2 of the SPD as being exempt from the need for consultation to ensure that sensitive developments will be consulted on while limiting the administrative burden.

4. Reasons for Recommendation/Alternative Options Considered

- 4.1 While there is an option to not adopt the SPD, this is inadvisable as it may result in the unsuccessful implementation of the Devon Minerals Plan and lead to Devon being unable to adequately safeguard its important mineral resources.

Dave Black
Head of Planning, Transportation and Environment

Electoral Divisions: All

¹ The draft SPD can be viewed at <https://new.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/mineral-safeguarding-spd-consultation>

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Ref.
Mineral Safeguarding SPD Consultation Draft	September 2017	

ah051217dma
sc/cr/Minerals and Waste Development Framework Supplementary Planning Document Mineral Safeguarding
02 150118

Proposed Amendments to the Draft Supplementary Planning Document

[New text is underlined and deleted text is shown struck through]

Paragraph 4.4.3:

For categories of planning application that are not listed as being exempt, the local planning authority receiving the application should consult Devon County Council (in its role as the mineral planning authority), ~~together with the relevant mineral industry body (see 4.3.9).~~

Paragraph 4.4.6:

... If, in such a case, the local planning authority is minded to grant planning permission, it should ensure that it is able to demonstrate that it has had full regard to Policy M2, and is strongly advised to discuss the matter further with ~~notify~~ Devon County Council ~~and provide a further 21 days period before determining the application.~~ This additional period will enable In such circumstances, the County Council ~~to~~ may consider the need to request that the Secretary of State calls in the application for his decision on the grounds that it is contrary to the Development Plan.

Heading prior to paragraph 4.4.9:

~~Consultation with~~ Notification of the Minerals Industry

Paragraph 4.4.9:

~~To assist in early identification of any minerals issues, the local planning authority should also provide an opportunity for the minerals industry to comment on proposals that may affect a mineral resource, Devon County Council will, on receipt of a consultation from a local planning authority, notify the relevant minerals industry body or operator, as identified below. Contact details are provided in Appendix 2 of this SPD.~~

Table 4.1:

Replace 'Minerals Industry Consultees' with 'Minerals Industry Representatives'

Paragraph 4.4.10: Delete the paragraph

Figure 4.1: Amend the references to consultation with the minerals industry and a 21 days consultation period to accord with the relevant amendments above

Paragraph 5.2.2 (first bullet point):

where existing development of a similar type as being proposed is located closer to the mineral resource or site (subject to the cumulative effect of such development not resulting in increased local sensitivity to the impacts of mineral development)

Paragraph 5.2.9:

In some circumstances it may be appropriate for only a partial depth of the mineral resource to be extracted, ~~balancing the need for the resource with retention of a developable landform.~~ Early discussion with the County Council and minerals industry will assist in considering such opportunities.

Paragraph 5.2.14:

... For this reason, the allocation of land for non-mineral development in ~~an adopted a~~ Local Plan, or made Neighbourhood Plan, published prior to adoption of this Supplementary Planning Document will normally be regarded as demonstrating "an overriding strategic need" for the purposes of criterion (d). For future Local and Neighbourhood Plans, an overriding strategic need will normally be demonstrated by a site allocation, although there may be circumstances where the County Council may have objected to an allocation, or where new evidence for the mineral

resource has emerged, that may require the need for the non-mineral development to be balanced against the importance of the mineral resource as expressed in Table 8.1 of the Devon Minerals Plan.

Paragraph 7.2.2:

Minor updates to the SPD, ~~such as changes to the contact details for a minerals industry body,~~ will be undertaken through issue of a new iteration of the SPD and notification to local planning authorities.

Paragraph A1.3:

Under the provisions of Paragraph 7 of Schedule 1 of the Town and Country Planning Act 1990 (as amended), Devon County Council directs that, for development falling within a Mineral Consultation Area, the following types of application/notification are **exempt** from the need for consultation with Devon County Council (as mineral planning authority) ~~and the minerals industry:~~

- (a) applications for reserved matters unless consultation has specifically been requested in response to the relevant outline application;
- (b) applications for the discharge of conditions and non-material amendments;
- (c) applications for ~~discharge or variation of conditions,~~ advertisement consent, listed building consent, works to trees or certificates of lawfulness;
- (d) applications for variation of conditions unless the condition limits the form of residential occupancy or the condition was originally imposed on the recommendation of Devon County Council in its role as mineral planning authority;
- (e) householder development (i.e. the extension or other alteration of a dwelling that does not result in any increase in the number of dwellings, including the erection of ancillary buildings or structures within the residential curtilage);
- (f) the replacement of a dwelling with one new dwelling within the existing curtilage provided that the new dwelling is not closer to any noise or dust generating activity than the existing building;
- (g) extensions, installation of plant or other external alterations to a non-residential building within its existing curtilage;
- (h) applications for change of use other than to Classes B1, C1, C2, C2a, C3, C4 or D1;
- ~~(f) — the installation of a mobile home within the curtilage of an existing caravan/mobile home park provided that the new mobile home is not closer to any noise or dust generating activity than existing ones;~~
- ;
- (i) prior approval notifications unless the proposed development is for residential or educational purposes or comprises the installation of a new telecommunications mast or utility pipes or cables; and
- (j) construction or alteration of an access or a fence or other boundary.
- ~~(j) — applications for temporary permission of up to five years.~~

Appendix 2: delete the Appendix

**Appendix II
To PTE/18/5**

Respondent	Consultation Response	DCC Officer Comment
Aggregate Industries UK Limited	Support. A more consistent and robust safeguarding process would occur if the County Council took responsibility for consultation with the minerals industry.	Support noted. The SPD will be amended to move responsibility for consulting the minerals industry from district councils to the County Council
Bloor Homes and Redrow Homes	The SPD should be amended to reflect the importance of delivery Policy NA1 of the Teignbridge Local Plan (Houghton Barton).	The SPD provides general county-wide guidance, and it would not be appropriate to highlight individual development sites.
Buckfastleigh Town Council	Support subject to the consultation process being adhered to, particularly for pre-application discussions and the draft Buckfastleigh Neighbourhood Plan.	Support noted. Responsibility for adhering to the consultation process lies primarily with applicants and local planning authorities (including neighbourhood planning authorities)
Burlescombe Parish Council	General support but considers that the case studies are not useful as they do not relate to the parish.	The case studies are intended to illustrate general principles of the approach to safeguarding, rather than being locally-specific.
	Future consultations should avoid summer and Christmas periods.	The consultation was timed to start in early September to avoid the main summer holiday period.
Defence Infrastructure Organisation	No concerns.	Noted.
Devon Stone Federation	Support. A more consistent and robust safeguarding process would occur if the County Council took responsibility for consultation with the minerals industry.	Support noted. The SPD will be amended to move responsibility for consulting the minerals industry from district councils to the County Council.
East Devon District Council	Regular updates of GIS layers should be provided to district councils.	The SPD confirms that any new GIS data will be provided to local planning authorities.
	The list of development that is exempt from the need for consultation is long and complicated, and should be simplified or deleted.	Some simplification of the list has been carried out, but its deletion would lead to a large increase in consultation on minor proposals in districts with extensive safeguarding areas.
	The requirement for district councils to consult with minerals industry is unrealistic and unreasonable.	It is agreed that the requirement for local planning authorities to consult the minerals industry will be removed, with any notification

		to be undertaken by the County Council.
	The District Council is unable to insist on provision of a Mineral Resource Assessment as this is not included in its validation list.	These assessments will be recommended by the County Council following consultation and are provided for in Policy M2, so lack of reference in the District Council's validation list does not preclude one being required.
Hennock Parish Council	Support.	Noted.
Illesington Parish Council	Support.	Noted.
Mineral Products Association	Support subject to the SPD being proactively promoted with district councils to ensure that they are aware of their responsibility and the importance of safeguarding.	Support noted. The SPD will be communicated to district councils and be a material consideration in their decisions, with compliance with the SPD being regularly monitored.
Modbury Parish Council	No comment.	Noted.
North Devon Council	Support.	Noted.
Sibelco	Support subject to:	Support noted. Sections 7.1 and 7.2 explain the arrangements for monitoring and review of MSA/MCA boundaries.
	<ul style="list-style-type: none"> regular review of MSAs and MCAs based on most up to date information. 	
	<ul style="list-style-type: none"> concern over cumulative impact on mineral resources of approving similar types of development. 	It is agreed that a caveat be added to 5.2.2 to refer to cumulative effects of new development.
	<ul style="list-style-type: none"> clarity needed on who will be responsible for assessing economic value and how this is undertaken. 	Responsibility will lie with the applicant submitting the Mineral Resource Assessment and the qualified person preparing it, but the County Council and minerals industry will have the opportunity to challenge the evidence if appropriate when consulted on the application.
	<ul style="list-style-type: none"> a Mineral Resource Assessment must be carried out by an applicant. 	Section 5.3 clearly places responsibility for an assessment on the applicant.
	<ul style="list-style-type: none"> potential problems enforcing temporary development. 	Responsibility for enforcement of temporary development conditions or legal agreements will lie with the local planning authority, but the County Council and minerals industry will be able to monitor limitations and request enforcement action.

	<ul style="list-style-type: none"> danger of interpreting 'normally' in respect of an overriding strategic need as 'automatically' when a more prudent approach is needed. 	The County Council and the minerals industry will have opportunities during preparation of Local Plans to influence allocation of sites that may affect mineral resources. In this context, use of 'normally' is considered appropriate.
	<ul style="list-style-type: none"> a MSA should be reassessed after non-mineral development is approved. 	This will be addressed through the monitoring and review arrangements explained in 7.1 and 7.2.
	<ul style="list-style-type: none"> prefer an arrangement whereby the County Council consults the minerals industry. 	The SPD will be amended to move responsibility for consulting the minerals industry from district councils to the County Council.
South Hams District Council/West Devon Borough Council	The list of exempt application types in Appendix 1 is flawed and should be revised to ensure that sensitive forms of development are subject to consultation.	It is agreed that there are some inconsistencies in the list of exempt applications, and amendments will be proposed to Appendix I.
	The local planning authority should only be required to consult the County Council, with the latter seeking the views of mineral operators if it wishes.	It is agreed that the requirement for local planning authorities to consult the minerals industry will be removed, with any notification to be undertaken by the County Council.
Teignbridge District Council	Paragraph 4.4.6 should be deleted as the statutory framework for determining planning applications allows time for a call-in request without the addition of a further 21 days.	It is agreed that specific reference to an additional 21 days consultation should be omitted, but the remainder of 4.4.6 will be amended to highlight the need for district councils to have full regard to Policy M2.
	Paragraph 5.2.9 should be amended to ensure consistency with Policy M3 of the Devon Minerals Plan by avoiding prejudice or delay to non-mineral development.	It is agreed that reference to 'need' should be omitted from paragraph 5.2.9 to ensure consistency with Policy M3.
	Amend the SPD to clarify that all Teignbridge Local Plan allocations will be regarded as amounting to an overriding strategic need.	Paragraph 5.2.14 is amended to confirm that allocations in Local or Neighbourhood Plans adopted prior to publication of the SPD will be regarded as demonstrating an overriding strategic need, while use of 'normally' will be retained in respect of subsequent Local or Neighbourhood Plans in the event that a site allocation is made contrary to an objection by the County Council.

Whimble Parish Council	Support.	Noted.
Winkleigh Parish Council	No comment.	Noted.
Yelland Quay Limited	Yelland Quay should be considered when progressing the SPD, and the strategic importance of the site's allocation should take precedence.	The SPD provides general county-wide guidance, and it would not be appropriate to address individual development sites.