



**Nottinghamshire
County Council**

Nottinghamshire Minerals Local Plan

**Nottinghamshire County Council Statement in
response to Matters, Issues and Questions**

MATTER 4 – DEVELOPMENT MANAGEMENT POLICIES

Issue: *Whether the development management policies are consistent with national policy, effective and otherwise sound.*

Questions 43 - 48

Question 43. Should “in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017” be added to paragraph 1(a) to ensure this is effective and consistent with national policy?

1. To ensure consistency with national policy, it is proposed to amend paragraph 1(a) of Policy DM4 to add ‘*in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017*’ at the end of the paragraph.

Question 44. There is no provision in the Habitats Regulations for avoidance, mitigation and compensation, and as structured, part 2 of Policy DM4 could be interpreted as applying to development that may affect a European site under part 1 (a). Should it be made clear in the policy that part (2) does not apply to impacts on European sites considered under part 1 (a)?

2. Part 1 (a) of Policy DM4 follows the requirements of the Habitats Regulations and would prevent development affecting a European site unless there is no alternative solution, there are imperative reasons of overriding public interest and necessary compensation measures are secured. All three of these criteria must be met in order to satisfy this part of the policy. Part 2 of the Policy should not be read in isolation and would only apply to a European Site (and thereby allow for consideration of mitigation and/or compensation measures) if Part 1(a) of the policy has already been met.
3. Natural England was consulted at each stage of plan preparation and has not raised an objection to this part of the policy. In formulating Part 2 of the policy the Council has relied on paragraph 175(a) of the NPPF which sets out the ‘mitigation hierarchy’ that should be applied in determining planning applications and is included within the Government’s specific guidance on Appropriate Assessment¹.
4. To address the Inspector’s concern, the Council is willing to consider an amendment to Part 2 to specify that:
 - In the case of European sites, mitigation must be secured which will ensure there is no adverse impact on the integrity of the site(s). Where mitigation is not possible, and the applicant relies on imperative reasons of overriding public interest, the Council would need to be satisfied that all necessary compensatory measures can be secured.
 - In all other cases, adequate mitigation relative to the scale of the impact and the importance of the resource must be put in place, with compensation measures secured as a last resort.

¹ Appropriate assessment - Guidance on the use of Habitats Regulations Assessment, MCHLG, updated July 2019

Policy DM6: Historic Environment

Question 45. The Archaeological Resource area at South Muskham does not appear to be shown on the Policies Map.

5. The Council will propose a modification to the Policies Map to ensure that the Archaeological Resource area at South Muskham is shown correctly.

Policy DM10: Airfield Safeguarding

Question 46. The policy refers to Netherthorpe Airfield but Plan 6 refers to Netherfield Airfield.

6. The Council proposes to amend Plan 6 to show the correct reference to Netherthorpe Airfield.

Policy DM11: Planning Obligations

Question 47. There is no basis in national policy for the negotiated agreements between minerals operators and the community as referred to in paragraph 5.118. It seems to me that this text is not justified but I would be grateful for your reasoning on this point.

7. This paragraph was written to confirm that planning obligations **must** only address matters of planning substance which are required to make a development acceptable, which otherwise would not be acceptable and cannot otherwise be dealt with by planning condition.
8. The text was written to draw attention to circumstances where a mineral operator may wish to provide funding to a local community as an intrusive neighbouring business. However, there is no basis in national policy for such arrangements nor are they a planning matter. The text explains that the County Council supports investment in the local community by mineral operators but is clearly saying that the mineral planning authority remains outside such arrangements. If the Inspector considers such a paragraph to be unjustified for inclusion within the Minerals Local Plan, we are content to delete but it was only intended to clarify the position of the MPA.

Policy DM16: Associated Industrial Development

Question 48. Should this policy require consideration of environmental, transport and other factors?

9. Policies contained within the Development Management Chapter provide criteria on what future mineral developments will be assessed upon, this includes consideration of environmental, transport and other factors. The Council is of the view that because these factors are addressed elsewhere in the Plan, this does not need to be highlighted within this policy. However, for clarity, additional text could be added to

the start of Chapter 4: 'Minerals Provision' and/or as part of the "How to read this document" section on page 7. This would make it clear that the development management policies in Chapter 5 should be read as a whole when considering all development proposals.