



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	PLANNING COMMITTEE
DATE:	20 DECEMBER 2016
REPORT OF THE:	HEAD OF PLANNING AND HOUSING GARY HOUSDEN
TITLE OF REPORT:	PUBLICATION OF THE MINERALS AND WASTE JOINT PLAN
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 North Yorkshire County Council (NYCC), the City of York (CoY) and the North York Moors National Park Authority (NYMNP) have prepared a joint Minerals and Waste Plan to guide decisions about minerals (including gas) and waste development to 2030.
- 1.2 This report is for Members to consider and agree this Council's formal response to the policies and proposals in the Plan.

2.0 RECOMMENDATION(S)

- 2.1 It is recommended that:
- (i) Members of the Committee agree the response to the consultation as outlined in the 'proposed RDC response' sections of this report.

3.0 REASON FOR RECOMMENDATIONS

- 3.1 To ensure that the views of this Council are considered when the soundness of the plan is assessed as part of the formal examination of the document. Members are aware that under the Council's constitution authority is delegated to this committee to make the Council's response to consultation material received by the Authority. It should be noted that at the meeting of this committee on 19 January 2016, Members resolved to deal with responses to future consultation on the Minerals and Waste Plan by means of Part B items. This was so that recommendations of the committee could be made to Full Council and that Full Council would confirm the final response.
- 3.2 Unfortunately, the timing of the consultation in relation to RDC's meetings cycle has

meant that it has not been possible for members of the Planning Committee to consider the Plan and make recommendations to Council. At this stage in the plan process, the consultation period is a prescribed six week period and representations must be made within the period (9 November 2016 - 21 December 2016). Only representations made within the consultation period will be considered as part of the examination process and this has been confirmed by the Minerals and Waste team. It is for this reason that Officers consider it prudent for this Committee to agree the Council's formal response to the plan as outlined in the first recommendation. This matter was considered at Council on 8 December 2016.

4.0 SIGNIFICANT RISKS

- 4.1 There are no significant risks associated with the recommendations of this report. There is a risk that the Council's representations would not be considered at the examination into the Plan if they are not 'duly' made.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 Members are aware that NYCC, the CoY and the NYMNPA have responsibility for minerals and waste planning and have agreed to produce a joint Minerals and Waste Plan. The Joint Plan provides a spatial framework for future minerals and waste development across the area of the three authorities and includes land use policies and allocations for future development to 2030.

- 5.2 The 'Publication' of the Plan is a formal stage in its production. The Plan is published for a six week period of consultation and the representations received at this stage are those that are considered as part of the examination process. The examination is designed to assess the 'soundness' of the plan - namely that it is:

- Positively prepared - meets objectively assessed development needs
- Justified - the most appropriate strategy when considered against reasonable alternatives and based on evidence
- Effective - deliverable and based on effective joint working
- Consistent with national policy

- 5.3 It should be noted that this is the context in which representations from this Council must be made/framed.

- 5.4 The publication of the Joint Plan is the culmination of on-going evidence gathering and consultation. This Council has provided comments to previous consultations in 2013, 2014 and in response to the Preferred Option consultation at the beginning of 2016.

6.0 REPORT

- 6.1 Previous reports to this Committee have detailed the role and scope of the Joint Plan as well as policy options as these have evolved over time. The report to the 19 January 2016 meeting of this Committee in particular, provided a comprehensive background to the plan and the minerals and waste requirements over the plan period. The report also included this Council's response to the consultation on 'preferred' policy options. For this reason, this report does not repeat that information and Members are advised to refer to that committee report should they wish to re-familiarise themselves with the issues. A link to that report and to this Council's

response to the previous consultations is included in the list of background papers at the end of this report. This report focuses on the main policies and proposals that are of particular relevance to Ryedale.

Minerals

6.2 The Plan proposes the allocation of the following mineral sites in Ryedale:

Policy MO8: Meeting building sand requirements	Land at West Heslerton Quarry (Site allocation reference MJP30) Extraction of sand	Building Sand to meet requirements
Policy MO9: Meeting crushed rock requirements	Land at Settrington Quarry (Site allocation Reference MJP08) Extraction of Jurassic Limestone	Maintenance of supply/landbank requirements
Policy M15: Continuity of Building Stone	Land at Brows Quarry (Site allocation reference MJP63) Extraction of building stone	Additional reserves

6.3 Policy M12 of the Plan also proposes that Burythorpe Quarry should continue to provide a continuity of supply of silica sand in order to maintain reserves and a required landbank.

6.4 All of the above sites are existing facilities and were proposed in the preferred options consultation last year. The allocation of Whitewall Quarry for further extraction - which was also proposed in the preferred options consultation has not been taken forward and is no longer proposed. This Council has previously supported in principle, the proposals for West Heslerton, Settrington and Burythorpe subject to development management issues being satisfactorily addressed at the planning application stage. Each of the site allocation policies makes it clear that the development of allocated sites will be required to take account of key sensitivities and to incorporate the necessary mitigation measures which are set out in an appendix to the plan. In addition, all proposals for new mineral development will be subject to a suite of development management policies which are also contained in the plan.

6.5 This Council had previously raised some concerns over the proposed allocation of Brows Quarry given the proximity to the existing residential area and the River Derwent SAC. These sensitivities are however, recognised in the appendix to the plan and it is considered that the development management policies in the plan should be sufficient to mitigate impact together with appropriate conditions on any planning approval.

6.6 The minerals section of the plan also includes a range of strategic minerals policies. Of these, the most directly relevant to Ryedale is Policy MO1 - the broad geographical approach to the supply of aggregates. This makes it clear that the main focus for the extraction of aggregates (sand, gravel and crushed rock) will be outside the North York Moors National Park (NYMNP), the Areas of Outstanding Natural Beauty (AONB) and the City of York. As an exception to this the policy provides support in principle in:

- the National Park and Areas of Outstanding Natural Beauty (AONB) for the extraction

of crushed rock where this is incidental to the extraction of building stone and where it would not compromise the supply of building stone extraction and high quality reclamation and after use.

- for the extension of time for the extraction of remaining permitted reserves at existing quarries and the limited lateral extension or deepening of existing quarries in the AONB's, where this helps to ensure continued operation during the plan period where a high standard of mitigation and site reclamation can be demonstrated. (The policy makes it clear that where such a proposal constitutes major development, it will be subject to the policy in the plan (Policy D04) which specifically relates to the application of the major development test)

Proposed RDC Response

- 6.7 It is considered that the proposed site specific policies (MO8, MO9 and M15) outlined above and Policy MO1 are appropriate and meet each of the soundness tests. The Council supports the fact that the proposed allocation of Whitewall Quarry has not been taken forward into the plan, following recognition in the completed assessment process of the high potential adverse impact associated with traffic generation on Malton and Norton.

Hydrocarbons

- 6.8 The Joint Plan covers the issue of Hydraulic fracturing or "fracking" as a means of extracting shale gas. It is discussed alongside other emerging technologies associated with deep coal and gas extraction. The Policies and Policy justifications for hydrocarbons have been comprehensively re-written in light of the latest Legislation, reports, information and guidance available. The Joint Plan is not concerned with the general issue of whether "fracking" should be banned or not as it reflects national Government policy. The Joint Plan is also not concerned with the operational safety, or the enforcement of environmental permit regulations as this is covered by national agencies (HSE and Environment Agency). It is the role of the Plan to set policies which establish where in land use terms "fracking" development will be allowed, and the density of that development.
- 6.9 Since work started on the Plan there has been increasing public and commercial interest in issues associated with developing onshore shale gas resources. This is a highly relevant issue for the Plan area following the announcement by the Government in 2015 of new oil and gas exploration licenses (PEDLs) including those in Ryedale, as well as the approval in 2016 for hydraulic fracturing for shale gas at the KM8 site near Kirby Misperton. Nevertheless, the Plan does recognise that there are still substantial uncertainties remaining regarding the scale and distribution of future proposals that could come forward, as well as there still being a high degree of uncertainty about the commercial viability of any resources in the area, or indeed in the UK in general. The Plan recognises that in relation to onshore hydrocarbon development, the policies may need to be reviewed and updated in the future.
- 6.10 The expected increase in commercial interest in gas, including shale gas, together with the highly sensitive nature of the environment covered by new and existing PEDLs presents a significant challenge. The Plan recognises that a balance has to be achieved between the need to provide support and flexibility to enable development to take place in appropriate locations, and the need to provide a high standard of protection to local communities and the environment.

- 6.11 Recognition is made that to date, exploration, appraisal and production of conventional gas resources in the Plan area is an established part of the local economy and that these existing developments have been carried out to date without giving rise to unacceptable impacts on the environment. However, the potential scale and distribution of unconventional hydrocarbon development activity that may come forward is uncertain and is likely to remain so until further exploration has taken place.
- 6.12 The Plan sets out the process for hydrocarbon development, outlining the roles of the other regulatory bodies and the different permits and licenses that would be needed, whilst defining the specific scope and extent of the planning system in considering such forms of development. Concerns expressed on potential impacts of the processes are also set out.
- 6.13 The overall spatial planning approach in the Plan reflects national planning guidance with respect to "fracking" in that surface proposals involving hydraulic fracturing will not be supported where they are located within the National Park, AONBs, Heritage Coast, Protected Groundwater Source Areas and World Heritage Sites and accompanying buffer zones, Scheduled Monuments, Registered Historic Battlefields, Grade I and II* Registered Parks and Gardens, Areas which protect the Historic Character and setting of York, Special Areas of Conservation, Special Protection Areas, Ramsar sites and Sites of Special Scientific Interest. It goes on to add that proposals for sub-surface lateral drilling within or in close proximity to those protected areas will only be permitted where it is demonstrated that significant harm to the designated asset will not occur. The Plan goes on to add that special care must be taken to avoid harming the setting and/or special qualities of these designated areas.
- 6.14 The Plan proposes a 3.5km buffer zone around the AONB and the National Park for surface developments associated with hydrocarbon development, whilst also recognising that there could be potential significant harm beyond this 3.5km buffer. This also includes views of and from the associated landscapes.
- 6.15 It considers the implications of the Infrastructure Act 2015 and secondary legislation to address hydraulic fracturing underground as well as acknowledging the Government consultation not yet in force on further restrictions, including a prohibition on high volume hydraulic fracturing being carried out on new or existing wells drilled at the surface in certain protected areas. These restrictions apply to surface development in protected areas for unconventional hydrocarbon development involving high volume hydraulic fracturing, and not to conventional hydrocarbon development or unconventional hydrocarbon development not involving high volume hydraulic fracturing. Although these protected areas all benefit from strong national planning policy protection, the proposed restrictions by the Infrastructure Act 2015 would not in themselves constitute planning policy as the restrictions are proposed to be implemented through the oil and gas licensing regime. The effect being that existing restrictions would prevent subsurface development involving high volume hydraulic fracturing at a depth of less than 1000m below the surface (1200m in highly protected areas - National Parks, AONBs, protected groundwater source areas and World Heritage sites). However, shale deposits are generally significantly deeper than this. However, the other important designations (set out in the Plan) will not be protected under this legislation.
- 6.16 However, the new Regulations and surface protections only apply to high volume

hydraulic fracturing whereas in terms of land use, and the potential for impacts on the environment, local amenity and other relevant matters, impacts could occur at lower levels of activity. The potential conversion of existing well pads and wells for further or alternative hydrocarbon development is also considered.

- 6.17 This is particularly relevant for the KM8 well site permission at Kirby Misperton which involves 5 separate fracks only one which would exceed the 1000m³ depth threshold for high volume hydraulic fracturing. A potential consequence of this legislation is that operators could limit their operations to less than 1000m³ to avoid being covered by the Infrastructure Act. For the purposes of the Plan, the term "high volume hydraulic fracturing" has the same definition as "associated hydraulic fracturing", as defined by the Infrastructure Act 2015 (ie more than 1000m³ of fracture fluid per frack or 10 000m³ overall).
- 6.18 The Joint Plan seeks to afford protection to such areas by setting out a comprehensive range of key environmental and other designations afforded an appropriate degree of protection as a matter of planning policy. Thus providing a clear, robust and consistent local approach in the Development Plan acknowledging the important contribution made by these other designations to the character of the Joint Plan area.
- 6.19 The Joint Plan does this by spatial and locational criteria aimed to ensure that the potential impacts on the environment and local communities are considered and mitigation proposed. Transport Assessments will be required to ensure that development is located where there is access to suitable road networks to avoid traffic movements on unsuitable roads and to ensure that traffic flow is not impeded and highway safety is maintained. Pipeline routes which minimise the impact on the environment and local communities should be used for proposals which state that the produced gas needs to be transported off-site to remote processing facilities. This will reduce traffic movements and associated impacts.
- 6.20 The Joint Plan sets out that Hydraulic fracturing which uses high volumes of water should be located where water can be supplied by pipeline or directly from a suitable local source without the need for road transport. Encouragement is also made for water re-use or recycling as practicable.
- 6.21 Potential cumulative impacts of developments are considered in detail. The nature of both conventional and unconventional hydrocarbon development means that development may be proposed incrementally within a given area over substantial periods of time. This is done to access new areas of gas or to stimulate the flow of gas in a given location, ensuring maximum recovery of the gas resource. Therefore there may be pressure to construct more well pads and /or drill more wells on an existing pad or re-fracture existing wells. Currently there is considerable uncertainty about the scale and distribution of development that could come forward.
- 6.22 Indications are that a typical well pad could be 2ha in size and that the density of well pads per PEDL area will be determined by surface constraints and geological features. It would be further influenced by other exploration activity in the area. Each well pad could contain several well heads, each with a number of horizontally drilled wells, leading to the possibility of a substantial number of individual wells being drilled per pad. This could lead to cumulative impacts as more developments are proposed in the area and the potential for an incremental increase in impacts on the environment and local communities. The Joint Plan recognises that a reasonable

balance needs to be found between the need for developing the resource and protecting the local community and the environment.

- 6.23 The policy sets out criteria to be used when assessing proposals which could give rise to cumulative impacts. This is because the Joint Plan considers that it is currently impractical to set a limit on the number of well pads or individual wells that may be acceptable in any given area due to the lack of evidence. The justification provides an indication that it is unlikely that 10 well pads per 100km² PEDL area would be of a density compatible with the purpose of this element of the proposed policy, but that in some areas, this would be less. Whilst it could be suggested that a possible effect of this could be that developers infer that by limiting their proposals to less than 10 well pads, means that there are no cumulative impacts. However, developers are also expected to present how their proposals fit into an overall production plan for the whole of the PEDL area, including directing development to the least sensitive locations, and the Plan is clear that cumulative impacts would outweigh any density considerations.
- 6.24 The implications of this for Ryedale could mean that there are 10 well pads each with multiple drillings per pad for those areas outside the protected areas, and that no overall production plan for the PEDL area is able to be produced for the whole PEDL area. Similarly, until the first well pad has been drilled there is considerable uncertainty regarding what exactly is available for extraction. This is challenging when considering the merits of a specific planning application, and the ability to consider cumulative and in-combination effects.
- 6.25 The Joint Plan makes reference to the potential pollution posed by the reinjection of waste water which contains flowback fluid. Whilst the Environment Agency indicate that such an approach is not prohibited, it is not the best available technique.
- 6.26 The Joint Plan states that impacts of hydrocarbon development include noise and light. Acknowledgement is made of the increased sensitivity of noise due to the rurality of the Plan area and the importance to ensure adequate separation distances from residential properties and other sensitive receptors are maintained. A distance of 500m is suggested as a reasonable separation distance for a range of impacts including noise, vibration, light pollution, visual impact and other emissions, as well as perceived impact during the night for night time operations. Proposals involving hydraulic fracturing should be accompanied by an Air Quality Monitoring Plan and Health Impact Assessment.

Proposed RDC Response - Policies M16-M18 (Hydrocarbons)

- 6.27 The District Council recognises that the Joint Plan does need to include a policy framework for hydrocarbon development in order for proposals to be considered on their merits that is consistent with national policy and advice available. However, the Council does not support the development of unconventional hydrocarbon development in Ryedale until the full implications of the effects of the processes involved are more readily understood and that there would be no unacceptable impacts, cumulative or otherwise.
- 6.28 The District Council recognises that the Policies (M16, M17 and M18) are consistent with national policy, justified and have been positively prepared and that in relation to onshore hydrocarbon development, the policies may need to be reviewed and updated in the future.

- 6.29 The District Council particularly welcomes the recognition that there are still substantial uncertainties remaining regarding the scale and distribution of future proposals that could come forward, as well as there still being a high degree of uncertainty about the commercial viability of any resources in the area, or indeed in the UK in general.
- 6.30 The District Council welcomes the use of transport assessments and the recognition of other landscape designations for protection assessed through a Landscape Assessment as well as air quality monitoring and a Health Impact Assessment, and the use of the precautionary principle with respect to reinjection of flowback fluid. The Council supports the Plan being clear that cumulative impacts would outweigh any density considerations and the use of criteria to assess proposals leading to cumulative impacts together with the requirement of developers to present how their proposals fit into an overall production plan for the whole of the PEDL area.
- 6.31 However, the District Council considers that in terms of being effective, there are uncertainties with the policy approach. The impact of the 3.5km buffer zone in respect of setting considerations of the National Park and AONB could impact on other sensitive landscapes, the environment and communities in Ryedale. Directing development to the least sensitive locations is uncertain for these areas in terms of the potential impacts that could arise. Similarly the use of conventional well sites for the exploration of unconventional hydrocarbons and the uncertainty around the density of development that could arise in Ryedale is a concern. It should be recognised that noise is a significant impact in relation to hydrocarbon development and it is recommended that the requirement for a noise assessment should also be required by policy M17 4(iii) in addition to the Air Quality Monitoring Plan and Health Impact Assessment.
- 6.32 To resolve these uncertainties, the District Council considers that the Plan should provide more certainty for the least sensitive locations by not including an arbitrary threshold by which to qualify the impact of a unconventional hydrocarbon development. It is suggested that all applications are treated on a site by site basis in line with the policies set out in the Plan. As a point of clarification, the Council believe that in M17 4(iii) the Air Quality Monitoring Plan requirement should be for an Air Quality Assessment and that any monitoring plan should follow from that assessment.

Proposed Waste Site Allocations

To Follow on Late pages

Safeguarding Areas for Minerals, Waste, Minerals Ancillary Infrastructure and Consultation Areas

- 6.33 The plan includes policies designed to safeguard minerals and waste resources and infrastructure. The purpose of these is not to prevent surface development or redevelopment but to ensure that minerals resources are not sterilised and existing waste facilities and infrastructure are not lost or compromised through incompatible development. The policies cover:
- safeguarding areas for surface minerals and buffer zones for different types of minerals
 - safeguarding of those deep mineral resources with existing planning permission for

working

- safeguarded waste sites with a buffer zone
- safeguarding of minerals ancillary infrastructure sites with a buffer zone
- defined areas where NYCC will need to be consulted on development proposed in defined consultation/safeguarded areas

6.34 Specifically in relation to Ryedale, the Plan identifies:

- areas of safeguarded surface minerals and deep minerals (Potash)
- The following safeguarded waste sites:
 - Tofts Road, Kirby Misperton (Transfer non-hazardous)
 - Knapton Quarry (Composting)
 - Malton and Norton (Household Waste and Recycling Centre - Showfield Lane)
 - Cauklands, Thorton-le-Dale (Household Waste and Recycling Centre)
 - Wombledon (Household Waste and Recycling Centre)
- The following safeguarded minerals ancillary infrastructure sites :
 - Showfield Lane (Concrete batching)
 - Hurrell lane (Gas processing)
 - Knapton (Gas processing)

Proposed RDC Response

6.35 The RDC transfer site at Showfield Lane is not recognised in the plan. It is considered that the facility needs to be identified in the plan/on the Policies Map for safeguarding in advance of the Tofts Road facility becoming operational and that Policy S03 is unsound (not effective) if the site is not included.

Development Management Policies

6.36 The Plan provides a suite of Development Management policies which deal with a range of issues that are relevant to the consideration of planning applications including generic matters such as amenity, reclamation, design and construction. The following Development Management policies are of specific relevance to Ryedale:

- DO8 - Historic Environment - specifically recognises the archaeological resource of the Vale of Pickering, Yorkshire Wolds and North York Moors .
- D06 - Landscapes - aims to protect all landscapes from the harmful effects of development and to permit development where it can be demonstrated that there will be no unacceptable impact on the quality and character of the landscape. The policy recognises that a high level of protection is required for the nationally protected landscapes of the National Park and AONB's.
- DO4 - Development affecting the North York Moors National Park and the AONB's - provides a major development test for the nationally protected landscapes. The policy is to refuse major minerals and waste development except in exceptional circumstances and where it can be demonstrated to be in the public interest. The policy also seeks to protect the setting of these designated areas.
- DO5 - Green Belt - the policy is supportive in principle of mineral development within the Green Belt where it would preserve the openness of the Green Belt and (in the case of the York Green Belt) would preserve the historic character and setting of York. Proposals for waste development in the Green Belt that would have an adverse impact on the openness of the Green Belt or the purposes of the Green Belt will be considered inappropriate. Inappropriate waste development in the Green Belt

would only be permitted in very special circumstances where it is demonstrated to clearly outweigh other considerations. The policy also lists the types of waste development in the Green Belt which are considered to be acceptable in principle including for example, farm- scale on- farm anaerobic digestion.

Proposed RDC response

- 6.37 It is considered that the suite of development management policies broadly reflect national policy and are considered to be sound. This Council had previously suggested that the Development management policies relating to landscape and heritage should make more specific references to locally designated landscapes and wider types of heritage assets. However, given that the landscape policy aims to protect all landscapes from the harmful effects of development and the heritage policy aims to conserve the significance of all heritage assets, it is considered that the policies are not considered to be unsound.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:
- a) Financial
There are no direct financial implications for this Authority associated with the production of the Plan.
 - b) Legal
There are no direct legal implications for the District Council associated with the recommendation of this report.
 - c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)
No further implications have been identified.

8.0 NEXT STEPS

- 8.1 The Joint Plan will be submitted for examination. The Minerals and Waste authorities anticipate that this will be in March 2017.

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Background Papers:

Joint Minerals and Waste Plan (Publication Version). NYCC, CoY and NYMNPA
Joint Minerals and Waste Plan Sustainability Appraisal

RDC Planning Committee reports: 18 April 2014 (and minute, reference 206); 19 January 2016 (and minute, reference 145)

Background Papers are available for inspection at:

<http://www.northyorks.gov.uk/article/23999/Minerals-and-waste-joint-plan-publication-stage>

www.ryedale.gov.uk