

Matters, Issues & Questions:

Matter 3: Transport, Infrastructure and Safeguarding – Safeguarding

Question 115 - 154

Safeguarding

115. Are appropriate areas safeguarded for all economically significant minerals and those that have reasonable prospects of becoming economically viable in the future?

Yes. Appropriate areas are safeguarded for all economically significant minerals which can be safeguarded, and those that have a reasonable prospect of becoming economically viable in the future. The approach to safeguarding is based on work undertaken for the Authorities by British Geological Survey, who are the authors of the *national best practice guidance on minerals safeguarding in England* (LPA/44). BGS have produced mineral safeguarding documents for each of the three authorities involved in the development of the Plan; these are *Mineral safeguarding areas for North Yorkshire County Council 2011 (SEB01)*, *Mineral safeguarding areas for City of York 2013 (SEB02)* and *Mineral safeguarding areas for North York Moors National Park 2013 (SEB03)*. These three documents identify the mineral resource areas to be safeguarded and the methodology used to identify the resource. The Authorities have taken forward the recommended safeguarding areas and reviewed them as necessary to identify the most economically viable resource where required. The safeguarded mineral resource, plus buffer, are displayed on the *Policies Map (CD22 and CD23)*.

116. Do the Mineral Safeguarding Areas (MSAs) cover the whole mineral resource in accordance with the BGS guidance (paragraph 4.2.3 *Mineral safeguarding in England: good practice advice*)?

The full mineral resource has not been safeguarded in all cases, but in those areas where less than the full resource has been safeguarded, a proportionate approach involving consideration of the potentially viable resource has been adopted. British Geological Survey (BGS) have produced mineral safeguarding documents for each of the three authorities involved in the development of the Plan; these are *Mineral safeguarding areas for North Yorkshire County Council 2011 (SEB01)*, *Mineral safeguarding areas for City of York 2013 (SEB02)* and *Mineral safeguarding areas for North York Moors National Park 2013 (SEB03)*. These three documents identify the mineral resource areas to be safeguarded which the Authorities have taken forward and reviewed.

With regard to concreting sand and gravel, a further assessment was undertaken by BGS, on behalf of the Authorities, to identify the most viable areas of sand and gravel which would be able to sustain the supply of concreting sand and gravel for future needs. This assessment is detailed in *Sand and gravel resource block assessment in the North Yorkshire County Council Plan area (MEB08)* and *Further assessment of the sand and gravel resource areas in the City of York (MEB10)*. Areas proposed for safeguarding of sand and gravel are based on this assessment, which reflects those areas of resource which have a reasonable prospect of becoming economically viable in the future.

Deep coal was initially considered for safeguarding at a time when the only coal mine in the Plan area was still active. Once the mine closed and the pit head was sealed with no prospect of future working, it did not appear reasonable to continue safeguarding it, so was not proposed for safeguarding in the *Publication draft (CD17)*.

There is no specific requirement to safeguard deep mineral resources; although SEB03 suggested safeguarding the potash and salt resource in the North York Moors National Park. However, as the resource is deep underground and covers a large area, it is not considered necessary or proportionate to safeguard the whole area. It is considered appropriate to safeguard resources within the Boulby Mine licenced area and the resources forming York Potash project (now referred to as Woodsmith Mine) which have been identified with a higher degree of confidence (the indicated and inferred resources).

The whole mineral resource recommended by BGS for clay, building stone, silica sand and shallow coal has been safeguarded.

117. For any minerals not fully safeguarded, does this comply with BGS guidance paragraph 4.2.7? Give brief reasons.

Please refer to Q.116 response.

118. Do the MSAs follow the advice in the BGS *Minerals Safeguarding Areas for North Yorkshire County Council (SEB01)*, *Minerals Safeguarding Areas for the City of York (SEB02)* and *Minerals Safeguarding Areas for North York Moors National Park (SEB03)*?

The MSAs for crushed rock, sand and gravel, clay, building stone, shallow coal and silica sand have followed the advice of *Minerals Safeguarding Areas for North Yorkshire County Council (SEB01)*, *Minerals Safeguarding Areas for the City of York (SEB02)* and *Minerals Safeguarding Areas for North York Moors National Park (SEB03)*. The documents map the resources and also recommend the relevant buffer for each resource type. BGS consulted on the contents of the documents before they were finalised.

Please refer to the answer in response to Q.116 regarding MSAs for sand and gravel, deep coal and potash.

119. Does exclusion of land from an MSA weigh against prior extraction of a mineral should it be present?

The approach in the Plan is to safeguard all resources where there is a realistic prospect of future extraction, based on advice from the British Geological Survey. The safeguarded areas are extensive and it is considered that the Plan sets out a comprehensive approach to safeguarding, in line with national policy. Exclusion of an area from safeguarding does not specifically weigh against prior extraction of a mineral, should it be proved to be present, but neither would there be an express policy requirement to consider prior extraction. The position is therefore neutral and any relevant proposals where this circumstance arose would need to be considered on a case-by-case basis in the context of any other relevant policies in the Plan, and in the light of any other material considerations.

120. Are there any cross boundary issues relating to safeguarding?

Some minerals do cross the boundary into adjoining authority areas. The Paper *Cross Boundary Minerals Safeguarding July 2016 (SEB04)* identifies the minerals which cross the boundary between the Plan area and neighbouring MPAs and the consultation which took place to identify any significant issues and how these were addressed through the development of the document. Further discussion on how cross-boundary issues have been considered, and where necessary resolved, during preparation the Plan is provided in the *Duty to Cooperate Statement (CD03, Page 73, Strategic Issue 12)*.

121. Provide a very brief summary of how safeguarding has been addressed with relevant adjoining minerals planning authorities.

The paper *Cross Boundary Minerals Safeguarding July 2016 (SEB04)* and the *Duty to Cooperate Statement (CD03, Page 73, Strategic Issue 12)* deal with this issue. Any mineral safeguarded areas (MSA) in adjacent authorities in proximity to the Plan area boundary has been mapped to show the extent of the resource and compared to the MSAs in the Plan area near the plan boundary to see whether it matches the potential MSAs for the same resource in the Plan area. This allowed consideration of cross-boundary compatibility relating to MSAs and ensured consistency of approach. Once the mapping was completed, the relevant adjoining authorities were consulted and any comments or evidence received were incorporated into the document and recirculated for comment before being finalised.

122. Given that gypsum is safeguarded within the Tees Valley area and along the border with the MWJP area, are there any objections from the Tees Valley Councils over the approach taken for gypsum in the MWJP and its lack of safeguarding?

No. None of the MPAs in the Tees Valley region raised any issues in regards to the approach taken to gypsum in the Plan and its lack of safeguarding; this includes consultation during the development of the paper *Cross Boundary Minerals Safeguarding July 2016 (SEB04)* and in response to the *Preferred Options* consultation and *Publication Draft* consultation.

123. Are all known building stone resources of significance identified on the Policies Map and thereby included in S01 (Safeguarding mineral resources) Part 1) iii)?

Yes. The *Mineral safeguarding areas for North Yorkshire County Council 2011 (SEB01)*, *Mineral safeguarding areas for City of York 2013 (SEB02)* and *Mineral safeguarding areas for North York Moors National Park 2013 (SEB03)* provide the methodology BGS used for identifying significant building stone resources. BGS provided the resource layers for safeguarded building stone which are included on the *Policies map (CD22 and CD23)* which reflect the significant building stone resources in *SEB01* and *SEB03*. *SEB02* states that there are no building stone resources present in the City of York area.

124. The MWJP (paragraph 8.17) indicates that potash resources cover a relatively large area and that the Authorities do not consider it is necessary or proportionate to safeguard the whole potential resource. Bearing in mind that this is the only known workable resource in the country and is of strategic national importance, is it justified to not safeguard the whole potential resource?

Yes. Historic documentation from Cleveland Potash Ltd (who currently mine both sylvinite and polyhalite forms of Potash) indicates that the whole potential Potash reserve stretches from Saltburn-by-the-Sea at its northernmost edge to the Humber Estuary in the south and it extends from the A169 in the west. As such, it covers a large part of the coast of the north-east of England. The northern parts of the reserve lay beneath areas of built development, the southern areas are considered to be too deep to mine with current technology (SRK Consulting, LPA/25) and the central areas are under the North York Moors National Park. The National Park planning policy framework effectively means that the risk of significant development of land with other uses, which could lead to sterilisation of access to Potash, is low. Proportionality is a key principle of

planning practice. It is not considered proportionate to safeguard the whole of the potential resource area.

An area of safeguarding for Potash is shown on Map 13 of the *Minerals Resource Safeguarding* section of the *Publication Draft Paper Policies Map (CD23)* and on the *Publication Draft Interactive Policies Map (CD22)*. At the time of the Sirius Minerals application in 2014, the company explained in their Planning Statement that:

- Consultants SRK estimated 2.66 billion tons of Potash was within the Sirius area of interest (this is essentially confined to within the NYM National Park),
- A triangular area extending approx. 2km from the mine site would provide in excess of 50 years requirement for Potash at initial production levels (250mt viable from 820mt ore body at 6.5mt per year) and known as the Indicated Mineral Resource because of the reasonably high level of confidence due to results of core drilling.
- An extended triangular area known as the Inferred Mineral Resource provided a further 200% area where there was some confidence that the Potash mineral had a tonnage, density, shape, physical characteristics, grade and mineral content which could be estimated, albeit not to a confidence level to obtain funding for a mining project e.g. internationally recognised JORC code.

The above two Indicated and Inferred areas (shown dark pink on Map 13 of CD23) are expected to cover the 100 year planned life of the mine. Notwithstanding, the Authority has applied a further 2 kilometre buffer to that area to provide a contingency safeguarded area as a proportionate safeguarding measure to deal with any unforeseen circumstances in ore quality or mining difficulties in a particular sector. The buffer is also considered to be justified in connection with potential conflicts with hydrocarbon developments involving hydraulic fracturing (see later Q 126). The Cleveland Potash safeguarded area was based on their last planning permission area with a similar buffer, albeit since the Plan was published, they have publicly announced (in January 2018) the cessation of sylvinitic mining from July 2018 and concentration on polyhalite mining. Their polyhalite reserves are located offshore, hence it is not considered proportionate to safeguard sylvinitic areas under a large coastal part of the National Park north of Whitby.

125. Explain briefly why each of the different buffer requirements set out in Policy S01 are the most appropriate.

The 500m buffer for crushed rock and silica sand was provided by BGS in the *Mineral safeguarding areas for North Yorkshire County Council 2011 (SEB01)*, *Mineral safeguarding areas for City of York 2013 (SEB02)* and *Mineral safeguarding areas for North York Moors National Park 2013 (SEB03)*. The basis for using 500m for these resources was provided by BGS in SEB01, SEB02 and

SEB03. Buffers for minerals that are to be extracted through blasting techniques were usually set as 200m, but through consultation this was changed to 500m as it was felt 500m would be more appropriate to ensure that the identified boundaries of the resource were not sterilised by development permitted nearby. If other development is within 500m of the resource boundary, it may sterilise the resource, as blasting may not be able to take place due to potential unacceptable impacts upon the other development, particularly as a result of harm as a result of vibration and air overpressure impacts.

The three BGS reports *SEB01*, *SEB02* and *SEB03* also propose a 250m buffer for sand and gravel, clay and shallow coal. Originally the suggested buffer for minerals not extracted by blasting was 100m. This was amended, through consultation, where there were several responses that suggested 250m would be more appropriate. The 250m reflects the fact that the 100m may not have been enough to ensure the effective safeguarding of the identified boundaries of the resource area from development permitted nearby. As blasting will not be used during the extraction process, there is a correspondingly lower potential for impact on surrounding development and therefore a 500m buffer is not required, so other development can be closer without the risk of sterilising the mineral.

The two BGS reports *SEB01* and *SEB03* provide the 250m buffer for the scarce building stone resource and active sites, this buffer was agreed in consultation with the building stone industry to ensure that the resources and existing sites would be protected from sterilisation, reflecting the generally relatively low intensity of activity at these forms of site.

A buffer zone of 2km for potash and salt is considered to offer a reasonable balance between protection of the resource and providing flexibility for other development to take place where appropriate, representing a horizontal distance which is readily achievable with current technology for horizontal drilling for oil and gas wells.

126. In determining underground buffer zones for potash, has the most appropriate balance been struck in Policies S01 Part 2) and S02 (Developments proposed within Minerals Safeguarding Areas) Part 3) between providing flexibility for hydrocarbon development and protecting the potash?

Yes. Policy S01 sets the strategic objective of ensuring that the impacts from hydrocarbon drilling within 2km proximity of potash reserves are properly assessed. The detailed policy framework of Policy S02 then seeks to assess whether any individual hydrocarbon drilling project would have any actual harm on reasonably required potash reserves. This is considered to represent a reasonable and flexible approach given the areas affected are likely to be of greater value for potash rather than hydrocarbons given the known national spatial distribution of the two minerals.

127. What evidence is there to indicate that potash reserves and resources could be impacted by hydrocarbon extraction?

The Sirius planning application (LPA/26) explains that potash was discovered when drilling for hydrocarbons. The application also provides details of the geological stratigraphy of North Yorkshire. In brief it explains how the 'Staintondale Group' (including Sneaton Halite, Sneaton Potash) sits above the 'Teesside Group' (including Boulby Halite, Boulby Potash) which sits above the 'Aislaby Group' (including polyhalite). These rocks, at approx. 1500m depth, are impervious to gas migration to the surface from the deeper source shale gas top of horizon at approx. -3000m and can create conventional gas 'domes' which can be exploited for conventional gas extraction.

Within the Sirius Mineral Polyhalite application documentation (LPA/25), the *Alternative sites assessments* (pages 36 – 38) deals with 'gas' as a constraint. It explains that gas can be present in seams where potash is mined and can outburst with explosive effect as the potash seam is being mined. In the early 2000s, at Boulby Potash mine, a part of the mine had to be closed off for 3 months when high levels of hydrogen sulphide in-flowed into the potash seam being mined. Drilling for gas creates pathways through the Polyhalite thereby sterilising wide areas of the mineral resource.

128. What evidence is there to support the proposed 2km underground buffer around the potash resource?

As briefly explained in paragraph 8.19 of the Plan (CD17) the current economically viable horizontal drilling distance for hydraulic fracturing is understood to be of the order of 2km to 3.5km. Drilling for gas effectively sterilises Potash deposits to maintain potash industry-adopted safety standards. The *2015 Infrastructure Act* (NEB23) has imposed a ban on fracking from the surface within a National Park. The 2km underground buffer policy in this Plan seeks to ensure any such horizontal drilling into the Potash safeguarding areas can be properly assessed if fracking proposals are envisaged just beyond the National Park or AONB boundary. The 2km buffer arises from a professional planning judgement based on current drilling technology and seeks to provide a reasonable drilling stand-off area to ensure any horizontal drilling project in the Potash safeguarding areas in the Plan area can be properly assessed with regard to an actual drill program, local environmental conditions and value of the relevant Potash reserve affected.

129. Although mentioned in the Plan's supporting text at paragraph 8.18, in order to be effective in controlling the potential impact on potash and to give it the weight of policy, should hydraulic fracturing be included in the list of developments that require the submission of information in Policy S02 Part 2)?

Yes, it is agreed that such reference would be appropriate in Policy S02, Part 2) in order to carry forward the intended approach to safeguarding reflected in both Policies S01 and S02. This will be added to the *Main Modifications* list for action.

130. To be effective, should Policy S02 Part 3 be more positively worded towards hydrocarbon development, whilst maintaining the potash protection?

No, given the known national spatial distribution of Potash and hydrocarbons together with known extractive techniques (an offshore mine location for Potash extraction is considered technically unfeasible, it was investigated as an early alternative Sirius site, whereas there has been history of gas extraction offshore) and given the relatively small areas of Potash safeguarding, it is considered that Potash safeguarding should have a clear priority over potential hydrocarbon development in this small part of the Plan area. (The spatial distribution of onshore Polyhalite is shown in fig 2.1 of *Sirius Minerals Planning Statement* (LPA/25 page 9) and the distribution of hydrocarbons is shown on the Oil & Gas Authority website, particularly the Onshore Interactive mapping facility).

131. For effectiveness and to give proper direction as to what "exempt" development is, should Policy S02 Part 1 vi) be cross referenced to the location of the Safeguarding Exemption Criteria list?

The Authorities agree that Policy S02 Part 1 vi) should include a cross reference to the location of the Safeguarding Exemption Criteria list. This will be added to the *Main Modifications* list for action.

132. To be effective should the Plan more clearly explain what the practical implications are for development applications on safeguarded land, safeguarded sites and surrounding buffers?

In general terms, the implications for development of the safeguarding policies in the Plan (CD17) are summarised in paragraphs 8.2 and 8.3, which indicate that the purpose is not to prevent other forms of development on or near a safeguarded resource or item of infrastructure, but to ensure that the presence of that resource or infrastructure is taken into account in development decisions.

With regard to minerals resource safeguarding areas (Policy S02), the policy justification, particularly paragraph 8.22, provides more detailed explanation of the practical implications of application of the Policy. Similarly, with regard to waste management facility safeguarding (Policy S03), paragraphs 8.29, 8.30 (with Proposed Change PC85) and 8.31 of the policy justification set out the purpose and implications of the intended approach. Similarly, with reference to transport infrastructure safeguarding (Policy S04), paragraphs 8.35 and 8.36 provide more information on the practical implications. Specifically, paragraph 8.35, final sentence, states that *'Where proposals for non-exempt development in (safeguarded zones) would not be compatible with the safeguarded use then permission will be refused unless suitable mitigation can be provided as part of the proposals for the encroaching development or there are other overriding benefits'*. Explanation of the approach to safeguarding of minerals ancillary infrastructure (Policy S05) is provided in paragraphs 8.40, 8.41 and 8.42, which clarify the intended approach. Specifically, paragraph 8.40 states that applications for development which would result in the loss of a safeguarded facility should include information to demonstrate how the safeguarded use will be protected, or why it is no longer appropriate for safeguarding, in line with the policy. The final sentence of paragraph 8.41 states that *'Where proposals for non-exempt development in (safeguarded zones) would not be compatible with the safeguarded use then permission will be refused unless suitable mitigation can be provided as part of the proposals for the encroaching development or there are other overriding benefits'*. For consistency, and to provide further clarification of the intended approach, the Authorities acknowledge that it would be helpful to include equivalent text at the end of paragraph 8.30 relating to Waste management facility safeguarding. This additional text will be included as a *'Main Modification'*.

133. Is all appropriate waste infrastructure included for safeguarding in Appendix 2 of the Plan and identified on the Policies Map?

All of the appropriate waste infrastructure included in *Appendix 2* (CD19) at *Publication stage* is included on the *Policies Map*. An additional site was included as PC27 in the *Addendum of Proposed Changes to the Publication Draft* (CD09) which will be added to the Policies map as part of the Main Modifications.

134. With reference to *Safeguarding of waste infrastructure* (SEB06), very briefly summarise how this infrastructure has been identified.

The *Safeguarding of waste infrastructure* (SEB06) paper firstly establishes what constitutes a strategically important waste management facility in the context of the Plan area through a targeted approach. The *Yorkshire and Humber Waste Position Statement February 2016* (WEB12) identifies strategically important waste management infrastructure in the Yorkshire and Humber area. The statement identifies waste treatment facilities with an EA permit capacity exceeding 75,000 tonnes per annum as well as major energy recovery capacity (excluding biomass combustion plants) and major landfill sites for non-inert

waste as being strategically significant for the Yorkshire and Humber area. The facilities within the Plan area which fall into these categories are safeguarded within the Plan.

Other waste facilities which manage lower volumes of waste could be considered strategically important to the delivery of the Plan due to the specialist nature of the facility or the nature of waste they manage. There are a large number of waste management facilities in the area and therefore it was considered appropriate to give priority to safeguarding facilities which manage hazardous or non-inert waste as these facilities may be more difficult to provide. It is also considered appropriate to give priority to safeguarding recycling, composting and treatment facilities as well as a number of other facility types which are either scarce or more specialised in nature, rather than transfer facilities (other than for transfer of hazardous waste and local authority collected waste) which are prevalent in the area. The parameters used in the waste capacity model helped to identify those waste facilities which are considered to be strategically significant within the Plan area for safeguarding.

135. With reference to Policy S03 (Waste management facility safeguarding) how has the 250m buffer zone around waste management sites been determined and is this buffer justified?

As detailed in the evidence base paper *Safeguarding of waste infrastructure (April 2017) (SEB06)* implementation of a 250m buffer zone around waste management sites identified on the Policies Map, as set out in Policy S03, reflects a balance between ensuring that the potential for significant impacts arising from some waste uses is allowed for, whilst limiting the extent to which consultation for safeguarding purposes is required. It is also consistent with the Environment Agency's restrictions on open composting of waste taking place within 250m of sensitive receptors (typically residential properties or workplaces) which is detailed in an EA Position Statement '*Composting and potential health effects from bioaerosols*' (November 2010) (LPA/27).

The use of a buffer zone is justified as the introduction of other forms of development in close proximity to established or allocated waste uses, in some cases, can lead to conflict given the potential for impacts on local amenity due to, for example, noise, dust, odour or bioaerosols. The identification of a buffer zone around safeguarded waste facilities ensures that the potential for such impacts can be properly taken into account, whilst also recognising the importance of allowing the waste facility to continue to operate. As a range of types and scales of development could be associated with waste management activity, it is not practicable to define individual buffer zones for each facility, and therefore a standard 250m buffer zone has been set.

136. Does the word “frustrate” in Policy S03 give sufficiently clear guidance to developers on what is meant or is additional explanation required?

The word ‘*frustrate*’ has been used to express the circumstance where a waste-related development might be severely limited or curtailed in the way such a development undertakes its operations. Such situations are envisaged where proposals for residential development or other sensitive development could potentially lead to the impositions of constraining conditions on the operations of existing waste management developments.

The policy justification accompanying Policy S03 provides examples of the types of development such as residential uses and also commercial and industrial uses that depend on a high quality local environment (for example within the food and health care sectors) that could potentially lead to more onerous restrictions/limitations being imposed upon waste management developments placing the continued viability and ultimately existence at risk if such safeguarding policies were not to exist.

A reasonable and justified separation distance would ensure that the potential for such impacts can be properly taken into account, whilst also recognising the importance of allowing waste facilities to continue to operate as explained within Paragraph 8.30 in the *Publication Draft (CD17)*.

In noting that the word “*frustrate*” may potentially be insufficiently clear, it is considered that the words “*unduly restrict*” may prove to be clearer and should be a modification in the Plan.

137. Should Policy S03 include lack of viability as a criterion?

It is considered that criterion iii) of the existing policy wording of Policy S03 (*Waste management facility safeguarding*) goes as far as realistically possible and already allows viability considerations to be taken into account in determining whether there is a reasonable prospect of infrastructure being used in the future, therefore further addition to the policy is not considered necessary.

138. Should Policy S03 cross reference the location of the Safeguarding Exemption Criteria list?

The Authorities agree that Policy S03 should include a cross reference to the location of the Safeguarding Exemption Criteria list. This will be added to the *Main Modifications* list for action.

139. To be effective, should Policies S03 (Waste management facility safeguarding), S04 (Transport infrastructure safeguarding) and S05 (Minerals ancillary infrastructure safeguarding) make reference to safeguarded sites being set out in Appendix 2 of the Plan?

The Authorities agree that Policies S03, S04 and S05 should make reference to safeguarded sites being set out in Appendix 2 of the Plan. This will be added to the *Main Modifications* list for action.

140. Is all appropriate transport infrastructure included for safeguarding in Appendix 2 of the Plan and identified on the Policies Map?

Yes, all appropriate transport infrastructure is included for safeguarding in *Appendix 2 (CD19)* of the Plan and also identified on the Policies Map *CD22 and CD23*.

141. Very briefly summarise how this infrastructure has been identified.

Paragraph 143 of the NPPF promotes the safeguarding of minerals transport infrastructure. This paragraph was used as a basis for identifying existing rail, wharf and bulk transport infrastructure in the Plan area which currently is or could potentially be used for the transport of minerals.

An initial list of potential sites for safeguarding was included in a draft safeguarding of minerals infrastructure document, which was sent out for consultation to the minerals industry, District Councils, Marine Management Organisation and wharf owners. Any comments provided, including suggestions for further sites, were considered and the document updated to produce the finalised *Safeguarding of minerals infrastructure (SEB05)*. The sites included in this document are included in *Appendix 2 (CD19)* of the Plan.

142. With reference to Policy S04 how has the 100m buffer zone around transport infrastructure been determined and is this buffer justified?

PPG's Paragraph 006 (Reference ID: 27-006-20140306) states that planning authorities should safeguard existing, planned and potential storage, handling and transport sites to, amongst other matters:

- *Prevent sensitive or inappropriate development that would conflict with the use of sites identified for these purposes.*

No further national policy or guidance is available to help inform a local approach to the delivery of this objective; however, the Authorities consider that a balanced approach is necessary. The operation of transport infrastructure for minerals and waste has the potential to give rise to a range of impacts, such as

rail or road movements outside daytime hours, with associated potential for sensory and environmental impacts such as noise, dust, vibration and light intrusion during loading and unloading activities. Impacts of this nature can give rise to significant disturbance, and adverse impact on the environment and local amenity, at locations outside the boundary of the safeguarded facility. They can therefore impact adversely on some other forms of land uses and development. As part of a managed approach to development, it is therefore important that a mechanism is in place to allow for the identification of such potential issues, and to provide an opportunity to ensure that relevant matters are taken into account in development decisions. This is particularly relevant in those parts of the Plan area where a two-tier planning authority structure exists and is considered to be of help in ensuring that development is sustainable. The identification of a buffer zone around safeguarded infrastructure provides that mechanism. The purpose of these zones is not to prevent other forms of development from taking place in all circumstances, but to allow consideration to be given to issues of compatibility and the potential for mitigation as part of a managed approach.

It is not practicable to define specific buffer zones for each safeguarded site, particularly as, in some cases, the sites have been identified on the basis of their potential for use for minerals and waste transport infrastructure but such use is not, currently, taking place, thus making it impracticable to identify specific impacts and therefore a bespoke buffer zone. A 100m buffer zone has therefore been judged to represent a proportionate approach, reflecting the fact that issues of incompatibility are likely to be most significant where development is proposed in close proximity, whilst also avoiding an unnecessarily onerous requirement on developers and local planning authorities to address this issue for proposals where substantial issues of incompatibility are less likely to arise.

143. Should Policy S04 include lack of viability as a criterion?

It is considered that criterion iii) of the existing policy wording of Policy S04 (*Transport infrastructure safeguarding*) goes as far as reasonably possible and already allows viability considerations to be taken into account in determining whether there is a realistic prospect of infrastructure being used in the future, therefore further addition to the policy is not required.

144. Should Policy S04 cross reference the location of the Safeguarding Exemption Criteria list?

The Authorities agree that Policy S04 should include a cross reference to the location of the Safeguarding Exemption Criteria list. This will be added to the *Main Modifications* list for action.

145. Does the word “frustrate” in Policy S04 give sufficiently clear guidance to developers on what is meant or is additional explanation required?

The word ‘*frustrate*’ has been used to express the circumstance where a development might be severely limited or curtailed in the way a development undertakes its operations. Such situations are envisaged where proposals for residential development or other sensitive development could potentially lead to the impositions of constraining conditions on the operations of existing transport infrastructure for waste and/or minerals transport purposes.

The policy justification accompanying Policy S04 within Paragraph 8.35 on Page 156 of the *Publication Draft (CD17)* explains that a separation distance between safeguarded transport infrastructure and other non-compatible uses of land is appropriate in the circumstance of needing to safeguard the continued use of facilities for the transport of minerals or waste from being compromised. Known facilities that have the potential to provide non-road transport are recognised as being potentially at risk of competing land uses that could compromise any commercially viable use of the site for minerals- or waste-related transport infrastructure. It is within this context that this specific safeguarding policy is written.

However, in noting that the word “*frustrate*” may potentially be insufficiently clear, it is considered that the words “*unduly restrict*” may prove to be clearer and should be a modification in the Plan.

146. With reference to *Safeguarding of minerals infrastructure (SEB05)*, very briefly summarise how this infrastructure has been identified.

Paragraph 143 of the NPPF (NEB01) promotes the safeguarding of infrastructure for concrete batching, the manufacture of coated minerals and other concrete products this paragraph was used as a basis for identifying existing minerals infrastructure. District Councils were approached to provide details of environmental permits which included permits for concrete and roadstone manufacturing facilities in their area. This provided a basis for the list of concreting and roadstone coating plants. Only standalone sites were considered for safeguarding as facilities located on existing mineral sites would be protected by the mineral permission. For consistency gas processing plants were also included.

An initial list of identified sites were included in a draft safeguarding of minerals infrastructure document, which was sent out for consultation to the minerals industry and District Councils. Any comments provided, including additional or revised sites suggested, were considered and the document updated to produce the finalised *Safeguarding of minerals infrastructure (SEB05)*. The sites included in this document are contained in *Appendix 2 (CD19)* of the Plan.

147. With reference to Policy S05 (Minerals ancillary infrastructure safeguarding) how has the 100m buffer zone around infrastructure sites been determined and is this buffer justified?

See response to Q. 142, which is considered to apply equally to the identification of a buffer zone for safeguarded minerals ancillary infrastructure.

148. Is all appropriate minerals infrastructure included for safeguarding in Appendix 2 of the Plan and identified on the Policies Map?

Yes, all appropriate minerals infrastructure is included for safeguarding in Appendix 2 (CD19) of the Plan and also identified on the *Policies Map CD22* and *CD23*.

149. Should Policy S05 include lack of viability as a criterion?

It is considered that criterion iii) of the existing policy wording of Policy S05 (*Minerals ancillary infrastructure safeguarding*) goes as far as reasonable possible and already allows viability considerations to be taken into account in determining whether there is a realistic prospect of infrastructure being used in the future, therefore further addition to the policy is not required.

150. Should Policy S05 cross reference the location of the Safeguarding Exemption Criteria list?

The Authorities agree that Policy S05 should include a cross reference to the location of the *Safeguarding Exemption Criteria list*. This will be added to the *Main Modifications* list for action.

151. Does the word "frustrate" in Policy S05 give sufficiently clear guidance to developers on what is meant or is additional explanation required?

The word '*frustrate*' has been used to express the circumstance where a development might be severely limited or curtailed in the way a development undertakes its operations. Such situations are envisaged where proposals for residential development or other sensitive developments could potentially lead to the impositions of constraining conditions on the operations of existing minerals ancillary infrastructure.

In recognising that national planning policy encourages the safeguarding of minerals ancillary infrastructure and in particular sites for such uses as concrete batching plants, coated roadstone manufacture and other concrete products as well as the handling, processing and distribution of substitute, recycled and

secondary aggregate material, the policy justification accompanying Policy S05 explains that there are known circumstances around the Plan area where minerals ancillary infrastructure located within a non-minerals related land use environment can be vulnerable to competing uses of land or in-compatible uses enlarging their existing sites and therefore encroaching on land ever closer to such sites; such instances include those for example located on existing industrial estates. It is within this context that this specific safeguarding policy is written.

However, in noting that the word “*frustrate*” may potentially be insufficiently clear, it is considered that the words “*unduly restrict*” may prove to be clearer and should be a modification in the Plan.

152. Should Policy S06 (Consideration of applications in Consultation Areas) cross reference the location of the Safeguarding Exemption Criteria list?

The Authorities agree that Policy S06 should include a cross reference to the location of the *Safeguarding Exemption Criteria list*. This will be added to the *Main Modifications* list for action.

153. To be effective, should the Safeguarding Exemption Criteria in paragraph 8.47 be given the weight of policy?

It is acknowledged that PPG’s Paragraph 003 (Reference ID: 27-003-20140306) refers to the detailed advice on mineral safeguarding in the BGS Geological Survey report *Mineral safeguarding in England: good practice advice* (LPA/44) and that it provides examples of development management policies including exemption criteria. It was considered that inserting the exemption criteria into each of Policies S02, S03, S04, S05 and S06 would be repetitious and therefore, whilst each refers to the criteria list, the content is not in full. However, an improved balanced approach would be to insert into each of Policies S02, S03, S04, S05 and S06 a Main Modification as following ‘... *Exemption Criteria list as set out in paragraph 8.47,...*’.

154. Is the list comprehensive in that it includes all development that should be exempt?

Yes, it is considered that the list is comprehensive and strikes an appropriate balance between the safeguarding of minerals resources, and of minerals and waste infrastructure in accordance with national policy, and, as explained in paragraph 8.2 and 8.3 of *Publication Draft* (CD17), not unreasonably preventing other forms of development whilst making sure that the presence of the resource or infrastructure is taken into account when other non-minerals or waste development proposals are under consideration.

Prepared by;

**North Yorkshire County Council
City of York Council
North York Moors National Park Authority**

Appendix

Matters, Issues & Questions:

Matter 3: Transport, Infrastructure and Safeguarding – Safeguarding

Question 115 - 154

Main Modifications

The modifications below are expressed either in the conventional form of ~~strikethrough~~ for deletions and underlining for additions of text.

The page numbers and paragraph numbering below refer to the submission local plan, and do not take account of the deletion or addition of text.

Text in **red** refers to a proposed change to the Publication Draft MWJP, as detailed in the Addendum of Proposed Changes to the Publication Draft (2017).

Ref	Page	Policy/ Paragraph	Main Modification
Q129	152	S02	Add additional bullet point to Part 2) of the Policy: <ul style="list-style-type: none"> • <u>Hydraulic fracturing</u>
Q131 & Q153	152	S02	Revise Part 1) vi) of the Policy: <p><u>It constitutes 'exempt' development (as defined in the Safeguarding Exemption Criteria list as set out in paragraph 8.47).</u></p>
Q132	155	8.30	Revise Para: <p>... It is also consistent with the Environment Agency's restrictions on open composting of waste taking place within 250m of residential property. <u>Where proposals for non-exempt development in these zones would not be compatible with the safeguarded use then permission will be refused unless suitable mitigation</u></p>

Ref	Page	Policy/ Paragraph	Main Modification
			can be provided as part of the proposals for the encroaching development or there are other overriding benefits. In these circumstances the Minerals and Waste Planning Authority will seek to ...
Q133	Policies Map	Documents CD22 and CD23	Add the polygon for the safeguarded waste transfer (non-hazardous) site to policies map.
Q136	154	S03, first paragraph	Revise 1 st sentence of the Policy: Waste management sites identified on the Policies Map, with a 250m buffer zone, will be safeguarded against development which would prevent or frustrate <u>unduly restrict</u> the use of the site ...
Q138 & Q153	154	S03	Revise 1 st sentence of the final paragraph of the Policy: Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, <u>as set out in paragraph 8.47</u>, is proposed....
Q139	154	S03	Revise 1 st sentence of the first paragraph of the Policy: Waste management sites identified on the Policies Map <u>and in Appendix 2</u>, with a 250m buffer zone...
Q139	155	S04	Revise 1 st sentence of the first paragraph of the Policy: Railheads, rail links and wharves identified on the Policies Map <u>and in Appendix 2</u>, with a 100m buffer zone...
Q139	157	S05	Revise 1 st sentence of the first paragraph of the Policy: Minerals ancillary infrastructure sites identified on the Policies Map <u>and in Appendix 2</u>, with a 100m buffer zone...

Ref	Page	Policy/ Paragraph	Main Modification
Q144 & Q153	155	S04	Revise 1 st sentence of the final paragraph of the Policy: Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, <u>as set out in paragraph 8.47</u>, is proposed....
Q145	155	S04	Revise 1 st sentence of the first paragraph of the Policy: ... development which would prevent or frustrate <u>unduly restrict</u> the use of the infrastructure for minerals or waste transport ...
Q150 & Q153	157	S05	Revise 1 st sentence of the final paragraph of the Policy: Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, <u>as set out in paragraph 8.47</u>, is proposed....
Q151	157	S05	Revise 1 st sentence of the first paragraph of the Policy: Minerals ancillary infrastructure sites identified on the Policies Map, with a 100m buffer zone, will be safeguarded against development which would prevent or frustrate <u>unduly restrict</u> the use of the site for minerals ancillary ...
Q152 & Q153	158	S06	Revise 1 st sentence of the Policy: Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, <u>as set out in paragraph 8.47</u>, is proposed....