Matters, Issues & Questions:
Matter 4: Development Management Policies

Question 155 - 177

Questions:

155. Should Policy D02 (Local amenity and cumulative impacts) part 1) make reference to local communities and residents?

The policy justification refers to local communities in paragraph 9.12 and it is considered that it is widely acknowledged that '*local communities'* would include residents.

It is considered that it is already sufficiently clear from the Policy and policy justification that reference to '*local amenity*' in the policy includes the amenity of local communities and residents. However, replacing '*local amenity'* with '*the amenity of local communities and residents*' would give greater clarity and will be included as a main modification.

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?

The NPPF (NEB01) sets out that all developments, which generate significant amounts of transport movements, should be required to provide a *Travel Plan* (paragraph 36).

Planning Practice Guidance (NEB02) states that Transport Assessments and Statements are ways of assessing the potential transport impacts of developments and may propose mitigation measures to promote sustainable development. It continues '*where the transport impacts of development* ***are not significant,*** *(our emphasis) it may be that no Transport Assessment or Statement or Travel Plan is required'* (PPG 42–004–20140306).

Policy D03 is therefore consistent with national Planning policy and guidance that a *Green Travel Plan* is required for proposals generating significant levels of road traffic.

In practice, for development proposals generating significant levels of traffic, both the Highways Agency and the local highway authority require such a plan to be produced and this is also generally recognised by the minerals and waste industries.

157. With respect to the exceptional circumstances for development in the National Park and AONBs in Policy D04 (Development affecting the North York Moors National Park and the AONBs) Part 1) a) is the wording "will" usually include a "national need" and contribution to the "national economy" too restrictive?

Policy DO4 is intended to provide clear policy criteria in terms of the so-called "*major development test*" as set out in national policy (Paragraph 116 of the NPPF). This starting point of a presumption of refusal of major development in nationally protected landscapes is a well-established government policy originating from the 1950s (aka the "Silkin Test") and initially focused on major minerals development which was a significant development pressure in some of the newly designated National Parks at this time. It was supposed to set a "*national*" test to balance the public interest of protecting National Parks against other public interests which could conflict with the purposes of designation and it allowed for exceptional circumstances such as an overriding national need for the development to be allowed notwithstanding its intrinsic harm to the protected landscape.

Over time, the policy was transferred into PPGs and was included in two separate forms – a generic version in PPS7 and a specific major minerals development version in MPS1. Finally, it became a condensed single policy as set out in Paragraph 116, but lost the specific requirement to assess the national need for the specific mineral being produced.

The National Park Authority has given significant consideration to the interpretation of the policy wording in Paragraph 116 and sought legal advice on it as part of its determination of the Sirius Minerals Polyhalite Mine application in 2014/15. Policy DO4 is regarded as an amplification of Paragraph 116, and is considered to provide additional definition to the wording of the national policy without changing its meaning or original intention.

The second part of this criterion explains that the assessment of need will usually include the national need for the mineral and the contribution of the development to the national economy. This explains what the term "*including in terms of any national considerations*" actually means. This interpretation has been advised by Counsel advice provided to the Authority and is considered to be an accurate interpretation by officers. It is further supported by the only government explanation of this term that we are aware of – the *National Policy Statement on Energy (EN(1))* (LPA29). This sets out how nationally significant infrastructure should be assessed in National Parks and at paragraph 5.9.10 re-states the '*major development test'* and then helpfully sets out an explanation in footnote 128:"*National considerations should be understood to include the national need for the infrastructure as set out in Part 3 of this NPS and the contribution of the infrastructure to the national economy*".

Policy DO4 does not say that any consideration of need under Part 1(a) will always, or only, comprise a consideration of national need (as defined). The fundamental policy requirement is to consider the "*need for the development*"

and whilst this will usually involve national considerations the policy is not prescriptive and allows other factors to be taken into account if relevant in any given case.

It is therefore not considered that these terms are too restrictive, conversely they are considered to clarify the wording in Paragraph 116 to provide greater policy guidance to developers.

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?

Part 1) b) of Policy D04 follows directly the national policy in Paragraph 116 which is set out in the second part of the first bullet point of the paragraph. This is an important consideration as major development particularly that which has traditionally been well established in National Parks such as limestone quarrying plays an important contribution to the local economy. Greater economic scope is embodied in part a) of the policy where the consideration of national need includes the economic benefits of the development up to and including at a national level (as explained above).

Part c) follows bullet point 2 of national policy which requires an assessment of the cost and scope of siting the development outside the designated area. It is considered that the wording used in Policy D04 accurately represents national policy – "*whether the development can be technically and viably located elsewhere…*" covers the cost of (and therefore takes account of economic sustainability) and scope for developing elsewhere.

159. Is there any difference in the scope or application of Policy D04 Part 1 d) to that set out in the NPPF para paragraph 116 third bullet point?

Again, this wording is considered to be an amplification or clarification of the wording in national policy rather than extending its scope or meaning by incorporating additional explanation. Thus, Paragraph 116 requires consideration of the extent to which the inherent detrimental effect of major development in a protected landscape can be moderated. Major development by its nature and scale is highly likely to harm or seriously conflict with the purposes of designation (which is why both landscape and recreational opportunities are referred to – the latter being an important part of the second National Park purpose). It is an important part of the policy as a proposal which meets other parts of the policy may well not be considered to be in the public interest if it results in very severe detrimental effects which are unable to be moderated to an acceptable level. This is made clearer in Part 1d) of the Policy by the additional wording which provides a measure of whether this part of the policy can be met – i.e. if after moderation or mitigation built into the design of the development and taking account of additional mitigation through planning conditions and obligations the development still results in significant harm or

conflict with the reasons for designation, this would weigh against the development in the overall planning balance.

160. Should the last sentence of Policy D04 Part 1 read "unavoidable" rather than "avoidable" and what is meant by "appropriate and practicable compensation"?

Yes, this suggested change is included as a proposed change (PC20) in the *Addendum of Proposed Changes to the Publication Draft* (CD09). Appropriate and practicable compensation refers to outstanding harmful impacts directly resulting from the development which cannot be fully mitigated through the use of planning conditions or planning obligations. Compensation is therefore achieved through a planning obligation and follows the approach of "*offsetting*" where unavoidable harm is compensated for by enhancement elsewhere. '*Appropriate*' refers to the need for this to meet the tests of planning obligations (i.e. *necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind).*

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?

Yes, as written, it is accepted that the wording for development outside the designated areas is too restrictive and should be qualified. A relevant modification will be included in the Main Modifications table to reflect this.

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*? (My emphasis)

The revised Policy D05 Part 2 states '*Substantial weight will be given to any harm to the Green Belt and very special circumstances will need to be demonstrated by the applicant in order to outweigh harm caused by inappropriateness or any other harm*'.

It is considered that this revised wording is consistent with paragraph 88 of the NPPF (NEB01). However, replacing '*or*' with '*and*', will be included as a *main modification*.

163. Policy D05 Part 2) is more restrictive than national policy in that it classifies both new buildings and other forms of waste development as inappropriate whereas NPPF paragraph 89 only refers to new buildings. Is this justified and is it consistent with national policy (including NPPW)?

The NPPF (NEB01) states that '*the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'*.

The NPPF (NEB01) also states that '*a local planning authority should regard the construction of new buildings as inappropriate in Green Belt*,' subject to various exceptions (Paragraph 89). Certain other types of development are also stated to be not inappropriate development in the Green Belt (Paragraph 90). Waste development is not dealt with in the NPPF and the section on the Green Belt makes no reference to waste developments being appropriate or inappropriate development.

The NPPW (NEB19) at Paragraph 6 recognises that '*Green Belts have special protection in respect to development. In preparing Local Plans, waste planning authorities…should first look for suitable sites and areas outside the Green Belt for waste management facilities that, if located in the Green Belt, would be inappropriate development'*. The NPPW recognises therefore that some waste management facilities will be inappropriate development in the Green Belt. It does not state that this should only apply to buildings.

Against this national policy background the approach in the Plan is that as well as buildings there are other forms of waste development that have the potential to conflict with the aim of keeping Green Belt land open. These would include for example erection in the open of substantial elements of waste crushing and screening Plant or the storage of end of life vehicles or tyres or other such material whose height and length of time in storage would conflict with the aim of keeping Green Belt land open. It is considered that such development would therefore be inappropriate in the Green Belt.

The policy approach is therefore considered to be justified and consistent with national policy.

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)?

It is considered that Policy D07 is consistent with the NPPF (NEB01) including paragraph 113. Part 1 provides an outline of general protection of biodiversity and geodiversity, while parts 2) to 6) outline specific protection for a range of designations as follows:

- Part 2) Highest level of protection for international sites
- Part 3) High level protection for SSSIs, Ancient Woodland and aged or veteran trees
- Part 4) SSSI Impact Risk Zone policy
- Part 5) Making a positive contribution to biodiversity / geodiversity
- Part 6) Offsetting and compensation to potential impacts from development.

While it is considered that Policy D07 is consistent with the NPPF, it is acknowledged that it could be drafted in a way which provided more clarity with regards to the hierarchy of designations in part 1, which could be further expanded upon in parts 2) to 6). A relevant modification will be included in the *'Main Modifications'* table.

165. Does Policy D07 provide sufficient protection to sites lower down the hierarchy such as those identified in part 1)?

Yes, it is considered that the Policy provides adequate protection and is drafted to ensure '*no unacceptable impacts upon these sites and habitats taking into account mitigation*' is clear and in line with the NPPF (NEB01) in terms of giving protection commensurate with their status. However, as acknowledged in our answer to Q164 above, the Policy will be amended in a way which provides further clarity. Policy D07 has been redrafted in response to Q164 so no further modification is required.

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

The Policy reflects the protection provided for within NPPF (NEB01) (Paragraph 118) but additional wording could be added to strengthen the protection for the ancient woodland and aged/veteran trees. The policy will be updated to include the requirement that the need for (as well as benefits of) the development in that location clearly outweighs the loss. A relevant modification will be included in '*Main Modification'* table.

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 is considered to be effective, but steps to avoid, mitigate and if necessary compensate on site for impacts should be considered in the first instance. The biodiversity offsetting process is still emerging and we understand that Natural England is currently reviewing the process. It is also noted that the *Defra 25 Year Environment Plan* (LPA/30) commits to strengthening biodiversity

net gain in national planning policy and consideration of broader natural capital approaches.

It is included in paragraph 9.56 of the Plan (CD17) that the circumstances in which offsetting may be required is considered to be very rare and its use will be kept under review during the Plan period. It is considered that this approach is still appropriate and allows flexibility to take account any changes in emerging policy.

The link to Policy D10 is already included in the '*Key links to other relevant policies and objectives*' section of the Policy, and it is considered that this is sufficient.

168. In Policy D07 6) iv) what is the rationale behind requiring compensatory gains to be delivered within the minerals or waste planning authority area in which the loss occurred? How are cross-boundary aspects of biodiversity taken into account?

The rationale (see page 175, paragraph 9.56 in the Plan) details that this is to ensure that biodiversity assets are not displaced out of the local area. It would be possible to provide further justification (and potential amendment to the Policy) on preferred locations for compensation and to provide possible exemptions to this Policy e.g. where sufficient evidence is provided to demonstrate the biodiversity benefits and outcomes are improved by undertaking compensatory measures outside of the Plan area.

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

It is agreed that increased emphasis should be provided for cumulative impacts on biodiversity and geodiversity. While some individual policies (e.g. Policy M17) specifically reference the need to consider cumulative impacts this could be strengthen within the Plan. A relevant modification will be included in the *'Main Modifications'* document to reflect this.

170. In Policy D09 (Water environment) should reference in part 4) to "sustainable ***urban*** drainage systems" be to "sustainable drainage systems (SuDS)? (my emphasis)

The Authorities agree that the reference in part 4) to "*sustainable **urban** drainage systems*" be changed to "*sustainable drainage systems*" (SuDS). This will be added to the *Main Modifications* list for action.

171. Paragraph 9.97 of the introductory section to Policy D11 (Sustainable design, construction and operation of development) refers to policies in other locals plans in the area requiring homes to meet BREEAM and the Code for Sustainable Homes standards. However the Written Ministerial Statement of 25 March 2015, which deals with housing standards amongst other things, streamlines housing standards so that they comply with national standards and the Building Regulations (apart from access and water in justified cases). Therefore, BREEAM and the Code for Sustainable Homes (now withdrawn) no longer apply to dwellings. Consequently, is the reference and implied reliance in paragraph 9.97 on these standards being used for local homes consistent with national policy?

The Authorities agree that national policy has changed and BREEAM and the *Code for Sustainable Homes* no longer apply to dwellings, therefore the current reference and implied reliance in paragraph 9.97 is no longer relevant. The paragraph 11.14 of the *Pre-Publication draft of the City of York Local Plan (2017) (LPA/31)* acknowledges that Councils in England can no longer demand energy improvements in homes beyond the requirements of building regulations. *Policy CC2: Sustainable Design and Construction of New Development* of emerging City of York Local Plan (LPA/31) include targets in line with current building regulations (LPA/33).

The last sentence of Paragraph 9.97 of the Plan will be amended as a *Main Modification* to reflect the change in approach by City of York Council.

172. Should reference to "sustainable ***urban*** drainage systems" in paragraph 9.98 of the Policy Justification to D11 be to "sustainable drainage systems" (SuDS)? (My emphasis)

The Authorities agree that the reference in paragraph 9.98 of the Policy Justification to "*sustainable* ***urban*** *drainage systems*" be changed to "*sustainable drainage systems*" (SuDS). This will be added to the *Main Modifications* list for action.

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?

Proposed Change PC97 (*Addendum of Proposed Changes to the Publication Draft (CD09)*) seeks to provide clarification of the proposed approach in the second part of Policy D12 but it is acknowledged that, notwithstanding this proposed change, further clarity in this element of the Policy would be beneficial and that

there is a need to ensure that the requirements of this part of the Policy are not unduly onerous. The Authorities further consider that it is likely to be difficult to provide sufficient clarity of the term '*high environmental value*" as a wide range of considerations may be relevant. The Authorities will set out a modification to the final sentence of Policy D12, second paragraph, to indicate that development which would disturb or damage intact peat will not be permitted unless there would be overriding benefits in doing so. This would ensure that the particular importance of peat as an environmental resource of high significance is recognised, whilst retaining appropriate flexibility in respect of proposals which would affect other types of soil resource.

174. Should the exemptions list set out in paragraphs 9.115 to 9.117 be given the weight of policy and incorporated into Policy D13 (Consideration of applications in Development High Risk Areas)?

The Coal Authority has raised no objections to Policy D13 and the accompanying policy justification as set out in the Plan (CD17). The exemptions identified in paragraphs 9.116 and 9.117 are taken from the coal mining risk assessment exemptions list produced by the Coal Authority (LPA/32). It is considered that retaining the exemptions in the justification text provides more flexibility to reflect any future changes that the Coal Authority may make to the list than would be possible within the Policy itself.

175. To be effective, should there be a map in the MWJP identifying the High Risk Areas and should this be referred to in Policy D13?

The Policy D13 justification does not mention that Development High Risk Areas are shown on the *Interactive Policies Map (CD22*). The *Policies Map paper version (CD23)* does show them, but with the former name Coal Mining Development Referral Area. This could be addressed by a main modification to Policy D13's text as following '… *identified by the Coal Authority as shown on the Interactive Policies Map and on page 4 of the paper version of the Policies Map, proposals should be accompanied by …".* In addition, CD23 could be updated by the title on page 4 being changed to 'Development High Risk Area – Policy Ref No. D13' with the addition of an index and page numbers to assist in navigation within the document and the link to the Interactive Policies Map referred to in the introduction to *CD23*.

It is considered that where Paragraph 9.113 refers to the distribution of High Risk Areas the text should be amended as following '*…occur mainly within Selby District and more limited locations in the North York Moors National Park and in the western part of the Plan area. Low Risk…'* to highlight that these areas also occur in the North York Moors National Park area.

176. The last part of the Development Management chapter, which deals with section 106 agreements, Community Infrastructure Levy and Planning Performance Agreements, contains some policy statements in paragraphs 9.118 to 9.120, yet there is no policy. Should a policy be included in the Plan for these matters?

It was the initial view of the Authorities that there is adequate policy available in the National Planning Policy Framework (NEB01) (Paragraph 176) to allow the Authorities to require contributions to be made. Furthermore, there are, or will be policies in other parts of the Development Plan for the each Authority that would justify the requirement for a Section 106 or CIL contribution. The draft Plan therefore takes an approach of signalling that such a contribution may be required in supporting text.

It was considered that Planning Performance Agreements should not be covered by policy as it describes a process, and as such they were more suited to being defined and described in supporting text.

We do however accept that inclusion of a policy covering Section 106 and CIL could be considered good practice as its sets out a clear statement that contributions may be required within the main Development Plan Document covering Minerals and Waste. A relevant modification will be included in the *'Main Modifications'* table to reflect this.

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

Paragraph 143 of the NPPF (NEB01) requires that the Plan sets out the criteria against which relevant development proposals will be assessed; including dust and air quality more generally; so too does the *National Planning Policy for Waste* (NPPW) (NEB19).

Air quality over areas covered by the Plan are, for the most part, good with the exception of a few '*pockets*' (designated *Air Quality Management Areas* (AQMAs)) within the urban centres of Knaresborough, Ripon, Malton and three within the City of York. Their designations are in the main attributable to elevated levels of nitrogen dioxide arising from high levels of emissions from largely from diesel engines and HGV traffic.

However, the specific material consideration of air quality (including dust, odour, bio-aerosols and any other emissions to air) (either unilaterally or in combination) is addressed in the development management policies of:

- D02 ('*Local amenity & cumulative impacts*') where the effects of dust, odour and other emissions to atmosphere are specifically cited;
- D03 ('*Transport of minerals and waste and associated traffic impacts'*) where the effects of heavy vehicles passing through local communities or other sensitive locations and the use of heavy diesel fuels are taken into account;

- D10 ('*Reclamation and afteruse*') in particular Part 1) (iii) seeking to minimise adverse impacts that can include dust generation during reclamation works; and,
- D11 ('*Sustainable design, construction and operation of development'*) where criteria (i) of Part 1 seeks the minimisation of greenhouse gas emissions.

Air quality impacts are also cited as important material considerations in the supporting text to the Plan's waste management policies including Policy S03 ('*Waste management facility safeguarding*'); Paragraph 8.30 in the *Publication Draft (CD17)* refers.

With regards hydrocarbons-related development, air quality is specifically addressed within Policy M17 4(i) where *'stand-offs'/'buffers'* are required to be of sufficient distance (at least 500 metres in the case of proposals for surface hydrocarbon development, particularly those involving hydraulic fracturing) to safeguard against unacceptable adverse air quality impacts upon residential amenity and the amenity of other sensitive receptors.

Further, Policy M17 4(iii) which states, *inter alia*, "*proposals involving hydraulic fracturing should be accompanied by an air quality monitoring plan"* arises from a recognition that such developments have the potential to generate high volumes of HGV traffic at great intensity (i.e. over relatively shorter periods of time than other minerals-related development such as quarries for example). Paragraph 5.149 of the Plan *(CD17)* provides the policy justification supporting the inclusion within the policy for air quality monitoring plans to be provided with applications that set out measures to monitor air quality in the vicinity of sites, including the parameters to be monitored (as well as ones relating to vehicle movements), the locations for monitoring and also the arrangements for the reporting of results.

The seeking of the minimisation of emissions to air is also addressed in respect of the decommissioning and restoration phases of hydrocarbons-related development within Policy M18 2(i).

The policy formulation in respect of air quality as a whole has endeavoured to continue throughout to be conscious of steering a line between that which is thought necessary and warranted for land-use planning purposes and being satisfied that the regulatory controls of other bodies and agencies would also safeguard against adverse air quality impacts where they fall under their respective jurisdictions in accord with Paragraph 122 of the NPPF (NEB01) and referred to within Paragraph 9.13 in the Plan. It is therefore considered that the Development Management chapter adequately addresses air quality overall

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Appendix

Matters, Issues & Questions:

Matter 4: Development Management Policies

Question 155 - 177

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/ Para	Main Modification
Q155	161	D02	Revise Part 1) of the Policy: **1) Proposals for minerals and waste development, including ancillary development and minerals and waste transport infrastructure, will be permitted where it can be demonstrated that there will be no unacceptable impacts on ~~local amenity~~ the amenity of local communities and residents, local businesses and users …**
Q161	166	D04	Revise Part 3) of the Policy: **Proposals for development outside of the National Parks and AONBs will not usually be permitted where it would have a harmful effect on the setting of the designated area.**
Q162	168	D05	Revise 2nd Para of Part 2) of the Policy:

Ref	Page	Policy/ Para	Main Modification
			Substantial weight will be given to any harm to the Green Belt and ~~inappropriate waste development in the Green Belt will only be permitted in~~ very special circumstances~~, which must~~ will need to be demonstrated by the applicant, in ~~which the harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations.~~ order to outweigh harm caused by inappropriateness ~~or~~ and any other harm.
Q164	173	D07, Part 1	Revise Part 1 of Policy: **1) Proposals will be permitted where it can be demonstrated that, having taken into account any proposed mitigation measures, there will be no unacceptable impacts on biodiversity or geodiversity. ~~, including on statutory and non-statutory designated or protected sites and features, Sites of Importance for Nature Conservation, Sites of Local Interest and Local Nature Reserves, local priority habitats, habitat networks and species, having taken into account any proposed mitigation measures.~~ The level of protection provided to international, national and locally designated sites are outlined in parts 2) to 7) below.**
Q164	173	D07, Part 4	Revise final sentence of Part 4) of the Policy: **…include proposals for mitigation and enhancement where relevant.**
Q164	173	D07, Part 5	Insert new Part 5) of the Policy: **5) Locally important sites and assets include:** **i. Sites of Importance for Nature Conservation (including candidate sites);** **ii. Local Nature Reserves;** **iii. Local Geological Sites; and** **iv. Habitats and species of principal importance or other sites of geological or geomorphological importance.** **Development will not be permitted that will result in an unacceptable impact to locally important sites and assets unless it can be demonstrated that:**

Ref	Page	Policy/ Para	Main Modification
			• **<u>the benefits of development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity; and</u>** • **<u>the proposed mitigation or compensatory measures are equivalent to the value of the site/asset.</u>**
Q164	173	D07, Part 5	Part 5) of the Policy becomes Part 6) and the text is revised: **~~5)~~ <u>6)</u> Through the design of schemes, including any proposed mitigation <u>and or compensation</u> measures, proposals should seek to contribute positively towards the delivery of agreed biodiversity and/or geodiversity objectives, including those set out in agreed local Biodiversity or Geodiversity Action Plans, or in line with agreed priorities of any relevant Local Nature Partnership, with the aim of achieving net gains for biodiversity or geodiversity and supporting the development of resilient ecological networks.**
Q166	173	D07, Part 3	Revise text of Part 3) of the Policy: **3) Development which would have an unacceptable impact on the notified special interest features of a SSSI or a broader impact on the national network of SSSIs <u>will only be permitted where the benefits of the development would clearly outweigh the impact.</u> ~~, or the~~ <u>The</u> loss or deterioration of ancient woodland or aged or veteran trees, will only be permitted where <u>both</u> the <u>need for, and the</u> benefits of the development would clearly outweigh the impact or loss.**
Q168	174	D07, Part 6	Part 6) of the Policy becomes Part 7) and the text is revised: **~~6)~~ 7) In exceptional circumstances, and where the development site giving rise to the requirement for offsetting is not located within a SPA, SAC, RAMSAR or SSSI, the principle of biodiversity offsetting to fully compensate for any losses will be supported. These**

Ref	Page	Policy/ Para	Main Modification
			circumstances include where: **i) It has been demonstrated that it is not possible to <u>fully</u> avoid or mitigate against adverse impacts; and** **ii) The provision of compensatory habitat within the site would not be feasible; and** **iii) The need for and/or benefits of the development override the need to protect the site; and** **iv) Any compensatory gains would be delivered within the minerals or waste planning authority area in which the loss occurred, <u>unless otherwise agreed by the planning authority. Compensatory gains outside of the planning authority area will only be deemed as acceptable where it is clearly demonstrable that the approach will lead to greater biodiversity and/or geodiversity benefits than alternative options within the planning authority area</u>.**
Q168	175	9.56	Insert new text after 2nd sentence of paragraph 9.56: Where development requiring offsetting is proposed, the arrangements for provision of the offsetting biodiversity gain should be set out as part of the proposals, and the location where the offsetting provision is to be made should be within the same minerals or waste planning authority area as the development giving rise to the need for offsetting. This is to ensure that biodiversity assets are not displaced out of the local area. <u>Offsetting proposals may only be permitted outside of the plan area with agreement with the planning authority, and only where sufficient evidence could be provided to demonstrate the biodiversity/geodiversity benefits of undertaking offsetting outside of the Plan area. For example, if a site was on the plan area boundary and sufficient evidence could be provided to demonstrate the biodiversity benefits of undertaking an offset outside of the Plan area.</u> A further consideration is…
Q169	174	D07	Insert new Part 8) of the Policy: **<u>8) Proposals must consider the cumulative impacts as a result of a combination of individual impacts from the same development and/or through combinations of impacts in conjunction with other development. Proposals will only be</u>**

Ref	Page	Policy/ Para	Main Modification
			permitted where it would not give rise to unacceptable cumulative impacts.
Q170	179	D09	Revise Part 4) of the Policy: **….climate mitigation and adaption measures including use of sustainable ~~urban~~ drainage systems.**
Q171	187	9.97	Revise last sentence of Para: The emerging City of York Local Plan is proposing to require that new developments are ~~meet the relevant BREEAM or Code for Sustainable Homes standards~~ in line with the 2013 Building Regulations by having a 19% reduction in Dwelling Emission Rate and a reduced water consumption rate.
Q172	188	9.98	Revise 4th sentence of the Para: The incorporation of sustainable design measures such as sustainable ~~urban~~ drainage systems (SuDs),
Q173	190	D12	Revise 2nd Para, 2nd Sentence of the Policy: **Development proposals will be required to demonstrate that all practicable steps will be taken to conserve and manage on-site soil resources, including soils with environmental value, in a sustainable way. Development which would disturb or damage ~~soils of high environmental value such as~~ intact peat ~~or other soil contributing to ecological connectivity or carbon storage~~ will not be permitted unless there would be overriding benefits in doing so.**
Q175	192	D13	Revise 1st sentence of the Policy: **… identified by the Coal Authority as shown on the Interactive Policies Map and on page 4 of the paper version of the Policies Map, proposals should be accompanied by …**

Ref	Page	Policy/ Para	Main Modification
Q175	-	Policies map	Revise title on 4th page of the paper version (CD23): ~~Coal Mining Development Referral Area~~ Development High Risk Area =– Policy Ref No. D13
Q175	192	9.113	Revise 3rd sentence: They occur mainly within Selby District and more limited locations in the North York Moors National Park and in the western part of the Plan area.
Q176	193	New Policy D14 Introductory text and Policy wording	Add new Policy and Introductory text under the 'Section 106, Community Infrastructure Levy and Planning Performance Agreements' heading: 9.118 Development of land will, to varying degrees depending on its nature and location, impact on the environment, communities, amenities and physical infrastructure of the Plan area. As such the authorities will, where there is appropriate justification, expect development to mitigate the extent of this impact through the use of planning obligations on the granting of planning permissions. Planning obligations, also known as Section 106 agreements under the Town and Country Planning Act 1990 (as amended), are benefits that may be in kind or take the form of financial contributions. Section 106 agreements are legally binding undertakings which seek to secure that development is acceptable, by securing contributions to offset negative consequences of development. 9.119 Prior to the submission of relevant applications within the Plan area, developers/applicants are encouraged to engage in the pre-application process to determine whether there is likely to be a requirement for a Section 106 agreement in respect of a particular proposal. **Policy D14 – Planning Obligations** **Developer contributions will be sought to eliminate or mitigate the potential adverse effects of new development on site or on the surrounding area, and to ensure the provision of any necessary**

Ref	Page	Policy/ Para	Main Modification
			and adequate improvements to infrastructure to support the functioning of the development. **The level of contributions required will be negotiated as part of a Section 106 agreement, or set out in any adopted Community Infrastructure Levy Charging Schedule or successor framework.** **Contributions will only be sought where they are necessary to make the development acceptable in planning terms and where they are fairly and reasonably related in scale and kind.** **Main responsibility for implementation of policy:** NYCC, NYMNPA, CYC, Minerals and Waste industry **Key links to other relevant policies and objectives:** *D01, D02, D03, D04, D05, D06, D07, D08, D09, D10, D11, D12* **Objectives:** 9, 10, 12 **Monitoring:** Monitoring indicator 57 (see Appendix 3) Policy Justification 9.120 ~~9.118~~ Section 106 of the Town and Country Planning Act 1990 provides a mechanism for planning obligations, in order to make development acceptable in planning terms which would otherwise not be acceptable. This can include the making of a financial contribution towards measures (which may be off-site in some circumstances) where needed to mitigate against or compensate for the impacts of the development. Such contributions should be proportionate to the scale and nature of the development and the matters which need to be dealt with. The minerals and waste planning authorities will seek such agreements where justified and where they would be in accordance with relevant legislation and guidance. Community Infrastructure Levy and Planning Performance Agreements

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			9.121 ~~9.119~~ The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. NYCC is not a CIL-charging authority. City of York Council and the North York Moors National Park Authority have not yet adopted any CIL policy. However, should CIL be introduced in either of these areas any relevant obligations relating to minerals and waste development would need to be met. 9.122 ~~9.120~~ A Planning Performance Agreement (PPA) is defined as an agreement between the local planning authority (or minerals and waste planning authority in the context of this Joint Plan) and an applicant to provide a project management framework for handling a planning application. A PPA enables the planning authority and the applicant to agree timescales, actions and resources for handling a particular application. It should cover the pre-application stages but may also extend through to the post-application stage. PPAs can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage joint working between the applicant and the planning authority and can also help to bring together other parties such as statutory consultees. Their form can vary in type from a detailed legal document through to much simpler memoranda of understanding. Due to the scale and complexity of some minerals and waste developments, it may be appropriate for a planning application to be dealt with through a PPA.
Q176	279	Appendix 3 - Monitoring	Insert new monitoring mechanism into Table titled 'Monitoring of implementation of policies in Minerals and Waste Joint Plan':

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Policy (inc. link to objectives)	***Indicator Number***	***Indicator***	***Target***	***Method***	***Trigger Point***	***Action Required if Trigger Point hit***
D14: Planning Obligations . Linked to Objectives 9, 10, 12	*57*	*Approved applications are consistent with this policy (where appropriate)*	*NA*	*Monitoring of planning application decisions, annual monitoring*	*NA*	*NA*