

# Minerals Site Restoration

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## Policy Option Report

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## 1 Background

- 1.1 Mineral extraction is considered in planning terms as a temporary land use, although it can last a number of years, or decades. Mineral extraction has potential, without proper management from all parties involved, to permanently damage the environment. Development which is temporary should always have an approved scheme for restoration and aftercare and an agreed end date by which this will have been implemented.
- 1.2 It is important that land that has been used for mineral extraction is appropriately restored, and that restoration takes place as soon as possible after extraction has finished. Restoration of mineral sites may be carried out progressively, with sections of the site worked and restored before the next area is worked out. Mineral sites which have finished producing minerals offer a valuable opportunity for community, environmental and economic enhancement and improvement.
- 1.3 Reclamation should be more than merely returning the land to a satisfactory condition after extraction. Reclamation should seek to contribute to and enhance the local environment; achieving, wherever possible and appropriate, a high level of community and environmental benefits, which will in turn benefit the economy.
- 1.4 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)<sup>1</sup> (the online technical guidance supporting the NPPF) require that planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards. The Technical Guidance explains that this should be included through the provision of a landscape strategy, restoration conditions and aftercare schemes as appropriate.
- 1.5 In this context these terms are defined as:
- Restoration means operations associated with the winning and working of minerals and which are designed to return the area to an acceptable environmental condition, whether for the resumption of former land use or a new use; and
  - Aftercare means the use that land, used for minerals working, is put to after restoration.
- 1.6 The NPPF also states that planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area. This should include an assessment of existing and potential

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<sup>1</sup> National Planning Practice Guidance: <http://planningguidance.planningportal.gov.uk/>

components of ecological networks, working with Local Nature Partnerships where appropriate.

- 1.7 Potential after uses should not be limited by the Kirklees Local Plan. However, the final policy will give consideration to social, environmental and economic concerns in order to achieve the most appropriate after use for any specific site. It should be remembered that final restoration of a mineral extraction site can be used to complement other plans and strategies, e.g. contribute to Green Infrastructure or flood water storage.
- 1.8 Across the UK, there have been historical problems with operators not completing the restoration of the site following minerals extraction. The use of phased restoration schemes on larger sites and/or the retention of a restoration bond for use in the completion of restoration could reduce the risk of long term unsightly impacts on the landscape.

## 2 Review of Existing Policy Development

- 2.1 In this instance, the development plan comprises a number of 'saved' policies from the Kirklees Unitary Development Plan (UDP) adopted in March 1999. The UDP sets out the council's policies and proposals for the use and development of land and buildings.
- 2.2 However, UDP Policy M3A which deals with Mineral Site Restoration was not saved because it has been superseded by changes in national planning policy. Instead reference is made within the UDP to guidance set out in paragraph 19 of Minerals Policy Statement 1: Planning and Minerals (2006) which has now also been superseded by guidance set out within the National Planning Policy Framework (NPPF).
- 2.3 In October 2013 the Council withdrew the Local Development Framework (LDF) core strategy from examination by the Secretary of State and is now taking the LDF process forward by preparing a Local Plan. Chapter 14 of the withdrawn core strategy covered minerals and waste.
- 2.4 Within the Core Strategy, Policy SCS33 dealt with mineral site restoration. The policy stated that:

*Worked minerals sites will be restored to an appropriate beneficial after use. Restoration may include the importation of inert waste which is capable of being recycled where this is necessary to achieve satisfactory standards'.*

- 2.5 The supporting text which accompanied Policy SCS33 stated that the Council would seek to avoid the possibility of dereliction by ensuring that mineral sites

were reclaimed at the earliest opportunity by securing the appropriate phasing of extractive operations and progressive restoration.

- 2.6 Policy SCS33 has not been taken forward in its entirety as, on reflection, it is not considered sufficiently detailed to direct minerals operators to support the Council's aspirations for ecological diversity and enhancement. Whilst informing policy development the draft policies outline below in Section 4 expand upon and provide detailed guidance for operators.

### 3 Issues

- 3.1 By targeting the end use of the site from the very beginning of the planning process, the scheme is more likely to be successful and to a higher standard. It ensures that the right design and the right opportunities are identified, and then guides the delivery of the workings throughout the process. It also ensures that the necessary resources are identified early and then effectively used through the process.
- 3.2 Furthermore, it also means that the end restoration uses are likely to be sustained and more successful over the longer term, and provides a level of certainty and clarity for local residents.
- 3.3 However, with schemes often taking many years to complete, it is important to have regard to changing circumstances which may arise. There must be a flexibility to amend restorations where this would improve the quality of the end scheme. Such changes may occur as a result in amendments to Government Policy or the impact of climate change through to unforeseen site specific circumstances such as colonisation by an important species or a community need not known twenty years previously, which could be easily accommodated.
- 3.4 The following factors are considered important for determining the restoration and after-use of a mineral site:
- agricultural value of the land prior to mineral extraction;
  - underlying geology, hydrology;
  - location in relation to urban areas;
  - access to the road network; and
  - local topography and landscape setting.
  - local ecology networks

## 4 Potential Policy Options

4.1 Set out below are a number of potential policy options for consideration:-

### 4.2 Potential Policy 1 – Restoring mineral workings

Mineral working will be permitted only where the Council is satisfied that the site can be restored and managed to a high standard.

Restored sites should be:

- i) Sympathetic to the character and setting of the wider area; and
- ii) Capable of sustaining an appropriate after-use.

Restoration of mineral workings should be completed at the earliest opportunity and progressive restoration will be required where appropriate. The applicant will be expected to agree a scheme with the Council detailing how the land will be restored and managed before, during and after working.

### 4.3 Potential Policy 2 - Restoration and enhancement

The Council will encourage and work with mineral operators and landowners to deliver benefits such as enhancement of biodiversity interests, improved public access and provision of climate change mitigation such as greater flood storage capacity. Where appropriate, a wider area enhancement approach should be developed, linking restoration proposals for mineral sites or linking site restoration to other green infrastructure initiatives.

### 4.4 Potential Policy 3 - Restoration and Aftercare

Planning permission for minerals development will not be granted unless satisfactory provision has been made for the restoration and after-use of the site and where necessary its long term management.

Restoration plans should be submitted with the planning application and where appropriate include details of those matters that are set out below:

**In circumstances appropriate to the proposed development, submitted details should cover the following matters and be based on the findings of a site investigation:**

- the key landscape opportunities and constraints;
- the site boundaries and areas allocated for soil and overburden storage;
- an assessment of soil resources and their removal, handling and storage;
- an assessment of the overburden to be removed and stored;
- the type and depth of workings and information relating to the water table;
- significant waste material locations and quantities of waste involved;
- proposed infilling operations and sources of fill;

- potential directions of working;
- the need for additional screening taking account of degrees of visual exposure;
- implementation of progressive reclamation;
- a projected plan of contours and final levels of the site;
- target restoration profiles for soil-making materials, subsoil and topsoil;
- soil placement, relief of compaction and provision of surface features;
- achievement of the landscape and landform objectives for the site;
- the removal of all plant, buildings, structures, machinery, roads and hardstandings;
- aftercare proposals for planting, cultivating, fertilising and other treatments;
- site infrastructure including drainage proposals;
- proposed after-uses and preferred character for the reclaimed landscape;
- the means to maintain or enhance the long-term quality of the land and landscape;
- proposals for nature conservation enhancement, including the potential for natural regeneration of these habitats, indicating how they fit with local strategies and LBAP targets;
- provision of annual aftercare reports for monitoring progress of the establishment of the new use
- details which will ensure the future stability of the ground following restoration;
- the contribution of the development to Green Infrastructure.

Developers will be required to regularly review their restoration strategy / plan at least every 10 years to ensure that it is up to date having regard to matters set out above.

Developers will be required to demonstrate that adequate financial provision has been made to fulfil the restoration and aftercare requirements when proposals are submitted:

- a) for a new mineral site; or,
- b) to change the working, restoration and aftercare of an existing site, particularly when the proposals involve a change to the ownership or control of the site, or part thereof.

Alternatively, developers will be required to provide a Restoration Guarantee Bond or other financial guarantee to cover all or part of the restoration and aftercare costs.

#### **4.5 Potential Policy 4 - Restoration of mineral workings**

Minerals workings should be restored to a high quality and in a timely and phased manner to an after-use appropriate to the location and the capacity of the transport network and which is sympathetic to the character of the surrounding landscape and the amenity of local communities. Restoration and afteruse should



accord with any restoration strategy for the area concerned in a site allocations development plan document.

Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including the means of securing them in the long term.

Where appropriate, operators and landowners will be expected to make provision for the management of restored mineral workings for an extended period, beyond any aftercare period required by condition, including making appropriate financial contributions.

Where mineral working is proposed on best and most versatile agricultural land, the restoration should be back to agricultural land if this is practicable.

Within the floodplain, restoration of mineral workings should where possible include provision for increased flood storage capacity to reduce the risk of flooding elsewhere.

Where restoration could assist or achieve priority habitat or species targets and/or Biodiversity Action Plan targets, the relevant biodiversity after-use should be incorporated within the restoration scheme.

Where restoration could protect and/or improve geodiversity and improve educational opportunities this should be incorporated into the proposed restoration scheme, such as by providing for important geological faces to be left exposed and enabling access to the faces.

Where a mineral working site has the potential to provide for local amenity uses, including appropriate sport and recreational uses, these uses should be incorporated into the restoration scheme.

#### **4.6 Potential Policy 5 - Restoration and Aftercare**

All applications for minerals extraction should be accompanied by proposals for site restoration and aftercare. This should include:

- Details of final restoration scheme;
- Details of timescales for completion of restoration;
- Details of aftercare arrangements for the maintenance and management of the site;
- Information on the requirement for phased restoration and/or the supply of a restoration bond prior to the granting of planning permission; and
- Information on the likely set up of a Community Liaison Group to monitor issues arising from the development, ensure appropriate community benefits from the scheme and oversee final land use.

#### 4.7 Potential Policy 6 - Afteruse

Proposals for the after-use of the site shall:

- Take account of the pre-working character of the site and its landscape setting;
- Employ restoration techniques that can ensure the land is retained as a long-term agricultural resource, where it is proposed to restore the land to agricultural or forestry uses;
- Provide for the enhancement of the quality of the landscape, local environment or the setting of historic assets to the benefit to the local or wider community.