

# BOLTED Submission Matter 9



### **Matter 9: Introductory Matters and Mineral Requirements**

1. The Birds Edge and District Opposition to Large Turbines and Environment Destruction (BOLT(ED)) –is a local action group formed after a public meeting in November 2016 with the remit to oppose the inclusion of site ME1965a in the Kirklees Local Plan. BOLT(ED) has already submitted representations in relation to this issue and trust that the Inspector has these representations (including appendices and DVD) and will take them in to consideration. However, BOLT(ED) wish to make the following additional comments in relation to the specific Questions raised by the Inspector. BOLT(ED) also wish to speak at the hearing in relation to Matter 9.

### **Coverage and Approach**

**Issue: Whether the minerals and waste section of the Plan has covered all the necessary matters set out in national policy guidance;**

#### **Question a): Mineral landbanks**

2. BOLT(ED) is primarily concerned with the removal of site ME1965a from the KMC plan. We believe that the continued inclusion of site ME1965a in the Plan makes it unsound. In the research that we have carried out we have concentrated on the key minerals that would be produced from that site – sandstone/blockstone and crushed aggregate. Our comments therefore to this question focus on aggregate and blockstone supply.
3. In the BOLT(ED) submissions to KMC we detailed the concerns that we have about KMC’s Mineral Technical Paper (MTP) (November 2016) and allocated a full Appendix to our submission detailing our concerns (Appendix 3). We are disappointed that KMC have not provided the inspector with a copy of the November 2016 MTP but instead have provided the MTP published in April 2017 (BP9). It was the November 2016 MTP that was used to inform the 2016 consulted upon version of the Local Plan.
4. We also note that the April 2017 MTP (BP9) uses data from the West Yorkshire Local Aggregate Assessment dated December 2015 (CR15) which gives the 2014 production figures which showed that there was an aggregate reserve of 25.7mt equating to a reserve of 29years 2mths when using average 10 year sales (0.88mT) or 23years 4 mths when using a 25% uplift on the sales figures. However 4 months before the KMC MTP was published WYLAA published its 2015 figures in their December 2016 report (CR23). This shows a very different picture than that presented by the KMC MTP (April 2017 (BP9)). The WYLAA 2016 report (CR23) shows that the reserve had increased to 33.74mt and ten year average sales had reduced to 0.86mt giving a reserve of 39years and

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2 months However WYLAA have used a 30% uplift taking the sales average to 1.12 mT making the reserve 30years 2 mths – well beyond the LP time-span plus ten years. (Interestingly Calderdale have used the reserve of 39yrs for their decision making and the uplift figure used by WYLAA is above the sales figures for 2014 and 2015 of 1.03mt). It is disappointing that KMC have not provided councillors or the inspector with analysis of the most up to date figures. These new figures show a range of between an extra 7 to 16years of reserve compared to that reported by KMC to their MPA. This makes the KMC statement made in the MTP that it is prudent to identify other sites as redundant and now very misleading. It is most concerning that KMC did not present this new information to the MPA when it had been available some four months prior to the date of their report.

5. Given that KMC have produced a new version of the MTP in April 2017 (BP9), just 5 months after the November 2016 version we are at a loss as to why given the significance of the data published in the WYLAA December 2016 paper (CR23) that a new MTP using this data has not been produced for this inspection. We are led to conclude that the reason may be that the new information does not support the conclusion that KMC wished to have.
6. In terms of blockstone reserves we have already pointed out in our 2016 submissions our concerns about the data presented in the November 2016 MTP and how this conflicts with the data presented one month earlier by Urban Vision (LE100) - 865,000 tonnes as opposed to 970,000 tonnes. The current average sales as reported by industry of blockstone is 47,000 tonnes per annum – however Urban Vision in their report to KMC predicted that by 2028 sales would fall to 20,200 tpa (LE100 p8). Using current sales averages and predicted changes in sales the reserves range from 23years to 28 years. However since the submission of the LP, KMC have received a planning application for a quarry for Moorland South (2017/91213) a site of some 23.5Ha. If approved this site would add an additional one million tonnes to the blockstone reserve more than doubling it and leaving a reserve based on Urban Vision predictions of reduction in demand of 73 years or even using existing average sales of 42 years. Well in excess of the period of this LP.
7. We are also concerned that there is no trend data for blockstone. Whereas for aggregate there is data which shows the last ten years levels of reserve and sales. For blockstone the only information that has been provided is from industry. This seems to vary greatly for instance within one month industry had altered this reserve from 970,000 tonnes to 865,000 tonnes. The only source of information is industry. KMC have done nothing to rectify this position and their reliance on industry provided information. We are concerned that KMC do not monitor this production on at least an annual basis.
8. In terms of aggregate and blockstone there seems to be a supply that meets and considerably exceeds the Plan period. According to the NPPF there is also no need for the LP to set a blockstone reserve.

9. We also believe that the needs for blockstone and aggregate would be significantly reduced if KMC adopted a policy of encouraging greater use of Recycled and Secondary Aggregate Sources. Paragraph 143 of the National Planning Policy Framework advises planning authorities to, so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials. Paragraph 145 goes on to confirm that Local Aggregates Assessments should be based upon an assessment of all supply options (including secondary and recycled sources). In the WYLAA 2016 (CR23 TAB20 p25) KMC did not provide any estimate of the RSA generated. This would therefore appear to be an untapped source of materials that could significantly reduce the levels of minerals currently estimated as needed over the KMC LP period.
10. The WYLAA 2015 (CR15(P41 Para 2.2.19)) and 2016 (CR23 (P45 Para4.2.19)) both state that the RSA for West Yorkshire was set at 31% of the total aggregate provision and currently West Yorkshire's RSA makes up 24.2% of this provision. This is far higher than the figure of 7.5% stated by KMC in the April 2017 MTP (BP9 P12 Para5.44).
11. KMC have not set any targets nor do they monitor RSA production. In the MTP (BP9 p12 P5.45) KMC state that there are currently no RSA sites in Kirklees that specifically accept and produce recycled aggregates in any great quantities. This they state may reflect the fact that primary aggregates produced in Kirklees are generally of low quality and therefore relatively cheap. Consequently recycled and secondary aggregates have difficulty competing. From this then we assume that holes created by industry quarrying low grade crushed rock are filled by RSA that comprises a potential higher grade product. This does not seem to fit with the NPPF definition of sustainable development. It is therefore disappointing that KMC have not seized the opportunity in the LP to set out policies that would encourage industry to recycle – one such policy would be to limit the amount of new quarries producing this low grade aggregate- a limited/reduced supply would require a new resource – a recycled source to be found. After all minerals are a finite natural resource and it is important to make best use of them to secure their long-term conservation (NPPF para 142).

### Question b) NPPF and NPPG

12. We set out in our representations (December 2016) how KMC in supporting the inclusion of site ME1965a have disregarded many parts of the NPPF and have not effectively consulted as required by the NPPF.
13. In relation to the specific minerals section of the NPPF (section 13) we believe that KMC have failed to take account of many of its aspects (see paras 15-23 of this submission) and in relation to the NPPF and how public consultation is required on site allocation we also feel that KMC have failed to comply with the NPPF section “Plan Making” (see paras 24-30).
14. KMC have not taken account of the contribution that Recycled and Secondary Aggregate Sources and minerals waste would make to the supply of materials, before considering extraction of primary materials.(Para 143) .Nor have they complied with Paragraph 145 in that the Local Aggregates Assessments should be based upon an assessment of all supply options (including secondary and recycled sources). In the WYLAA 2016 (CR23 (Tab20 p45)), 2015(CR15 (Tab19 p41)) and 2014(CR14 (Tab21 p41)) KMC did not provide any estimate of the RSA generated.
15. In relation to Minerals Safeguarded areas they have not complied with Paragraph 143 which states that in preparing plans local authorities should define Minerals Safeguarding Areas and adopt appropriate policies in order that known locations of specific mineral resources of local and national importance are not needlessly sterilised by non-mineral development, whilst not creating a presumption that resources defined will be worked; and define Minerals Consultation Areas based on these Minerals Safeguarding Areas.
16. In Para 15.25 of the Local Plan (SD1) KMC state that Section 13 of the National Planning Policy Framework (NPPF) requires that Mineral Planning Authorities identify key mineral deposits within their area of control as Mineral Safeguarded Areas (MSAs) and at Para 15.26 All the areas within the district where known mineral resources are located and should therefore be safeguarded have been identified on the Minerals Safeguarding Plan. This plan effectively covers the whole of the District without specific sites being identified.
17. Also in Para 15.25 KMC state that in their opinion it is considered that minor development or temporary uses are unlikely to present a significant problem with regard to the sterilisation of mineral resources. We are unable to find in the NPPF or NPPG where this is referenced. BGS have set out clear guidance as to the development of buffer zones (250m and 500m) and we have also in our research come across advice in a recent article from 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->

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[sterilisation/article/1367549](#). And Planning Appeals APP/D0840/W/14/3001768 and APP/D0840/W/14/2225653.

18. KMC failed to safeguard sufficient mineral sites in their 1999 UDP which has meant that sites such as ME1965a are now sterile for mineral extraction please see answer to Matter 11 question b).
19. KMC's proposed policy is to safeguard all land (Para 6.6 p13 of BP9) and this is displayed on a safeguarding map which has effectively divided Kirklees into two mineral areas one with sand and gravel the other with sandstone. This map does not match the BGS mapping data for Kirklees. (Please see Appendix A).
20. We are concerned that KMC's interpretation of standoff distances does not meet current best practice as proposed by Urban Vision (LE102) and BGS. Para 6.4 of the MTP page 13 (BP9) does not make use of this best practice guidance of a 250m and 500m buffer. Many other councils have adopted this best practice and we are at a loss as to why KMC would pay for professional advice and then not take it. Clearly this is not value for money and in many ways represents a waste of public money.
21. We would ask that KMC in the light of the above revisit this element of their policy. We believe that as KMC have employed specialists in this field, at public expense then they should accept that advice when adopting their MSA policy.
22. As in our previous representations we are concerned that KMC have not considered or taken account of the contribution that mineral extraction prior to land development would yield. As per paragraph 143 of the NPPF local authorities should "set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place;"
23. We have already outlined in our previous submission (page 7) our concerns about the KMC consultation process as it relates to site ME1965a. We detailed how in the 2015 process 206 comments were received about what was then site ME1965 and how we felt that the consultation process for the 2016 plan was as far as ME1965a was concerned was already concluded. The MTP Nov 2016 published before the consultation process made this position clear – it stated that the site was acceptable in planning terms. We therefore contend that the consultation process was nothing more than a cosmetic exercise with results already pre-determined.
24. We also note that issues raised about the site by members of the public and a local business (Z Hinchliffe & sons) were not taken account of until raised by recognised organisations – for example the two rivers and the Trans Pennine Trail were raised as issues by the public in 2015 but only became issues for KMC after the 2016 consultation exercise when they were raised by organisations. (See document SD4 Additional

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Modifications page 24). It is our contention that this strongly indicates that KMC have little regard for the views and opinions of the public.

25. This view is further reinforced when cognisance is taken of the results of the 2016 consultation exercise. It is clear from the below that site ME1965a has increased its standing as an issue of concern for the public, local/regional organisations and local and national politicians.

26. A brief analysis of the consultation exercise as it applies to ME1965a follows:

- a. In 2015 overall there were 17750 comments on the plan 208 related to ME1965 representing 1.17%. In relation to allocation and designations 10732 comments were made of which 208 were for ME 1965 representing 1.94%. In 2016 only 5815 comments were received a reduction of 11938 or a reduction of 67.3%. Of these comments 3723 comments were about allocation and designations a reduction of 7009 or a reduction of 65.3%.
- b. The population of Kirklees is estimated at 422,500. This gives a response rate of 0.013%.
- c. For site ME1965a 333 comments objecting to the site were received in 2016 an increase of 125 from 2015 representing an increase of 60.1%. In terms of overall comments ME 1965a now represents 5.73% or almost a five-fold increase and for allocation and designations the comments now represent 8.94% - again almost a five- fold increase. This indicates the growing importance of this issue for the residents of Kirklees and Birds Edge. (Birds Edge has approximately 170 houses and a population of approximately 350 – this gives a response rate of 95%.)
- d. There are now more objections than there were for any of the ME sites put forward in the 2015 plan.
- e. The total number of unique objections for ME1965/1965a is approximately 423.
- f. The population of Birds Edge is estimated at approximately 350 people. With 423 unique objections this shows that the removal of site ME1965a from the LP is an issue that is more than a local community issue.
- g. ME 1965a has objections from a serving Member of Parliament, 7 Councillors (including a Kirklees Cabinet member) and a number of other groups. The highest number of political objections for any site on the plan.

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- h. As well as objections from a sitting MP (who has visited the site – which is more than any KMC officer has) both other main party candidates for the 2016 General Election supported removal of site from the plan.
  
- 27. Neither the promoter or land owner commented about ME1965a during the 2016 consultation exercise.
  
- 28. Our concerns that KMC have viewed the consultation process – as far as minerals are concerned - as nothing more than a cosmetic exercise are further strengthened when DLP Policy 39 now LP Policy 38 is looked at. This relates to MSAs. In 2015 the policy included buffer zones in line with BGS guidance – 250m for clay and shale and 500m for coal and sandstone. These buffer zones were supported by the industry – Marshalls, Saxonmoor Ltd, the Coal Board and also the Mineral Products Association. No-one objected to the buffer zones however KMC have totally altered the policy now LP Policy 38 – where no mention is now made of buffer zones. Some of our members objected to this in the 2016 feedback and will speak to it.
  
- 29. In our opinion KMC has failed in its duty as outlined in paragraph 155 of the NPPF. If the LP truly reflected a collective vision and objectives then site ME1965a would have been removed from the LP.

## **Vision and Strategic Objectives**

### **Issue: Whether policies for mineral and waste meet the strategic objectives elsewhere in the plan**

#### Questions a) Vision

30. We initially considered the vision to be adequate and in our previous representations showed how we felt the inclusion of Site ME1965a in the plan ran contrary to this vision. However we find KMC's apparent interpretation of the vision to be at odds with ours.
31. In particular we see the character of Birds Edge as many working and viable farms, farmland, grassland, sheep, cattle, some arable fields, wrapped silage, barns and other agricultural buildings, streams and dikes that fill the millponds, working mills and associated structures, a nature reserve, pockets of woodland of various ages and size, church, school and playing fields, playground, football pitches and club house, village hall, traditional houses in keeping with the character of the original mill and original farming area and an estate of bungalows for the older community. Yet in their response to the Inspector of comments received (document EX24) - KMC made a number of assertions about site ME1965a. One was that the character of the area was one of quarrying. Through FOI it was discovered that to support this statement KMC gave details of six quarries – Appleton, Sovereign and Carr Hill as active quarries and Watson Hill, Nabscliffe and Hill End quarries which are no longer working. KMC have no records at all regarding the last three. A check of BGS quarrying records – which go back to 1899 – have no record of these three. A visit and visual inspection shows that these quarries have not been operational for some time having returned to countryside and were very small less than 1 Ha. BGS records show that in 1899 Appleton and Sovereign were fully operational quarries. With records showing that in 1922 Carr Hill was also a working quarry. So quarrying has only taken place in the last century at three quarries in the Shepley area– two of which have been in operation for over a century.
32. There are no quarries in Birds Edge – the nearest is Appleton – over 1km away. No quarries are visible from Birds Edge which is screened by the natural topography of the ridge that runs along Park Head Lane which creates a natural buffer and screening zone which has been in existence since the quarry began prior to 1899 – over 120 years. The area's history is one of textile manufacture and agriculture. There are 91 weavers' cottages in Birds Edge.
33. Also in response to the FoI request - "How does site Me1965 fit into the KMCs Vision for the aforementioned places and people?" The council responded as follows "Minerals sites are part of the Kirklees Districts character and also help support the Kirklees economy through the provision of jobs and the supply of material to the building and construction industry. The provision of blockstone helps to preserve the distinctive character of the buildings within the district particularly within conservation areas and

development involving listed buildings. The final paragraph of the Vision is particularly relevant which can be read in the strategies and policies document page 21 Para 4.2.” Which reads: “The local character and distinctiveness of Kirklees and its places will be retained. The natural, built and historic environment will be maintained and enhanced through high quality, inclusive design and safe environments, opportunities for play and sport, the protection and enhancement of green infrastructure, minimisation of waste, enhancement of distinctive and contrasting landscapes, tree and woodland protection, opportunities for local food growing, the enhancement of biodiversity and geodiversity and the protection and enhancement of heritage assets.”

34. From our previous representations the inspector will be aware of our interpretation. As members of the public, not planners or council officers we find our interpretation is significantly at odds with that of KMC. In this case the vision which is supposed to be a joint one needs to be revisited as the current vision does not accord with Paragraph 155 of the NPPF.

## **Mineral Requirements**

**Issue: Whether the Plan makes adequate provision for the steady and adequate supply of minerals.**

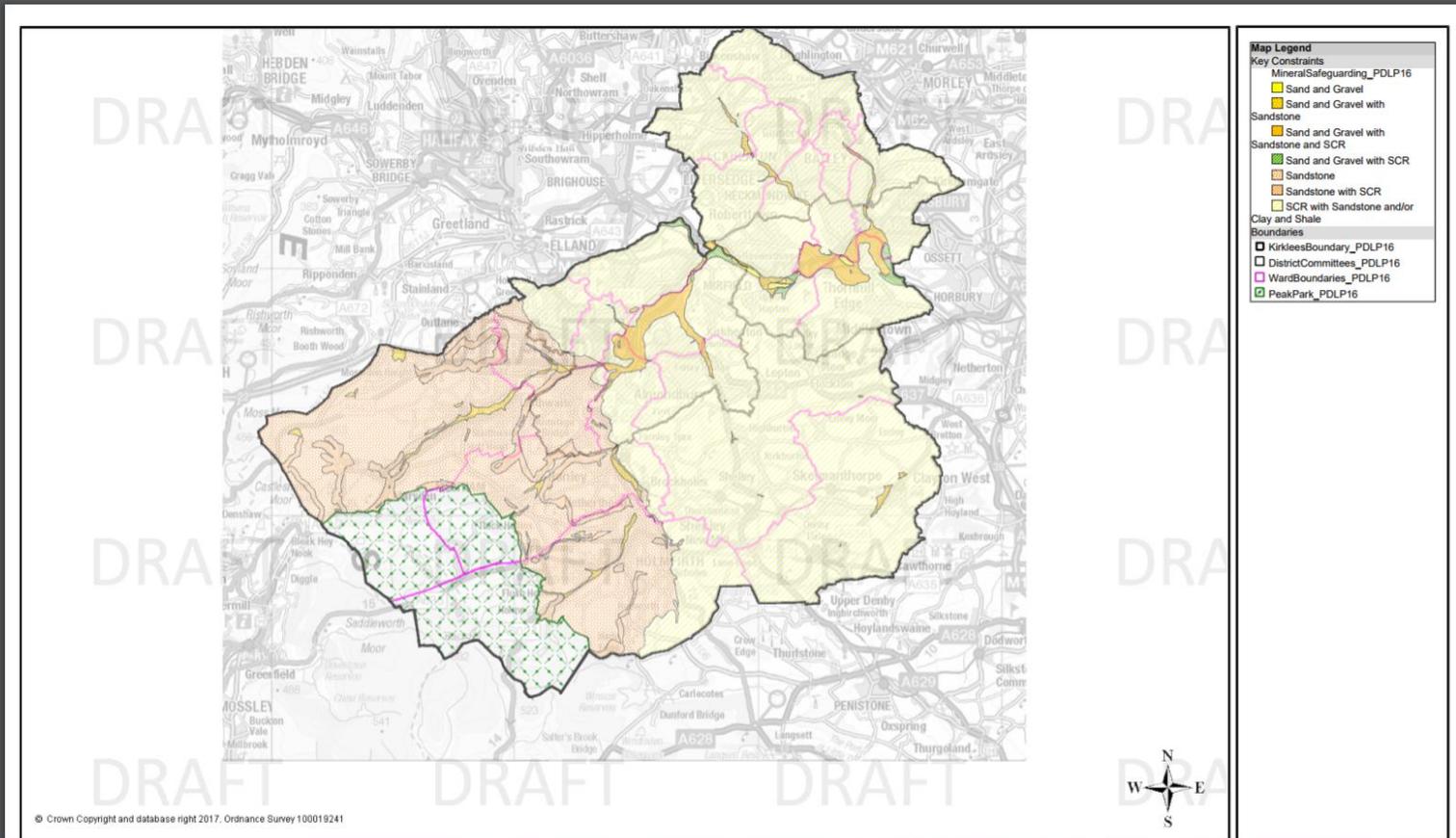
### **Question b) Justify 25%**

35. In the West Yorkshire Aggregate Assessment 2016 (2015 figures) the uplift was raised to 30% and the overall crushed rock reserves was put at 33.72Million tonnes. The ten year sales average for 2015 was 0.86 million tonnes which was less than the ten year average for 2014 of 0.88 million tonnes. Sales for 2014 and 2015 remained stable at 1.03 million tonnes. Even so a 30% uplift has been applied to 2015 figures compared to the 25% uplift for 2014 figures. As members of the public we understand the need to adjust figures following the economic downturn but cannot see any logic as to why the uplift figure has been increased or why it was set at such levels in the first place.
36. We also wonder whether the recent news about the need for less housing in the Leeds District (a reduction from 70,000 houses by 2028 to 55,000 by 2033 see <http://www.yorkshireeveningpost.co.uk/news/politics/u-turn-on-leeds-housing-targets-as-inflated-numbers-are-slashed-by-a-fifth-1-8650948>) will actually reduce this uplift figure.

APPENDICES

**Appendix A** – Screenshot of KMC Minerals in area

Screenshot of BGS Map of Minerals in area



## Kirklees Minerals Map

