

Matter 11: Minerals Allocation

Matter 11 Submission from G Maxwell



October 2017

G R Maxwell

Matter 11 Minerals Allocations

Whether the provision in the Plan for allocated minerals sites is justified, effective and consistent with national policy and the policies of the Plan

1. I have previously commented upon this matter in 2015 and 2016 and I am sure that the inspector will have sight my submissions. I have detailed how the inclusion of Site ME1965a in the Plan is not justified, effective or consistent with national policy and the policies of the Plan. I would like to add the following comments and will be happy to speak on Matter 11 at the public hearing.

Question b) Objection to Site ME1965a

2. In my response to Matter 10 I raised my concerns about KMC not complying with the document Mineral Safeguarding in England: good practice advice and how if they had followed that guidance or its equivalent in the 1990s then if site ME1965a contains such a valuable source of scarce minerals it should have been put forward as an MSA in the 1999 UDP. It was not and decisions were taken by many people as result of that.
3. People expect the Council to act in a way that best meets their needs and promotes the interests of the local community by acting legally and meeting their moral obligations. Legally KMC will have ensured that they conform with their obligations surrounding such issues as the Human Rights Act etc. recognising that all should be treated equally and fairly wherever they live. In terms of their moral obligations, then residents expect the Council to adopt best practice, apply it and listen and respond to the communities. It is therefore understandable how shocked people have been that KMC have proposed site ME1965a in their Local Plan. So shocked and outraged that significant numbers of people responded to the 2015 consultation exercise and even more responded to the 2016 LP consultation. In 2015 208 comments were made, this increased to 333 in 2016. (All opposed with no comments received from either the promoter or the land owner.). The increase was the biggest for any site proposed in the plan and is the most for any ME site proposed in either plan. Overall there were over 400 different people/organisations who commented in the two plans. This shows that this issue is far more than just a Birds Edge issue. (The population of Birds Edge is only 350 people.) Amongst those who objected expressing their concerns were the Don Valley Trust and Yorkshire Wildlife Trust (having serious concerns about the River Dearne). There were seven councillors (the most for any site) one of these

councillors is also a KMC Cabinet Member. (There are only 3 councillors for each ward in Kirklees – again showing that the inclusion of this site is more than a local community issue). Also our local MP Paula Sherriff wrote an objection – the only site that she objected to.

4. I appreciate that it must be difficult for KMC to identify sites, assess them and then reach conclusions on them. For that my expectations and those of my neighbours is that such assessments will be impartial, using the most current data and will take account of opinions and others points of view. It is therefore disappointing to learn that KMC have not used the most up to date information when making their assessments. Their MTP has not been based upon the most up to date information available from the WYLAA. Therefore its conclusions are wrong, potentially misleading decision makers to reach the wrong conclusion. Nor have KMC taken account of the detailed submission from the Community Group BOLTED - who detailed in a 17 page Appendix to their submission outlining the communities concerns about the KMC Sustainability Assessment that was carried out on ME1965a. There is no reference to it in documents presented to the Inspector by KMC.
5. One wonders why? It feels at times no matter what the public say we are not listened to. For instance in the comments received about the 2015 report numerous people mentioned that there were two water courses on the site and that one of the boundary roads was part of the Trans Pennine Trail. It was only after the 2016 consultation exercise when these issues were raised by independent organisations that KMC listened and raised these as issues that need to be addressed. It feels at times as if the public are treated with disdain.
6. There have been other issues. Why was ME1965 the previous designation of the site in the 2015 plan not mentioned at all in the KMC much vaulted publicity literature “Commenting on the publication draft of the Kirklees Local Plan” (document PC6), when it had received the 11th highest number of comments. It was not mentioned at all - other sites which attracted fewer comments were (see page 4 of the pamphlet). When asked KMC’s response, by way of FoI was “There is no specific reason why ME 1965 Appleton Quarry was not mentioned. The booklet is clearly caveated to say that it is only a summary and it would not have been a short or a summary document if it had tried to capture all the site options which had comments on them.” They went on to say “Given the level of transparency and the amount of information already in the public domain it is difficult to see how the omission of this one option from the summary booklet could affect the consultation process”
7. Also in that booklet KMC made great store of how they had listened to people and had removed some sites from the Plan. Amongst these they mentioned the three ME sites at Honley (see page 14 of the pamphlet). These sites it transpires did not have a willing land owner and this was the reason they were removed. They should never have been included in the plan in the first place.

8. Why is there no conclusion in the assessment of Site ME1965a - the only site in the Plan not to have one? This was pointed out to KMC but because it came from a community group it has been ignored.
9. At times it does feel as if there is always something not quite right about how KMC have approached issues to do with site ME1965a.
10. Regarding site ME1965a many people have outlined their concerns about this - including our local MP who has actually visited the site – unlike any KMC LP staff. This is the only site that she has commented upon. Many issues about the site have been raised such as how it does not comply with the NPPF, NPPG, and KMC's own policies and objectives as set out in their 2015 and 2016 plans (Please see my previous representations. It also does not comply with the current UDP Policies.
11. However in additions to my previous comments, which I am sure the inspector will have read, I would like to re-emphasise two particular aspects:
 - a. Buffer Zones/Stand off distances and
 - b. Cumulative Impact (addressed in question c)
12. I have read the KMC assessments of site ME1965a and amongst the many things that has been said one for me required further exploration. This was a statement made in the Sustainability Appraisal (SD5 p686) *“Any subsequent planning permission would be subject to the provision of adequate standoff distances from residential properties to reduce any associated impact. This would mean that a substantial proportion of the proposed allocation would not be worked for mineral.”*
13. If a substantial proportion cannot be worked why was this not shown in a revised ME1965a. KMC new about this before the 2016 Plan was published so why not apply standoff distances and show the size of the new size site at this time.
14. Whatever personally I was interested to find out just how much a substantial proportion is and just how much of the site would actually be left for mineral extraction if standoff distances were as KMC have stated should be applied.
15. As far as I can determine stand-off distances are essential to protect residents from the noise and dust created by quarrying. Different stand-off distances are required for different minerals. This is particularly important given the prevailing wind that crosses site ME1965a with Dearne Grange Houses having a wind blowing towards them 69% of the year and Birds Edge and Park Head having it blowing directly at them for 62% of the year. (Estimated from weather on line).
16. As a resident and member of the public I have looked to find guidance on what kind of buffer zones/stand-off should be applied and I have found the following

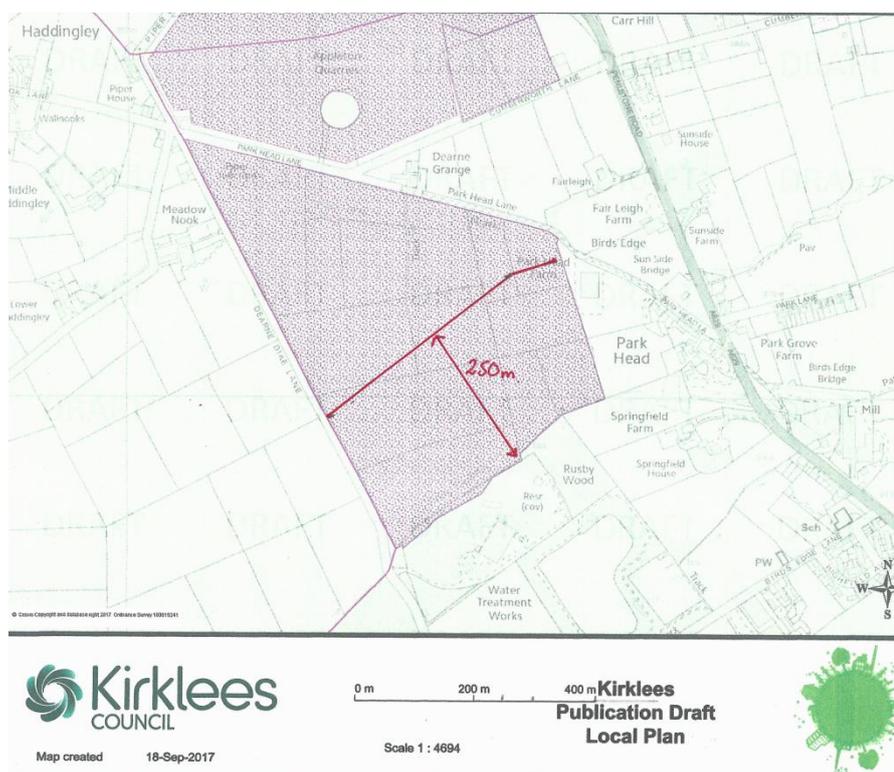
- a. In the 2012 LDP submission prepared by Urban Vision (obtained via FoI) it was recommended that a stand-off of 250m from the River Dearne should be put in place. Given the site ME1965a contains two water courses it could be argued that the same stand-off should apply to Park Dike.
- b. In the document LE 100 Identifying Future Mineral Sites a document produced for KMC by Urban Vision p18 para 5.16 states “Where appropriate the Council may also seek to achieve a buffer zone of 250m from the urban area to protect residents from the noise and dust that can be created through quarrying activities”.
- c. In document LE 102 Minerals Safeguarded Areas a document produced by Urban Vision for KMC p15 para 5.19 “For the purposes of this paper it is recommended that the buffer zone for coal and sandstone is 500 metres. The buffer zone for sand and gravel and clay is 250 metres. These distances are accepted as standard by Minerals Planning Authorities based on examples produced in the BGS guidance.” Site ME1965a is a proposed sandstone quarry.
- d. BGS best practice - obtained from two documents Mineral Safeguarding in England: Good Practice Guide and A Guide to Mineral Safeguarding in England (October 2007). These gave examples of buffer zones based on types of mineral eg Staffordshire 500m for limestone, 250m for sand and gravel and building stone; West Sussex 250m for sand and gravel; Leicestershire 500m for limestone and 200m for sand and gravel and Warwickshire 500m for rocks which require blasting and for deep resources and 250m for rocks which do not require blasting. (Interestingly from information provided during a planning application for ME2263 (extension to Appleton Quarry) (PP 2007/92432) sandstone was shown from bore holes to exist at 40 to 50m – a deep resource.)
- e. Latest industry guidance from an article by *Chris Tofts (a partner at solicitors Stephens Scown)* an adviser to industry commenting on recent planning appeal decisions that buffer zones are required and that any development however small can sterilise a site. Please see <http://www.mineralandwasteplanning.co.uk/safeguarding-against-sterilisation/article/1367549>. And Planning Appeals APP/D0840/W/14/3001768 and APP/D0840/W/14/2225653. Mr Tofts quotes minimum buffer zones of 250m
- f. KMC in the 2015 plan in policy PLP39 also recognised the need for stand-off distances and recommended 250m for gravel and 500m for sandstone. This proposal was supported by local industry including the promoter of site ME1965a. The coal board even suggested new wording for the policy but still included the 250m buffer zone for clay and shale and the 500m buffers zones for sandstone and coal. The site promoters agent M Clayton said simply “Policy DLP 39 is supported.” The Mineral Products Association agreed with some parts of the policy but disagreed with others. One part they did agree

with was “The proposed buffer to the MSA should be included within it in accordance with the BGS guidance.” (All comments relating to PLP 39 are still available on the KMC website.)

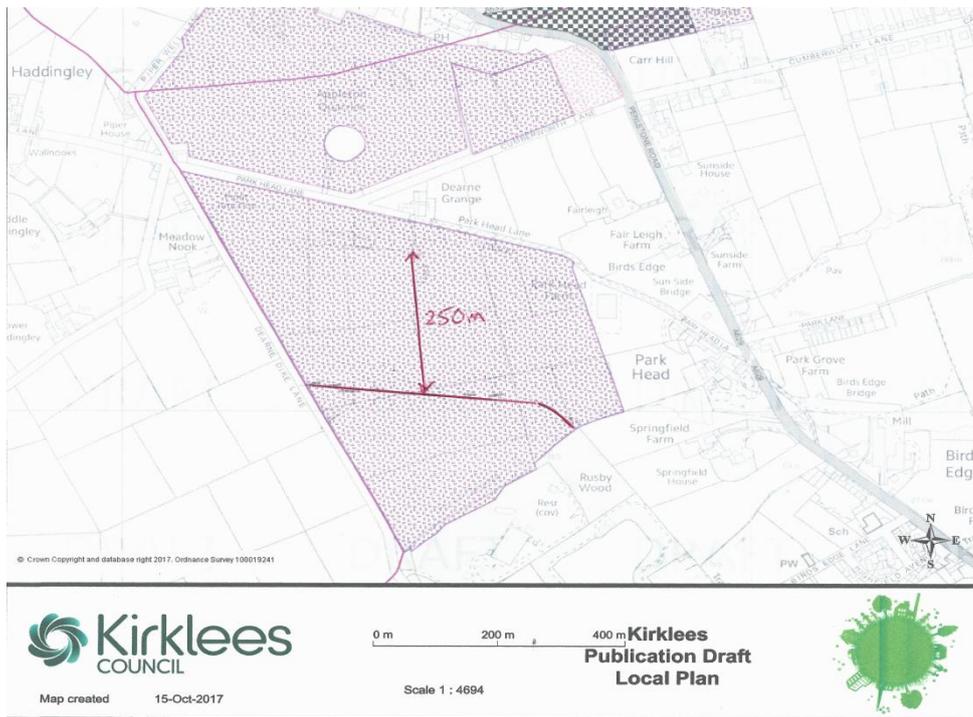
17. Given all this best practice and advice from experts employed by the Council I am surprised that as part of the sustainability appraisal KMC did not carry out the exercise of applying these buffer zones to site ME1965a to determine how substantial the “*substantial proportion of the proposed allocation would not be worked for minerals*” was. As KMC have not done this I have carried out a fairly basic exercise using a compass and pencil on a KMC map of the area to see what would be the impact of stand-off distances on site ME1965a.

18. I have displayed these on maps taken from a print of the KMC interactive map and have used their assessment of scale as my guide to setting distances.

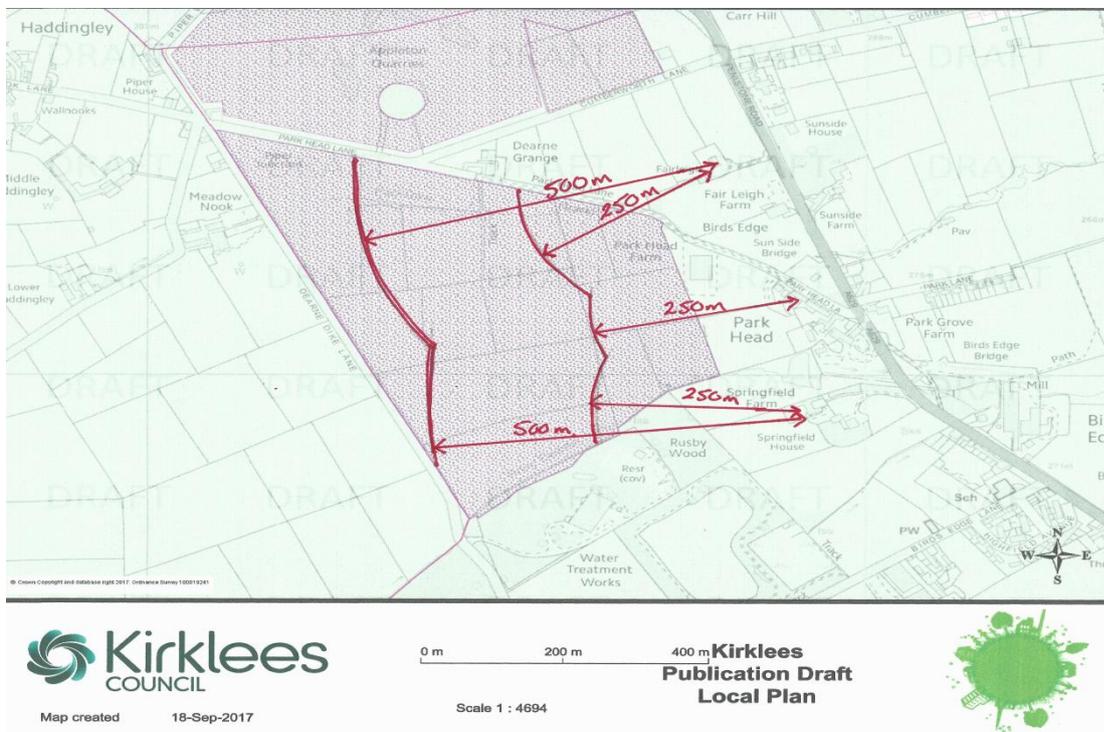
19. Map showing 250m buffer from River Dearne



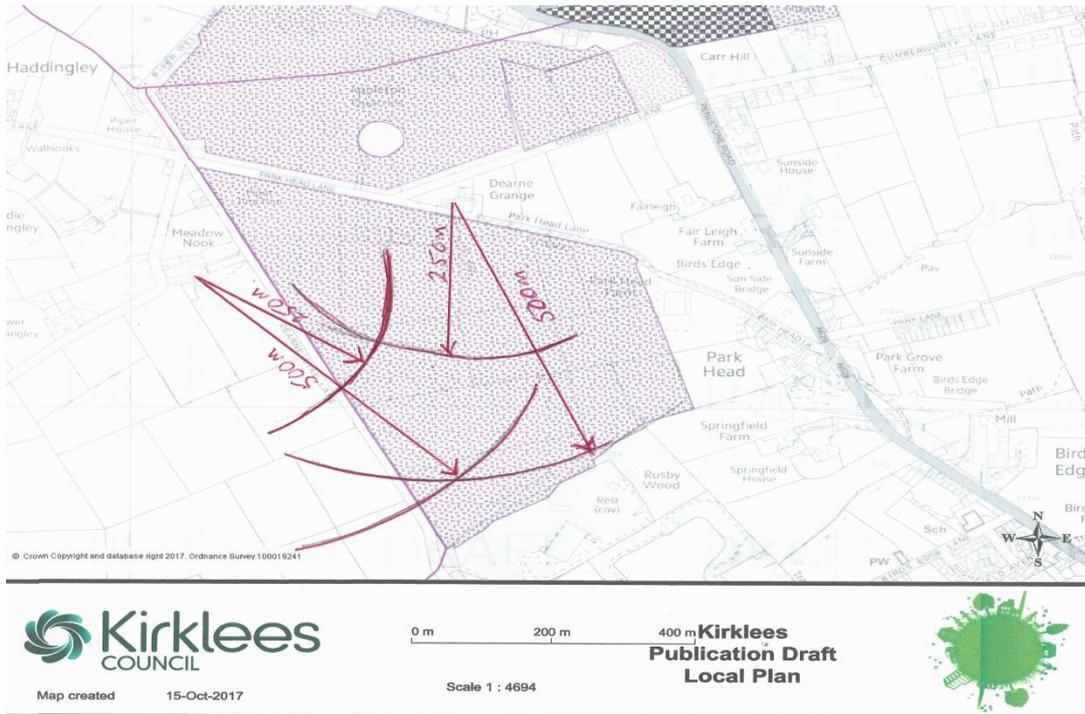
20. Map showing 250 buffer from Park Dike



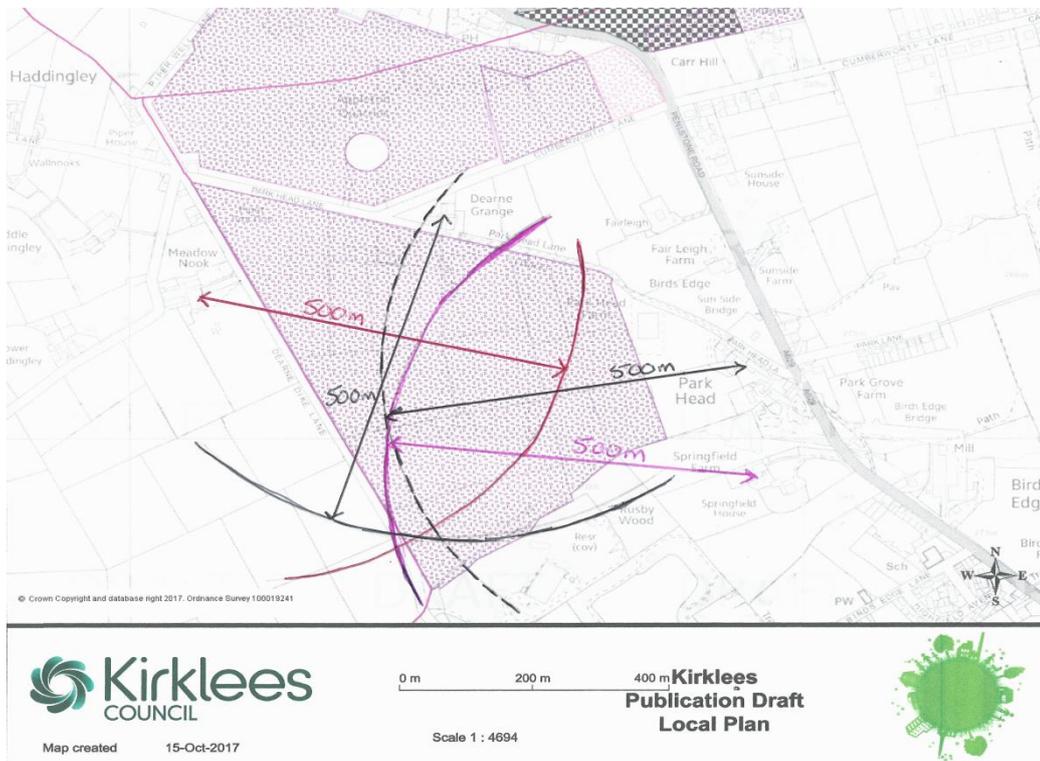
21. Map showing 500m and 250m buffers from Springfield Farm, Park Head and Fairleigh House



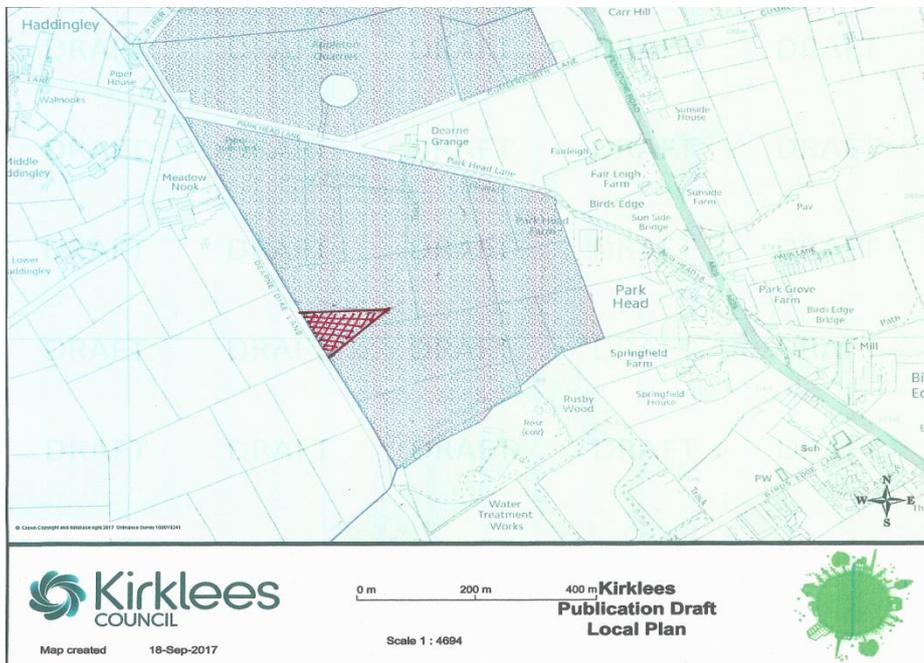
22. Map showing 500m and 250m buffer zones from Dearne Grange and Meadow Nook



23. Map showing how applying 500m buffer zones totally sterilises site



24. Map showing combination of 250m buffers from all residences and 250m buffer from watercourses – River Dearne and Park Dike. The hatched area represents land not covered by the buffer.



25. I accept the maps are pretty crude but what is clear from them is that if a 500m buffer is applied, as recommended for a sandstone site which ME1965a is, then the total site is sterile for mineral extraction. Even if only a 250m buffer is applied then the only land left is approximately 0.5Ha which borders the Trans Pennine Trail (which in itself would require a buffer) and would appear inaccessible. So applying BGS and KMC recommended buffer zones site ME1965a it is very clear that the site is actually sterile for the purposes of mineral extraction. So why it remains in the plan or was put forward in the first place remains a mystery.

26. One also has to ask the question, given the amount of people opposed to this plan and the KMC statement “*substantial proportion of the proposed allocation would not be worked for minerals*” why have KMC not carried out this exercise themselves?

Question c) Cumulative Impact

27. In terms of looking at cumulative impact I have sort guidance from the NPPG and NPPF.
28. The NPPG states that when it comes to cumulative impact; “Some parts of a mineral planning authority area may have been subjected to successive mineral development (such as aggregate extraction or surface coal mining) over a number of years. Mineral planning authorities should include appropriate policies in their minerals local plan, where appropriate, to ensure that the cumulative impact of a proposed mineral development on the community and the environment will be acceptable. The cumulative impact of mineral development is also capable of being a material consideration when determining individual planning applications.”
29. Whilst the NPPF in para 143 states planning applications “will take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in the locality”.
30. The NPPG also addresses the issue of building stone quarries such as Appleton and the Sovereign Quarries. It states “Mineral planning authorities should recognise that, compared to other types of mineral extraction, most building stone quarries are small-scale and have a far lower rate of extraction when compared to other quarries. This means that their local environmental impacts may be significantly less. Such quarries often continue in operation for a very long period, and may be worked intermittently but intensively (“campaign working”), involving stockpiling of stone.”
31. Neither, Appleton nor Sovereign quarries which are sandstone/building stone quarries can be classed as small-scale quarries. (Appleton as a 14Ha quarry was classed as one of considerable size by A Rushby Assistant Head of Planning Services of KMC in 2007 (planning permission 2006/92787). Of the other 15 blockstone quarries in Kirklees only two are larger than Appleton (one only slightly). Neither of these has been in operation anywhere nearly as long as Appleton. So given this to my mind the effect of Appleton and Sovereign quarries when compared to other smaller quarries must be greater. This effect has also been in operation for some time - both these quarries have been in operation since before 1899 – which makes them the oldest operational quarries in Kirklees. This means that the local community in Shepley where these quarries operate have been subject to significant disturbance to their entitlement to the peaceful enjoyment of their possessions and their homes for several generations.

32. If ME1965a was ever allowed to go ahead in whatever form then given current extraction rates a quarry could be in operation on the Appleton site for the next 200 years. Surely this cannot be acceptable in cumulative impact terms.
33. Indeed I am not the only person who has these concerns. A Rushby in 2007 was also concerned about cumulative impact. In the case of 2006/92787 this only related to a potential 3Ha extension to an existing quarry that would not involve a significant increase in the local area disturbed by quarrying. He was satisfied that cumulative impact was not a problem because this particular application did not involve an extension to the already permitted area. However since his report was completed as well as the 3Ha he approved there have been a further 2.12 Ha approved on site ME2263. At that time 3Ha would have represented an increase of approximately 15% in workable quarry area. This 15% seems to have caused him some concern. I wonder how he would feel about a potential increase which was 8 times that which caused him concern and would increase the size of Appleton quarry by more than 170%.
34. I appreciate that KMC have had a difficult task in preparing their LP. They have had to balance many competing needs and priorities. With such a large project it is difficult to get everything right and there will be occasions when mistakes will be made. The inclusion of Site ME1965a is a mistake. If KMC, were less dogmatic and prepared to look at all the evidence on site ME1965a and simply follow the advice they have been given by the expert consultants they have paid for and best practice they would find that site ME1965a is unsuitable for use as a mineral extraction site and therefore should be removed from the plan.