

Submission to the Examination in Public of the Minerals and Waste Joint Plan: Development Management Policies

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156. With reference to Policy D03 (Transport of minerals and waste and associated traffic impacts) is it disproportionate to require a green travel plan for all proposals generating significant levels of road traffic or should it only be required where appropriate?

No. This is not disproportionate it is required by paragraph 36 of the NPPF. If this requirement was removed, the policy would not be consistent with national policy.

158. Should Policy D04 Part 1) b) and/or c) be more flexible by increasing the scope of economic considerations and taking account of economic sustainability?

While hydrocarbons are dealt with specifically in policies M16, M17 and M18 I am concerned that any alteration to policy D04 increasing the scope of economic considerations and giving more weight to economic sustainability could undermine the protections included in part b) i) of policy M16. Given the strong protection offered to National Parks and AONBs in paragraphs 115 and 116 of the NPPF any measure that would open them up to unconventional hydrocarbon development would be inconsistent with national policy, because such development will have a severe, negative impact on the landscape and wildlife.

161. Is Policy D04 Part 3 too restrictive? Should some flexibility be introduced by amending “will not” be permitted to, for example, “will not usually” be permitted?

No this is not too restrictive. Paragraph 115 of the NPPF gives great weight to conserving the landscape and scenic beauty of National Parks and AONBs. This must include consideration of the wider setting of the National Park, or AONB. Changing the policy in this way would not be consistent with national policy. NE243 England’s Statutory Landscape Designations: a practical guide to your duty of regard also makes clear that development outside a National Park can still have the potential to impact the special qualities of a National Park, particularly landscape quality, wildlife, geological value and tranquillity.

162. With respect to Policy D05 (Minerals and waste development in the Green Belt) are Part 2) of the Policy and amendment PC93 in the Addendum of Proposed Changes to Publication Draft, July 2017 consistent with paragraph 88 of the NPPF, which states “Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations?”

I agree that the policy should be changed as suggested to make it more consistent with national policy. The policy seems only to give weight to development that would harm the green belt through inappropriateness, whereas paragraph 88 of the NPPF is quite clear that consideration of harm to the green belt should be wider than this.

164. Should Policy D07 (Biodiversity and geodiversity) part 1) clearly distinguish the hierarchy of international, national and locally designated sites and is it consistent with NPPF paragraph 113? Should it address biodiversity and geodiversity in general and reference the specific protections provided under parts 2) to 6)?

The policy may be consistent with paragraphs 113 of the NPPF. However the policy is not

consistent with paragraph 118 of the NPPF. For consistency with paragraph 118 of the NPPF the provisions of part 4) of the policy should not be limited to the impact risk zone of the SSSI or other designated site, but should apply to any development outside the designated site likely to have an adverse effect on it. Designated sites, including locally designated sites should also be offered strong protection in line with the duty to conserve biodiversity as described in section 40 of the NERC Act 2006. Such changes are needed to make the policy consistent with national policy.

166. Does Policy D07 3) provide sufficient protection to Sites of Special Scientific Interest (SSSIs), ancient woodland and aged/veteran trees?

The policy will need to be changed to make it consistent with national policy, in particular paragraph 118 of the NPPF. This paragraph gives significant weight to irreplaceable habitats and mentions ancient woodland and aged and veteran trees in particular in this regard. According to paragraph 118 of the NPPF, “planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.” While this wording is largely reflected in the wording of the policy, the NPPF makes it clear that it is the habitat value of ancient woodland and aged and veteran trees that needs to be preserved. Damage to such habitats could include development that does not result in the loss of the trees themselves, but has a harmful effect on wildlife through noise, light, air or water pollution impacts on the ancient woodland, or aged or veteran tree. This should be made clear in the policy and development which could lead to such harm should not normally be permitted.

167. In Policy D07 6) is “offsetting” an effective compensatory measure and should it be a requirement? Should consideration be given to overall gains in biodiversity through reclamation and should Policy D10 (Reclamation and afteruse) be cross referenced?

Offsetting should not be regarded as an effective compensatory measure. It should only be used as a last resort as it is unlikely that new habitats can adequately compensate for established habitats lost to development. Part 6) of the policy goes a long way to recognising this with its requirement that offsetting is only used in exceptional circumstances and when the damage is outside a SSSI, or European designated site. However it should be made clearer in the policy that proposals that require offsetting to mitigate their effect on biodiversity will normally be refused.

Offsetting should not be made a requirement for all development, rather the emphasis should be on locating developments away from areas where biodiversity would be harmed by them. Developers should not be able to claim credit for potential gains to biodiversity through reclamation. Such gains in biodiversity are only notional. They are continually at risk of further planning applications that would set back the date of site restoration, or of damage to the wider network of habitats.

For the reasons described above, giving a greater weight to the use of biodiversity offsetting as a compensatory measure would not be consistent with national policy, in particular the duty to conserve biodiversity in section 40 of the NERC Act 2006, nor would it be justified given the alternative of directing development to areas where it would be less likely to harm biodiversity.

169. In Policy D07 should more emphasis be given overall to considering cumulative impacts?

Yes policy D07 does not mention cumulative impacts on biodiversity For this reason it is not consistent with national policy as described in paragraph 117 of the NPPF, which calls for a “ plan for biodiversity at a landscape-scale across local authority boundaries.” consideration for

biodiversity at a landscape scale must include consideration of cumulative impacts, as the harm to wildlife caused by loss, or degradation of habitat in one location could be exacerbated by further loss and degradation of habitats across the region. It must also be considered that development that is promoted as being temporary may have a permanent impact on wildlife if it is followed by, or happens at the same time as, other development that has a similarly harmful effect on wildlife.

173. In Policy D12 (Protection of agricultural land and soils) is the last sentence (even with amendment PC97), which states that development that disturbs or damages soils of high environmental value will not be permitted, still too restrictive? Does “high environmental value” need further explanation if it is to remain?

This policy is not too restrictive. Soils needed for ecological connectivity should be protected as required by paragraph 117 of the NPPF, which refers to wildlife corridors and stepping stones. The requirement to conserve soils important for carbon storage such as peat is in line with the duty to mitigate climate change contained in paragraph 156 of the NPPF. Some clarification of the status of various soils may be needed, but the principle of the policy should remain as it is consistent with national policy. A suggested definition for soils of high environmental value is soils with high biomass, minerals, structure and carbon content.

177. Does the Development Management chapter adequately address air quality overall?

No. Although air quality is mentioned in policy D01, the policy should refer to the duty to avoid adverse effects from air pollution under paragraph 109 of the NPPF. It should also refer to AQMAs and their associated management plans, as well as the need to meet EU limit values and national targets as required by paragraph 124 of the NPPF. The need to avoid development that worsens air quality in AQMAs, either through traffic movement, or through on site emissions, should be clearly stated in the policies of the Development Management Chapter.