

# BOLTED Submission Matter 10



## **Matter 10 Policies For Minerals**

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 10

**Issue: Whether the minerals policies provide sufficient guidance to ensure the necessary minerals supply over the plan period in accordance with the principles of sustainable development.**

### **Question a). PLP36 – Sustainability Appraisal**

2. In our previous submission we outlined major concerns about the evidence used and the analysis carried out to justify why site ME 1965a continued to be included in the LP. In our submission we included a full Appendix (Appendix 4) detailing our concerns. Commenting on the accepted site technical appraisal (document B29 p135) we detailed how ME1965a was the only ME site not to have a conclusion and that it had been classified as having a settlement position D (detached from settlement) when it should have been E (Settlement edge). We note that in the updated appraisal (B29.1 p136) submitted to the Inspector these issues have not been addressed. Yet other sites e.g. ME2568 show amendments from 2016 (B29 p136) to 2017 (B29.1 p139) (Public Health changed from no significant constraints to Low levels of physical activity in this area).
3. We are also extremely concerned that having set out in some detail in Appendix 4 of our submission, our comments on the Sustainability Appraisal (SD5 Annex 6 page 16-21) have not been referenced or commented upon in Document SD8 Sustainability Report: Schedule of responses. There is no record of our comments having been considered. Indeed we feel that they have been totally ignored. KMC have also not mentioned our comments in Document SD13 pages 89 and page 47 (para 3.32).
4. The issues outlined in Paras 2 and 3 have led us to believe that KMC have not fully read nor recognised the value of our representations.
5. We are also concerned that KMC seem to have totally disregarded the UDP 1999 policies (LE1) and the work carried out for KMC by Urban Vision which formed part

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of the KMC 2012 Local Plan which was presented to Government and then later withdrawn. We could only obtain this information about the 2012 Plan by way of a Freedom of Information request (FoI). (We are happy to present this information if required by the Inspector).

6. We list in more details our concerns in answer to Matter 11 question b).
7. We also have concerns about KMCs application of Minerals Safeguarding Areas. We will outline these in this submission and also in our response to Matter 11 question b).

### **Question b). PLP 36 – Heritage repair**

8. We detailed our concerns about heritage quarries in our main representations in December 2016 and how we felt that the need for heritage assets protection was being used as a guise to strengthen the argument for the need for new quarries. Particularly when heritage assets will need particular types of stone most readily available from the original quarry that supplied the base stone. An example of this is Chatsworth House in Derbyshire where all the new stone used in its repairs came from the same quarry that supplied the original stone when the house was remodelled 200-years later. See <http://www.menofthestones.org.uk/blog/post.php?s=2013-04-27-restoration-project-chatsworth-comes-clean>

### **Question c) PLP36 –Green Belt**

9. We detailed our concerns about the development of Mineral Extraction sites in the greenbelt in our original submission. We are concerned that KMC have not recognised the unique position and setting of some villages which form part of the green belt and how mineral extraction in these areas creates a greater impact on the greenbelt as it directly impacts the setting of the village which forms part of the greenbelt.

### **Question d) PLP37 Restoration**

10. We detailed our concerns about restoration of Mineral workings sites in our original submission. We are concerned that Sites such as ME1965a will never be restored to their original state and the current levels of bio-diversity on such sites never recovered. This concern is increased when account is taken of the lifespan of some of the current quarry operations which are still to meet the restoration requirements as set out in their planning permissions. For instance Appleton Quarry site ME2243 has currently until 2042 (Planning permission 2015/93162) before quarrying activity has to cease and for the site to be made into an amenity woodland – not returned to its original form. From BGS records we have ascertained that the quarry was operational in 1899 so provided there is no extension to current timescales the quarry will have been operational for around 150years. With this type of timescale there will be great difficulty in ensuring that quarried land is returned to its original state.
11. Therefore we feel for this policy to have any true meaning KMC must take into account historic abstraction rates and known active life-spans of quarries based on size and type of mineral being extracted when considering planning permissions. We believe that if this type of information had been used to inform the decision making taking place in the mineral section of this plan then KMC would not have included sites such as ME1965a in the plan.

### Question f) PLP38 Mineral Safeguarding

12. We are concerned about KMCs approach to Minerals Safeguarded sites. PLP 38 has changed considerably from its first published form in the 2015 Draft Local Plan (PC7) to that currently in the 2016 Plan (SD1). The 2015 policy DLP39 was supported by industry and has been significantly amended by KMC without any reference to the feedback received.
13. The two policies have the same preamble but core differences occur when looking at surface development.
14. In SD1 **Policy PLP 38** states “This policy will not apply to the following classes of surface development as they are unlikely to lead to the long term sterilisation of viable mineral resources: a. extension to existing buildings and the erection of ancillary buildings within their curtilages; b. developments on sites of less than 1000 sq. meters except for proposals within 250 metres of an existing planning permission for mineral extraction; c. minor development (such as walls, gates and access); d. temporary uses of sites for periods of less than 5 years; e. amendments to previously approved developments; f. applications for Listed Building Consent; g. reserved matters; h. applications for advertisement consent
15. Whereas in PC7 **Policy DLP 39** states “Surface development will only be permitted within 250 metres of a clay and shale or sand and gravel Mineral Safeguarded Area or within 500 metres of a sandstone or coal Mineral Safeguarded Area where it has been demonstrated that: a. the mineral concerned is proven to be of no economic value as a result of the undertaking of a Mineral Resource Assessment; or b. the development will not inhibit mineral extraction if required in the future; or c. there is an overriding need for the development; or d. the mineral can be extracted prior to the development taking place. This policy will not apply to the following classes of surface development as they are unlikely to lead to the long term sterilisation of mineral resources: a. extension to existing buildings within their curtilages; b. infilling development except for proposals within 250 metres of an existing planning permission for mineral extraction; c. minor development (such as walls, gates and access); d. temporary uses of sites for periods of less than 5 years; e. amendments to previously approved developments; Draft Local Plan - Strategy and Policies 149 14 Minerals f. applications for Listed Building Consent; g. reserved matters”.
16. Clearly policy DLP 39 is in line with guidance issued by KMC consultant’s Urban Vision in their Identifying Mineral Safeguarding Areas (LE102 p15 paras. 5.18 and 5.19) who state “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

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250 metres. These distances are accepted as standard by Minerals Planning Authorities based on examples produced in the BGS guidance.” We are at a loss as to why this policy supported by industry, implemented by many other authorities, and recognised as best practice has been replaced by a policy that has no sound basis.

17. In justifying SD1 **Policy PLP 38** KMC in para. 15.25 p155 of SD1 state “However, it is considered that minor development or temporary uses are unlikely to present a significant problem with regard to the sterilisation of mineral resources.” This runs contrary to PC7 para. 14.23 page 150 where KMC state “Minerals are not just at risk from sterilisation by development immediately above the resource. Sensitive development such as schools and housing will have an impact some distance from the boundary of an MSA. It is therefore considered prudent to create development buffer zones around MSAs to prevent indirect sterilisation occurring.”
18. SD1 Policy PLP 38 and justification also runs contrary to the existing UDP (LE1) which states in para. 6.15 “Whilst workable mineral reserves normally occur within the green belt, even the limited development acceptable under green belt policies could sterilise them or hinder extraction or the subsequent restoration of extraction sites using imported fill. New development need not necessarily take place directly on mineral reserves to have such an effect; new residential development immediately adjacent could sterilise a reserve.”
19. This contradiction between the proposed Policy PLP 38, existing UDP Policy and Policy DLP 39 needs to be addressed. It feels as if KMC have simply ignored advice, feedback and best practice to create a policy that best fits their already existing choices of new Mineral Extraction sites and one that endorses their already published decisions (see MTP (BP9 para 8.4 p15 “ME2568 and ME1965a, represent new sites where no planning permission exists but it is considered viable resources are known to exist, landowners are supportive of minerals development and the proposal is likely to be acceptable in planning terms”).
20. If best practice as proposed by KMC consultants and endorsed by BGS and other authorities regarding buffer zones was applied to site ME1965a the site would be totally sterile as a result of planning decisions taken since 1999. (Please see below and answer to Matter 11 b).
21. To assist us in understanding why DLP39 was changed to PLP38 we have also examined the document “Publication Draft Local Plans; Summary of Main Changes (Nov 2016)”. (We have been unable to locate this document in those supplied by KMC to the Inspector.) On page 14 of that document KMC state that the change was as follows: “Policy has been amended to include a site size threshold to clarify what is meant by infill. Policy reworded to exclude development within the curtilage of existing buildings. All minerals including those located in urban areas in mineral safeguarding areas. Amended supporting text to clarify the council will be involved in

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the delivery of policy aims.” No mention is made about why the specific threshold is set or why the application of buffer zones has been removed.

22. We have also looked at document SD5 Annex7 Sustainability Appraisal where it relates to PLP38 (page 92). It states the following “PLP38 outlines the criteria that need to be demonstrated to allow surface development to be permitted in a mineral safeguarding area, *also outlining certain buffers for different mineral resources*. This ensures the efficient use of minerals as a resource, safeguarding them for future use. A significant positive effect is therefore likely on this SA objective.” This reads as if the buffer zones are still forming part of PLP38 and they are seen as a positive feature. This highlights yet another discrepancy in the Minerals section of the KMC Local Plan
23. We also note that a number of other local authorities have accepted BGS best practice and adopted buffer zones for instance Calderdale minimum 250m, North Yorkshire Minimum 500m and Staffordshire minimum 250m.
24. We consider that KMC should apply best practice in this area and revert to Policy DLP39 and specify buffer zones by mineral type.
25. We are also concerned that KMC have abandoned their responsibilities as set out in the NPPF and by the BGS by not identifying MSAs and MCAs. Their history in this area leaves much to be desired. In the UDP 1999 (LE1) in the Shepley area two MSAs were identified – neither of these sites is yet to have minerals extracted from them. Site ME1965a was not identified as an MSA even though site ME 2263 (extension to Appleton Quarry) was. It is essential that KMC identify appropriate sites. This helps landowners and property developers to make appropriate decisions about developments and land use. For instance if site ME1965a had been identified in 1999 as an MSA then development around the borders of the site could have been controlled. As it is KMC have since 1999 given planning permission for 10 new houses around the boundary of site ME1965a. These developments, some quite significant have been allowed by KMC to be built at various locations around the boundary of the site. Indeed one of these developments is on land previously owned by the landowner of Site ME1965a. Due to the location of these developments, their proximity to Site ME1965a and recognised buffer zone/standoff distances (see LE102 p15 paras 5.18 and 5.19). These combined with a 250m stand off from the River Dearne ( recommendation made by Urban Vision in their 2012 analysis of this site for the 2012 Plan submitted by KMC to Government) means that this site is sterile for the purposes of mineral extraction.
26. We would urge KMC to consider carefully their current approach to MSAs.

### **Question g) PLP 38 Mineral Safeguarding**

27. As pointed out previously 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 (then Policy DLP39). 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 would like to speak to it.
28. As previously pointed out in Question 9 paras 12-14 we contend that KMC have not complied with Paragraph 143 of the NPPF and also that KMC's assertion that minor development or temporary uses are considered unlikely to present a significant problem to MSA and site sterilisation – is wrong. We have been unable to find in the NPPF or NPPG any information to support this view.
29. We believe that if KMC had taken due regard of BGS guidance regarding buffer zones (250m and 500m) and advice to industry <http://www.mineralandwasteplanning.co.uk/safeguarding-against-sterilisation/article/1367549> and recent planning decisions: APP/D0840/W/14/3001768 and APP/D0840/W/14/2225653. Then they would have determined that their original Policy (DLP39) was more relevant and more in keeping with best practice.
30. At times it does feel as if KMC are adopting policy to fit with decisions made about allocating potential sites rather than having sites correctly assessed against existing policy.
31. KMC also 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).
32. We believe that KMC have not defined MSAs in accordance with BGS Guidance: Mineral Safeguarding in England: good practice advice and the 7 stage model.