West Lothian Council

Planning Services
Development Planning & Environment

SG supplementary GUIDANCE

SUPPLEMENTARY GUIDANCE (SG)

Minerals

(Including Restoration Bonds)

Adopted 6 February 2020

Contents

one Introduction and background to mineral activity in West Lothian

1. This Supplementary Guidance (SG) has been drafted to accompany the requirements for mineral applications in West Lothian and has been prepared in support of the West Lothian Local Development Plan (LDP).

2. Minerals are recognised as an important feature of the national economy. West Lothian, through its geological characteristics, is an area that possesses a wide range of minerals, including secondary aggregates.

3. The council, like other planning authorities, must be open to the possibility of minerals operations and be mindful of both the contribution that minerals can make to the economy, and of the environmental, social and economic benefits that may come from particular developments.

4. At the same time, it is acknowledged that minerals developments can cause their own problems with, for example, damage and disturbance to communities and the environment. These always have to be balanced against the environmental, social and economic benefits.

5. This SG aims to assist in explaining the requirements of a planning application for minerals extraction and to indicate how the council is likely to deal with such applications. It confirms the factors that require to be taken into account in the council's consideration of any planning application for minerals extraction. It also advises on what every planning application is required to address, and to submit for consideration. The SG seeks to ensure best practice in resource extraction and strike the right balance between protecting the environment and mineral extraction.

6. As well as guiding potential operators on what is expected of them, the SG also acts as an aid to community groups, members of the public and others to understand the relevant issues relating to minerals extraction and to engage effectively with the planning system when planning applications are being made.

7. In assessing the context of any development site it is also important to ensure that ground conditions are assessed for contamination or land stability issues. This SG therefore should be read alongside Planning Guidance (PG) on Contaminated Land.

8. The range of minerals available in West Lothian is largely limited to coal, silica sandstone and secondary aggregates. The silica sandstone quarry at Levenseat, south of Fauldhouse is safeguarded as a nationally important mineral resource.

9. Mineral deposits capable of extraction are also found straddling the council's administrative boundary at, or just beyond the boundary in neighbouring planning authority areas of North and South Lanarkshire. This is especially the case in and around the Fauldhouse area where deposits of shallow coal have attracted developer interest resulting in planning applications at Badallan and Headlesscross. Open cast coal extraction at Rusha Farm to the south west of West Calder has halted.

10. In assessing any planning application for minerals extraction, the council will take into account the development plan and other material considerations. As well as the policy and strategic framework provided by the Strategic Development Plan (SDP) and the LDP, the council always must look at the effects that the development would have on the environment, and communities.

11. National Planning Framework 3 (NPF3) recognises that minerals make an important contribution to the economy. They provide materials for construction, energy supply and other uses and support employment. NPF3 directs that planning authorities safeguard mineral resources, ensure an adequate and steady supply is available to meet needs and facilitate their responsible use. Restoration of past minerals extraction sites in and around the Central Belt is also highlighted as part of the spatial strategy of NPF3. In safeguarding mineral resources, there is also a requirement to minimise the impacts on local communities, the environment and the built and natural heritage and ensure the sustainable restoration of sites and their beneficial after-use.

12. Scottish Planning Policy 2014 requires that development plans should support the maintenance of a landbank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search. In terms of local development plans, there is also a requirement to identify areas of search where surface coal extraction is most likely to be acceptable during the plan period and set out the preferred programme for the development of other safeguarded areas beyond the plan period, with particular emphasis on protecting local communities from significant cumulative impacts.

13. In order to monitor the supply and demand for aggregates and to measure compliance with the required 10 years landbank as set out in SPP, operators of new aggregates sites will be required to supply annual statements of production and remaining reserves.

14. Planning Advice Note (PAN 50) and its annexes provide further detail on good practice in mineral extraction.

15. Strategic and Local Development Plans must be compliant with the terms of the NPF3 and SPP.

Strategic Development Plan (SDP)

16. The Strategic Development Plan (SDP1) provides policy guidance on minerals development, policy 4 applies. SDP1 was approved in 2013.

Policy 4: Minerals

Local Development Plans will:

a. Safeguard mineral resources from sterilisation where the deposits are of a sufficient scale or quality to be of potential commercial interest and their extraction is technically feasible and may be carried out in a way that is environmentally and socially acceptable. The need for safeguarding should be considered alongside the development strategy for the area;

b. *Identify areas of search for aggregate minerals and coal, or, where appropriate, specific sites, having regard to national guidance and other environmental objectives of the Strategic Development Plan;*

c. *Set out the criteria to be addressed when assessing individual proposals, including restoration and enhancement; and*

d. *Support and encourage the use of secondary and recycled aggregates.*

17. The Scottish Government's 2012 Scottish Aggregates Survey (published in 2015) indicates that across Scotland there are consented reserves of between 15 and 32 years for hard rock and between 32 to 34 years for sand and gravel.

The West Lothian Local Development Plan

18. The LDP has been prepared within the context of SDP1. The West Lothian Local Development Plan (LDP) was adopted on 4 September 2018 and sets out the development strategy for West Lothian over the period 2014-2024 and beyond. It provides the most up to date policy guidance on coal and minerals extraction and sets out a broad policy approach to how proposals for extraction will be assessed by the council. This SG provides further detail in support of the policy position set out in the LDP and will require to be adhered to by any prospective operators seeking to extract coal and minerals within West Lothian. The following LDP policies apply:

Policy MRW 1: Minerals Resources and Safeguarding

Minerals that are, or may be, of economic or conservation value will be protected from development which could prevent or jeopardise their extraction unless it can be demonstrated:

- *by means of an independent assessment, that surface development would neither sterilise the mineral, or be a serious hindrance to its extraction; and that,*
- *the minerals are otherwise capable of being won in an environmentally sensitive manner.*

Prior extraction of minerals should be facilitated and encouraged for any substantial new development sites, in line with national policy, with the aim of preventing sterilisation of minerals.

The prevention of the sterilisation of a particular mineral does not imply a presumption in favour of its working.

There is a presumption in favour of new proposals for construction aggregate extraction which support and maintain a ten year council landbank of permitted reserves required under national policy guidance provided it can be demonstrated that they do not conflict with the terms of other policies set out in this Local Development Plan.

There is a presumption in favour of new proposals which support and encourage uptake of secondary and recycled aggregates as part of the overall mineral supply.

Policy MRW 2: Supporting Principles for Mineral Extraction

Development proposals for surface coal mining, the extraction of minerals, construction minerals, silica sandstone, building stone and onshore gas and oil, (including associated infrastructure), will only be supported where they:

a. *can be demonstrated not to have a unacceptable detrimental impact on communities, the environment, or the economy;*

b. *provide for restoration and aftercare to a high standard (including the provision of an appropriate guarantee, such as bonds or other financial guarantees - Policy MRW 3 refers);*

c. *provide an appropriate buffer zone between site boundaries and settlements to protect the amenity of houses and occupied properties;*

d. *result in the restoration of previously worked areas where the earlier restoration has not been completed to a high standard, or which have left a legacy of ground instability;*

e. *meet the relevant requirements set out in Supplementary Guidance Minerals and*

f. *satisfactorily address the attendant implications for haulage, including road safety, road cleanliness and the need to minimise nuisance to communities around the site and on the preferred haul routes.*

Policy MRW 3: Impediments to Mineral Extraction

Proposals for mineral extraction are less likely to be given favourable consideration in the following circumstances:

a. *where a surface coal site is proposed within 500m of a community and/or where the relevant planning issues associated with a mineral extraction which would affect a community cannot be offset by regulation through planning conditions or legal agreements;*

b. *where there is conflict with any requirement of SPP 2014, PAN 50 and its annexes in relation to such sites or other mineral working sites;*

c. *where there would be an unacceptable environmental impact on individual properties;*

d. *where the traffic generated would create an unacceptable adverse impact on road safety or amenity or where available and feasible rail transport facilities are not utilised;*

e. *where there are inadequate proposals that do not ensure that the land after mineral working is restored to no less quality than prior to the commencement of the development, where the integrity of designated landscape areas, countryside belts and other locally important landscape features would be compromises and where a site which is visually intrusive after mitigation and would be inter visible with other similar sites when seen from settlements from main transport corridors;*

f. *in ecologically sensitive areas or where the long-term biodiversity value of the site would be reduced by the development;*

g. *on sites or settings of archaeological, historical or architectural significance;*

h. *for peat extraction, or affecting areas of peatland, unless the peatland areas have suffered historic, significant damage through human activity and where conservation value is low and restoration is impossible;*

i. *where the development of the site when assessed against other additional workings, opencast coal sites and landfill sites would lead to adverse cumulative impacts that cannot be mitigated. This will be particularly important if there are already two or more operational, or consented, sites of the type described above that could raise similar impacts within 5 km of any nearby community; and*

j. *where a proposal would have an adverse impact on an existing business or industry and would conflict with the objectives and policies contained within the Economic Development and Growth section of the Local Development Plan.*

Policy MRW 4: Restoration of Mineral Extraction Sites

The council will only grant planning permission for mineral extraction where proper provision has been made for the restoration and aftercare of the site.

Restoration proposals should take account of the specific characteristics of the site and its locality and restore and/or enhance the landscape character of the area. Any opportunities for enhancing biodiversity, community recreation and access should be considered. The council will normally require applicants to provide a restoration and aftercare bond or make other financial provision to ensure full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan.

Policy MRW 5: Unconventional Gas Extraction – Including Hydraulic Fracturing (Fracking)

For areas covered by a Petroleum Exploration and Development Licence (PEDL), the council will:

a. *encourage operators to be as clear as possible about the minimum and maximum extent of operations (e.g. number of wells and duration) at the exploration phase whilst recognising that the factors to be addressed by applications should be relevant and proportionate to the appropriate exploration, appraisal and production phases of operations;*

b. *confirm that applicants should engage with local communities, residents and other stakeholders at each stage of operations, beginning in advance of any application for planning permission and in advance of any operations;*

c. *ensure that when developing proposals, applicants consider, where possible, transportation of the end product by pipeline, rail or water rather than road; and*

d. *provide a consistent approach to extraction where licences extend across local authority boundaries.*

19. With regard to unconventional gas extraction it should be noted that the Scottish Government has reached a settled position of not supporting the extraction of unconventional oil and gas, subject to Strategic Environmental Assessment and further consideration by Scottish Parliament during the course of 2019.

three

Minerals safeguarding

20. Minerals are a finite resource and as such it is important to safeguard deposits of potential economic significance from other forms of development. Safeguarding does not, however, necessarily indicate acceptance of working. The minerals to be protected are coal, hard rock, building stone, silica sandstone and fireclay.

21. The council recognises that there is a need for high quality/value mineral resources. Consideration of competing interests will be necessary where they coincide with developments which would result in sterilisation of that mineral. This is especially important where there is development pressure that is contrary to the development plan, for example, large housing sites proposed in or near to areas of known mineral deposits. In some circumstances, such as on the edge of urban areas, the overriding need for new housing or industrial development may outweigh the benefits of mineral extraction.

22. Mineral resources that are or may be of commercial interest will be protected from development which could prevent or jeopardise their extraction. Where a proposed development is acceptable in all respects except for the existence of mineral deposits it will be assessed against the following criteria:

- The relative importance of the resource;
- The availability of suitable alternative sites for extraction;
- The likelihood of the site being worked;
- Whether prior extraction could take place.

23. Where any proposed development is underlain by potentially important mineral deposits the operator will be informed accordingly and requested to provide supporting evidence to show that prior extraction is not feasible or that the need for development should take precedence over mineral extraction. In providing this evidence, it will be necessary to consult with the minerals industry in order to assess the economic viability of the minerals, and if they are economically viable, the feasibility of extraction prior to development taking place.

four

Search areas

24. Search areas in West Lothian follow the general principle that whilst coal reserves should be generally exploited, development should be directed to particular areas in the interests of protecting communities and the environment. The opencast coal extraction search area is the area of land defined within the council's administrative area which prospective operators of coal extraction through opencast working are steered towards in preference to other areas. This area has been defined on the known presence of coal and the assumption that extraction within the search area is anticipated to be less harmful to the environment and communities than extraction in areas outside the search area. The search areas in West Lothian for coal extraction were established in 2000 when a report was undertaken on the availability of opencast coal for extraction. These areas were assessed against various constraints, such as impact on the environment and protection of residential amenity and search areas were established.

25. It should be noted that geological maps can only ever be interpretations of known data and as such there may be additional resources currently unidentified. It is also important to note that these maps are only indicative and must be viewed in conjunction with policies and text and not in isolation.

26. The same principle also applies to construction minerals such as hard rock, sand and gravel (West Lothian contains reserves of silica sand). In such cases, a search area is not currently required through the development plan process, but any new extraction should generally be directed towards areas within or adjacent to existing operational sites.

27. Within West Lothian the search areas are shown on Figure 1 (p.34) and are broadly:

    a. west and south west of Blackridge;

    b. north of Armadale;

    c. between Armadale and Whitburn;

    d. between Whitburn and Fauldhouse;

    e. between Blackburn and Stoneyburn; and

    f. south and south-east of Breich

28. For minerals for which Areas of Search are identified, extraction will not normally be permitted outwith these areas. However, there are some exceptions. Specifically these relate to sites where extraction would stabilise land or help to secure the restoration of derelict land. This is most likely to occur in former coal mining areas. Exceptions may also be acceptable if extraction would help to secure benefits for communities in terms of biodiversity, landscape and recreational provision.

29. Past mineral working in some cases has left areas of dereliction and extraction could help to restore such land and bring it back into beneficial use. In this way it can be a useful tool in terms of regeneration. However, in order for extraction to be acceptable outwith areas of search, it should not cause any significant damage to the environment or communities. For the reasons explained above, if a previously unknown deposit of shallow coal or sand and gravel deposit falls within an area of low constraint and other criteria are met then extraction is likely to be acceptable in principle.

30. It is important to state, however, that Areas of Search do not imply automatic approval of proposals located within them. They only indicate where extraction of the relevant minerals may be acceptable. For permission to be granted, proposals must demonstrate that mineral extraction would not adversely affect relevant Natura 2000 site(s) (also referred to as European site(s)) either alone or in combination with other plans or projects. Applicants will still be required to demonstrate that there will be no unacceptable impact on local communities or the environment.

five

Review of existing mineral permissions (ROMP)

31. Mineral operations can have a long lifespan over many decades and many quarries started operating before the advent of the current planning system. The Scottish Government has acknowledged that the situation regarding old mineral permissions was not satisfactory and introduced legislation that sought to modernise them.

32. Mineral planning permissions granted prior to the 1st July 1948 (Interim Development Order permissions) were regularised in the early 1990s. Planning permissions granted between 30th June 1948 and 22nd February 1982 were also regularised following provisions made in the Environment Act 1995 for the Review of Mineral Permissions. This issue is also addressed by Section 74 of the *Town and Country Planning (Scotland) Act 1997*.

33. Legislation now requires that all mineral operations, except those permitted under the old General Permitted Development Order (GPDO) 1992 (operations that were permitted development e.g. farmers working minerals for use on the agricultural unit), should be subject to periodic review. Those permitted under the GPDO 1992 are outwith the scope of these controls and are not reviewed. The periodic review is required 15 years from the date of either a previous review or, if no review has taken place, 15 years from the date of the latest planning permission relating to the site.

34. Under the provisions of ROMP, operators are required to be notified of the need to submit an application for approval of new conditions one year before the due submission date. Failure to submit an application by the due date means that planning permission will cease to have effect.

35. As part of the statutory review of old mining permissions (ROMPs), long-term planning permissions for the extraction of materials across West Lothian have been reviewed to enable modern planning conditions to be agreed and to ensure better working practices and enhanced reclamation and aftercare, based upon the Scottish Government's planning advice.

36. Under the Town and Country Planning (Environmental Assessment) (Scotland) Regulations 2017, proposed quarries and open cast mining (where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares) require Environmental Impact Assessment (EIA), as part of the planning application process. Smaller quarrying or mining operations required to be screened for EIA based in the characteristics of the development, its location and impacts.

37. Prior to submitting an application for planning permission for minerals development, developers may ask the council to adopt a screening opinion under Regulation 8(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Scottish Ministers may also make a screening direction at any time prior to consent. The EIA process includes scoping whereby the required scope of the assessment is established through a dialogue between the planning authority, the applicant and other stakeholders.

38. The council encourages applicants to engage in a pre-application discussion in order to find out whether proposals are likely to be supported and in order to shape proposals in advance of statutory pre-application consultation, environmental assessment and planning application. There are statutory requirements for Pre-application Consultation (PAC) between a prospective applicant and communities. Minerals developments of more than 2 hectares surface area are classed as 'major' development within the meaning of the regulations and are required to carry out a PAC: Scottish Government Circular 3/2013 Development Management Procedures (revision 1.0) provides further information) *http://www.gov.scot/Publications/2013/12/9882/0*

39. For larger minerals developments (those where site area is greater than 25ha), the council recommends the establishment of Community Liaison Committees to involve communities and ensure their voice is heard as a minerals site is worked and restored. The council will determine the need for Community Liaison Committees at other minerals developments based on the nature of the proposal and the proximity of human population and communities. The liaison committee should include representatives of the community, developer and planning authority, and meet at appropriate intervals (to be determined in the circumstances of the development) over the duration of the project.

40. Applications for minerals extraction shall include, as a minimum requirement, all the following information (unless otherwise agreed in writing by the council that certain items of information are not required in the case of particular proposals):

    1. An Environmental Statement submitted in accordance with The Environmental Assessment (Scotland) Regulations 2017 where the surface of the site exceeds 25 hectares or for peat extraction where the surface of the site exceeds 150 hectares. Smaller quarrying or mining operations require to be screened for EIA based on the characteristics of the development, its location and impacts. This process should assess the impact of proposals on protected species and habitats. A Health Impact Assessment (HIA) is also required for the effect on human health from proposals in accordance with the council's approved Planning Guidance: *Health Impact Assessments*.

2. A Supporting Statement that describes the proposals and explains the relationship of the proposals to national, regional and local planning policy, and explains how each factor covered in the table 1 below has been addressed. Cross referencing, as appropriate, to the Environmental Statement or other submissions may be acceptable.

3. A Transport Assessment in accordance with the requirements of *Scottish Planning Policy* (SPP- 2014) and *Planning Advice Note 75* (PAN 75) – Planning for Transport.

4. Restoration proposals including details of all proposed after use(s) of the restored application site; details of how the application site will be restored to integrate with and relate to the surrounding landscape; the method of restoration working; the timing of restoration and details of all after care following restoration.

5. Financial Bond & Legal Agreement - a confirmed commitment by the applicant to the provision by the applicant of financial bond(s) or other financial provision and legal agreement(s) that cover the provision of site monitoring during development works, and that cover site restoration and aftercare in the event that either or both of these are not completed, as intended, through the implementation of the application proposals.

6. Information on all mineral reserves within the application site and information on mineral reserves on sites adjacent to the application site and on any interest that the applicant has in these reserves and any interest or intention of extracting them in the future.

7. A Community Engagement Statement setting out how the local community has been involved, what their views are, and how these views have been taken on board or mitigated.

seven

Assessment factors

41. Key assessment factors to be considered and assessed in submitting proposals for minerals extraction and determining applications are set out in table 1 below. They include environmental, economic and social factors which will be considered in every case. The final decision on any planning application for minerals extraction will always reflect a judgement by the council, seeking to balance all the factors in terms of their importance and extent. A key part of the consideration of any application will be the early and ongoing communication with communities potentially affected by proposals.

Table 1: Key Assessment Factors

KEY FACTOR	KEY ISSUES
Amenity Effects	What is the impact on local amenity? - in terms of: (i) the impact detrimentally on local residential properties and communities in relation to noise, dust, light and blasting (see Planning Advice Note (PAN) 50 to assist this consideration); (ii) the visual impact of the proposals on residential properties and communities; and (iii) the effectiveness of mitigation of the above impacts - together with the effectiveness of local community engagement.
Transport Impacts	Do the proposals represent sustainable transport in relation to travel and the movement of material?
Economic Impact	What is the economic impact in terms of the creation/loss of jobs?
Landscape	How do the proposals affect the landscape character? Do the proposals take account of the West Lothian Landscape Assessment to maintain and enhance the existing landscape character? Are there restoration proposals which seek to restore local landscape features which would be lost as a result of minerals development?
Agricultural Land	Do the proposals lead to the loss of prime quality agricultural land as defined by the James Hutton Institute (Formerly MacAulay Land Institute)?
Environmental Assets	Do the proposals impact detrimentally on nature conservation, the built heritage and archaeology? What is the extent and effectiveness of the mitigation of any such impacts? It should be noted that there are many and varied aspects to nature conservation, including protected species and designated sites. Further information and guidance should be obtained from Scottish Natural Heritage.
Footpaths	Do the proposals safeguard the integrity of existing footpath networks including Core Paths (in the West Lothian Core Paths Plan) and Rights of Way?
Water Management	Do the proposals take care of water management to prevent pollution and flooding?
Air Quality	Do the proposals impact detrimentally on the quality of air adjacent to the site and within local communities?

Cumulative Impacts	Do the proposals result in cumulative impacts? What is the extent of those cumulative impacts? (assess this with other nearby minerals, waste and wind farm developments).
Social and Health Impacts	Do the proposals bring social benefits (e.g. the maximum recreational benefits), environmental benefits (e.g. the maximum conservation and landscape benefits and social / economic benefits (e.g. education, employment)? And do the proposals include a Health Impact Assessment?
Restoration	Do the proposals: (i) secure the effective restoration of derelict land, including the potential for surface mining of remnant coal to address potential issues of land instability caused by past underground mining activity at shallow depth? (ii) ensure the proposed restoration and after care of the site provides a net environmental gain to the environment and communities (including benefits to local wildlife, biodiversity and the green network)? (iii) ensure there is a commitment to, and guarantee for, effective restoration and aftercare of the site?
Environmental Assessment	Do the proposals include a satisfactory environmental or habitat assessment?
Development Monitoring	Do the proposals include details of the commitment to and guarantee for effective environmental monitoring and audits?
Other Minerals	Do the proposals address the extent to which the minerals development would sterilise other mineral resources, and in this regard the extent of relative importance of any minerals not to be extracted and the extent of the likelihood of these minerals being extracted? Note: This criteria would apply equally in the situation where other development (such as housing or industry) would effectively sterilise potential mineral resources. In this connection any alternative of extracting all or part of the mineral resources as part of the other development proposal would require to be subject to the relevant requirements and criteria of this SG, like any other application for mineral extraction.

42. Requirements for each of these key assessment factors are set out as follows:

Amenity Effects

43. Extraction involving surface coal extraction or other extraction involving blasting is unlikely to be acceptable if the site is within 500 metres of an existing settlement, including sites identified in the West Lothian LDP for settlement expansion. In some cases the council may accept a case for the separation distance to be adjusted, depending on the local circumstances of the proposal (for example the location of engineering operations or working faces): this will have to be fully justified and ensure protection of any sensitive nearby uses.

44. Proposals for mineral extraction are unlikely to be acceptable where environmental impact assessment indicates that significant adverse impacts would be experienced at an individual dwelling house or sensitive establishment (including residential institutions) and where mitigation cannot be achieved to a satisfactory standard.

45. Where environmental impact assessment indicates that unacceptable impacts would be experienced at an individual property, and the applicant proposes to address this by relocating affected residents for the duration of the works, the council must be satisfied that this is achievable and that there is no resident left at unacceptable environmental exposure.

46. Proposals must meet acceptable standards for levels of ground or airborne vibration and levels of dust and noise emissions set out in PAN50 and its annexes, or any future revisions to national policy guidance. At scoping stage the council and applicant will agree the locations to be assessed and the target values which must be achieved.

47. Proposals must ensure that the effects of noise, dust, blasting and light nuisance are minimised. The nature of mineral extraction can vary enormously between the different sectors of the industry. Sand and gravel extraction is very different to surface coal mining which in turn is very different from hard rock quarrying. These different types of operation result in different impacts. Applicants must consider measures to mitigate the effects of activities that could result in unacceptable levels of ground vibration, air overpressure, dust, light pollution and noise emissions and must comply with *Planning Advice Note 50 (Controlling the Environmental effects of Surface Minerals Workings)* - and its associated annexes.

48. Mineral operations can generate noise from a variety of sources with different levels and characteristics. Scottish Government guidance recognises that noise can have a significant effect upon the environment and the quality of life enjoyed by communities.

49. A noise assessment which may form part of an EIA should establish the baseline conditions, and estimate likely noise arising from each aspect of the development at source and at sensitive receptors identified through scoping of the application. The council will consider the range of operations on the site, their potential to cause noise, and the need to restrict operating hours.

50. The council will require noise standards that reflect the existing noise regime in a locality. In a quiet rural area, where the background noise level is 35dB (A) or less, noise limits will be set at 45dB $L_{Aeq\ (1\ hour)}$ (free field) at an identified sensitive location such as a residential property. In areas of higher background noise, limits of up to a maximum 55dB $L_{Aeq\ (1\ hour)}$ (free field) may be acceptable at sensitive locations, but in each case the council will come to a judgement based on background conditions and the advice of Environmental Health.

51. Temporary noisy uses: Higher noise levels for temporary operations (no more than 8 weeks in a year) of up to 70dB $L_{Aeq,\ (l\ hour)}$ (free field) may be acceptable. The council would need to be satisfied that these temporary operations were necessary, were for as short a period of time as possible, and could be accomplished within 8 weeks in a given year. At very sensitive locations the council may require the provision of temporary noise screening in advance of commencement of temporary noisy operations.

52. Whilst mineral working can be noisy, there are various measures that can be adopted to mitigate impacts of noise. Operators should plan ahead by introducing measures such as:

- creating advanced screening;
- incorporating screening by natural or other barriers as part of the quarry design;
- using acoustic fencing or baffle mounds;
- maintaining an acceptable distance between workings and noise sensitive properties; and
- siting fixed plant and facilities in places where their impact can be minimised.

53. A detailed noise monitoring scheme will require to be implemented by site operators, with results to be reported to council as planning authority, to ensure compliance with planning conditions and remedy of any problems that may occur. Where a Community Liaison Committee has been established, results of monitoring will also be shared with them.

54. In accordance with Scottish Government guidance, the council will require developers to identify all noise sensitive properties and carry out a background noise survey. They should also estimate the likely future noise levels. In assessing planning applications the council will take into account best practice and the advice contained in *Planning Advice Note 50* (PAN 50) Annex A - *Controlling the Environmental Effects of Surface Mineral Workings*.

55. The generation and emission of dust at mineral sites is related to a number of factors including the type of mineral being extracted, method of working and any processing undertaken on site, local climatic conditions and topography. Developers will be expected to undertake a Dust Assessment Study for all new and extended mineral operations. The Study should include:

- identification of any dust sensitive facilities likely to be affected by the development and the likely effects on them;
- establishment of existing baseline conditions;
- identification of site activities that could lead to dust emissions; and recommendations on measures to reduce dust and its impact.

56. Blasting is necessary to loosen or fragment rock in situ at hard rock quarries and in surface coal mines. It is not usually required in other forms of mineral extraction. Blasting is expensive and is usually only considered when other extraction techniques are either impossible or uneconomical.

57. The blasting of surface material can lead to a number of significant side effects including: ground vibration, air overpressure, noise, dust and flyrock. Mineral operators will be expected to conform to the advice contained in *Planning Advice Note 50* (PAN) 50 (*Controlling the Environmental effects of Surface Minerals Workings*) and associated Annex D - *The Control of Blasting at Surface Mineral Workings*.

58. Since the effects of blasting may be felt many miles from an operation, the council will fully consider the impact of blasting on all sensitive property. However, it is recognised that most buildings likely to be affected by vibrations from blasting tend to adjoin or be adjacent to the mineral operation.

59. The council will wish to be satisfied that the proposals represent the best current practice in respect of any blasting proposals. In cases where blasting is used (likely only to arise in the case of hard rock quarrying, or where a rock overburden covering the mineral is to be removed) the date and times of blasting should be agreed with the planning authority in advance in order to minimise the impact on the locality. Prior to any blasting, the communities in proximity to extractions sites will be required to be advised where possible through a local community liaison committee.

60. Ground vibration as a result of blasting experienced at any sensitive receptor must not exceed a peak particle velocity (PPV) of 12 millimetres per second (mm/s), average levels should not exceed 10mm/s, and 95% of all blasts shall not exceed a PPV value of 6mm/s. The council will also require to be satisfied that transfer values (or magnification levels) have been taken into account, reflecting that vibration may be higher at upper levels in a building than at ground level. The council may impose lower PPV levels in cases where there is particular sensitivity such as vibration sensitive industry, a Category A listed building or Scheduled Ancient Monument, or an area prone to subsidence through historic mining activities (the council will require to be satisfied that an applicant has explored this thoroughly, particularly so that the presence of traditional 'stoop and room' mining areas, which have been prone to collapse, is identified).

61. It should be demonstrated to the council's satisfaction, that activities other than blasting cause no significant vibration effects at a dwelling house, residential institution, school or at another sensitive building. Depending on the nature of the site and the proposals, the Council may require appropriate wildlife surveys to be carried out. These will be necessary prior to the commencement of any blasting programme and will inform the Council about any measures required to avoid impacts on wildlife.

62. Operating hours (including heavy goods vehicles arriving or leaving the site) should be restricted to daytime Monday to Friday (0800 to 1900) and half day Saturday (0800 to 1300) and excluding main public holidays (Easter, Christmas and New Year), unless justified in relation to the specific circumstances of the application: starting hours of 0700 may be permissible where it is demonstrated to the Council's satisfaction that the noise and amenity impact on communities and dwelling places is minimal. Some essential and low impact activities, to be agreed in conditions, may be permitted outwith these hours.

63. The use of floodlighting on mineral operations can be very intrusive affecting the amenity of neighbouring properties and character of the landscape. Operators will be expected to implement measures to mitigate the effects of light pollution such as good design and use of energy efficient light sources. Details of proposed artificial lighting and measures to mitigate pollution will be required as part of any planning application.

Transport Impacts

64. Proposals for mineral extraction should, wherever practicable, seek to transport commodities via the rail network or if suitably located, by canals. Material haulage distances should be minimised if possible. Proposals must clearly detail all potential environmental impacts and identify the measures necessary to minimise the residual environmental effects.

65. Development proposals for the extraction of minerals generating significant traffic must be accompanied by a Transport Assessment. The Assessment must be prepared to the satisfaction of the council and take account of the council's guidance on relating to roads and transportation.

66. Operators will be expected to implement the outcome of Transport Assessments. The council will encourage operators to enter into routing agreements in order to minimise the potential effects upon local communities and the road network and where necessary (via planning agreements) to implement a scheme of vehicle identification.

67. Mineral operations tend not to generate a high level of trips by employees or customers but the use of heavy goods vehicles (HGVs) to transport the product may, in certain circumstances, have an adverse effect upon the road network. Much of the minor road network in West Lothian will be unsuitable for HGVs therefore routing agreements should focus on locations where alternative modes of transport are possible or with good access to the principal road network.

68. Where planning permissions are granted for mineral extraction, the council will seek to ensure that site access roads and junctions are in accordance with the council's guidance on roads and transportation. The council will also ensure that measures such as wheel cleaning, sheeting of vehicles and restrictions on numbers and times of lorry operations are in place to protect amenity.

Economic Impact

69. The council will have regard to the economic impact of minerals proposals. The benefits of the proposal may be outweighed by negative impacts on the economy. In such cases, proposals will not be supported by the council and the council may require this matter to be considered further through assessment of socio-economic affects; this may be as part of an Environmental Impact Assessment.

Landscape Impacts

70. For non-EIA development the council will seek early discussion on landscape matters. For developments requiring EIA, agreement must be reached with the council on viewpoints for the assessment of the proposal at scoping stage. Proposals must minimise the visual impact of the operations on the surrounding landscape through the careful design and phasing of the workings and overburden mounds, together with the provision of screening bunds where appropriate. Where mineral workings are likely to be of prolonged duration, the proposal should commence reinstatement as part of a phased restoration. Operations should avoid permanent adverse effects on the landscape and seek to avoid significant short term effects. The council wishes to see the long term enhancement of landscape quality at minerals sites. The restoration should reflect the local landscape character. Regionally Important Geological and Geomorphological Sites (RIGS) will require to be protected.

71. The Pentland Hills Regional Park and Special Landscape Areas are particularly sensitive landscapes; policies ENV 1 of the West Lothian LDP in relation to character and special landscape areas and ENV13 and ENV14 in relation to the Pentland Hills Regional Park refer. Proposals for mineral extraction within these areas are unlikely to be supported by the council.

Agricultural Land Assessment

72. Development involving loss of prime agricultural land and peatland will only be acceptable subject where the council can be satisfied that adequate provision for restoration has been made. Applicants will be required to set out arrangements for soil removal, storage and reinstatement. In most cases reinstatement should be on site, although in very limited circumstances high quality agricultural soils may be removed from a site and used in restoration elsewhere. In order to preserve agricultural efficiency site operators will be required to control weeds and vermin.

73. For peat deposits left in situ, the council will require to be satisfied that developers can maintain a site hydrology that preserves the peat formation, as the site is developed around the deposit. Where extraction of peat itself is the object of the extraction, LDP policy ENV 6 Peatlands and Carbon Rich Soils gives significant protection to peatland, and extraction of peat is only acceptable in very specific circumstances.

Environmental Assets

74. The council will require to be satisfied that the provisions of policies ENV17, ENV18, ENV19 and ENV20 of the West Lothian LDP in respect of International Nature Conservation Sites (ENV17), Protection of National Nature Conservation Sites (ENV18), Protection of Local Biodiversity Sites and Local Geodiversity Sites (ENV19) and Species Protection and Enhancement (ENV20) are met. Developers should also have regard to policy ENV8 in relation to green networks and the council's Supplementary Guidance on green networks in addition to planning guidance entitled Planning and Nature Conservation.

75. Depending on the nature of the site and the proposals, there may be requirement for developers to carry out wildlife surveys. These will be necessary prior to the commencement of any blasting programme and will inform the council on measures required to avoid impacts on wildlife.

Footpaths/Rights of Way

76. Through site restoration the council may support improvements to the local path network (depending on the circumstances of the site), in particular links that support the objectives of the council's Supplementary Guidance on the Green Network.

Water Management

77. The River Basin Management Plan (RBMP) for Scotland considers the current status and pressures on the water environment, and sets objectives to be achieved. The aim of the RBMP is to (i) ensure no worsening in water body status and (ii) to bring about the progressive improvement of all water bodies to good status over time. The Scottish Environment Protection Agency (SEPA) '*water environment hub*' provides details on the status and objectives of each water body.

78. The council will require to be satisfied that negative effects, which would cause the status of a water body to be lowered, or which would have a deleterious effect on the attainment of the environmental objectives for a water body as set out in the River Basin Management Plan, are avoided. Water quality, the physical condition of a water body and maintenance of flow and recharge rates to surface and ground waters will be key matters for consideration.

79. Where private water supplies are likely to be impacted by development proposals, the council will require to be satisfied that a safe and wholesome supply is maintained or require an alternative mains supply to be provided at the developer's expense.

80. SEPA regulate a number of activities in relation to the water environment under the Controlled Activities Regulations (CAR). SEPA are moving towards a new Integrated Authorisation Framework, but the activities that SEPA regulates in respect of the water environment are anticipated to remain the same. Further details can be found on SEPA's website.

81. The council will work closely with SEPA in considering effects on the water environment arising from resource extraction proposals, to ensure that planning conditions support the standards required by CAR, but also to reduce any duplication of effort in monitoring. In consultation with SEPA, the council may require preparation of a Watercare Environment Monitoring and Mitigation Plan, covering the full life of the site (including operations and aftercare). At more complex sites, Technical Review Panels may be necessary to review the results of monitoring and take action where required. Where surface coal mining is proposed, applicants are advised to consider SEPA's assessment framework for evaluating the potential impact of opencast coal mining on water quality. The council will also require to be satisfied that public water and sewerage infrastructure and Drinking Water Protection Areas are adequately protected. Applicants are advised to liaise with Scottish Water at an early stage of project design.

Air Quality

82. Air quality and dust matters will require to be addressed in minerals planning applications. The proposed activities over the life of the development, wind speeds and direction, sensitive receptors, topography and other factors likely to exacerbate or screen dust, should be considered.

83. The primary health concern is from fine dust particulates. In the case of fine dust particles (PM_{10} or less) consideration of sensitive receptors may extend up to 1km from the site. At the scoping stage the Council may require a dust assessment study (as part of EIA, or separately if the scheme does not trigger EIA) which may generate minimum stand-off distances to sensitive receptors.

84. Applicants must demonstrate good environmental practice with respect to dust. This should include appropriate mitigation and control measures, including but not limited to:

- location of dust generating activities so that as far as possible they are located away from or screened from sensitive neighbours;
- provision of screening (whether in the form of bunding or planting) at an appropriate stage of the development to reduce connectivity between source and receptor
- mitigation through water sprays
- establishment of working methods that take account of weather conditions
- planting/seeding on earth mounds to bind soils, and
- sheeting/ wheel washing of haulage vehicles leaving the site.

85. Detailed monitoring will be required to be carried out by site operators, with results to be reported to the council and where established the Community Liaison Committee to ensure compliance with planning conditions.

86. The release of fine particulate material is a matter which affects public health and is covered by limits set by EU directives and Scottish Government guidelines. For particulate matter (PM_{10}) exposure at any sensitive receptor must not exceed 50 microgrammes per cubic metre over any 24 hour period or 18 microgrammes per cubic metre averaged across a year. Very fine particulate matter ($PM_{2.5}$) should not exceed 10 microgrammes per cubic metre averaged across a year. These target values shall apply at all locations where members of the public might be regularly exposed. The Scottish Government is reviewing Cleaner Air for Scotland (CAFS) and if more stringent national standards are adopted, then it must be demonstrated to the satisfaction of the Council, that these can be met in the minerals application.

87. PM_{10} and $PM_{2.5}$ emissions are also associated with road traffic emissions (and are more likely to be problematic in heavily congested areas). This is a matter to be addressed by the Transport Assessment element of any EIA, which will consider the effect of haulage traffic on congestion. The council may require further evidence as to how this interacts with any Air Quality Management Areas (AQMA) extant at the time of the application. The council will wish to be satisfied that minerals applications in all cases do not give rise to conditions that would necessitate the establishment of further AQMAs.

88. In assessing air quality the council will require to be satisfied that the standards set out above are not breached by the combination of the process contribution of the minerals operation and background particulate levels.

89. Dust deposition should not exceed more than 200 milligrams per square metre per day, at any sensitive location, including schools, dwelling houses, residential institutions, sites protected by international, national or local heritage designations, water courses and adjacent bankside habitats, and peatlands (as identified on the carbon and peatland 2016 map or successor documents).

90. Operators must have regard to the council's *Supplementary Guidance or Air Quality*.

Cumulative Impacts and Concurrent Working of Minerals

91. The council will require to be satisfied that there are no unacceptable adverse impacts at a sensitive receptor as a result of cumulative effects. Where EIA is required these will be identified at scoping stage.

92. Where economically feasible, proposals must minimise environmental disturbance through the removal of all minerals in a single operation from any site. Proposals must include, as far as is practicable, supporting information indicating the operator's understanding of the availability of mineral reserves in adjoining land and their interest in any likely future extensions to their proposed workings. The council will require to be satisfied that the operators have minimised the duration of impacts on communities and that the overall impact in terms of intensity and duration of exposure is acceptable.

93. Sometimes, two or more minerals are found together in the same site. For example, fireclays and shales may be recovered as part of a surface coal mining operation. In such cases, it is often beneficial in economic and environmental terms for them to be worked together. To avoid unnecessary sterilisation of such deposits it is important for minerals operators to consider the concurrent recovery and use of all minerals as part of the extraction. This may also reduce the need for opening up greenfield sites elsewhere.

94. Consequently, where mineral extraction is acceptable in principle, the concurrent working of two or more minerals from the same site will be supported provided that this can be undertaken:

- without causing an unacceptable impact on the environment and/or on local communities; and
- without prejudicing the strategy of the Local Development Plan; and
- where proposals are accompanied by a scheme for the restoration of the whole site with appropriate phasing.

Social and Health Impacts

95. The relationship between any settlement and its landscape setting is important and will be taken into account in assessing planning applications.

96. The impact of mineral workings, for example, noise, dust, vibration and visual intrusion, may not sit well alongside housing, other sensitive land uses and with the landscape setting of settlements. The effect of these impacts tends to reduce with distance and it is appropriate therefore to ensure a buffer zone is maintained between those living near a mineral site.

97. Other sensitive land uses include residential homes, schools, hospitals, offices and other premises attracting significant numbers of people. *Scottish Planning Policy 2014* discusses separation distance and indicates that a separation distance of less than 500 metres between communities and surface coal mining operations is unlikely to be acceptable but local circumstances may support longer or shorter separation distances as set out below.

98. An appropriate buffer zone between site boundaries and settlements must be provided, and this should be compliant with the requirements set out in *Scottish Planning Policy 2014*. For surface coal, extraction is unlikely to be acceptable if the proposed site boundaries are within 500 metres of a settlement (including proposed expansion sites), or would have unacceptable impacts on individual houses or sensitive properties outwith communities and effects cannot be mitigated satisfactorily. Non-engineering works such as landscaping, or other mitigation works such as screening mounds or noise barriers should be acceptable. A 500 metre zone is not an absolute distance however. There may be local circumstances which justify a greater or lesser distance. Such factors would include topography, landscape, prevailing wind direction and visibility. Site boundaries within 500 metres may be acceptable where extraction would result in improvement of local amenity or future development opportunities by clearing a substantial area of derelict land, the stabilisation of an undermined site or other similar environmental gain.

99. For other minerals, *Scottish Planning Policy 2014* makes clear that authorities should not impose standard buffer zones between sites and settlements since distances will need to take account of the specific circumstances of individual proposals, including the method of working, size, duration, location, topography, likely environmental impacts and mitigation.

100. Methods of working can vary considerably between different forms of mineral extraction, for example, depending upon scale of operation and whether or not blasting would be required.

101. The amenity of local residents in groups of dwellings outwith communities or in individual dwellings will be safeguarded. In such situations, the extent of any buffer zones will be determined at the time of any planning application, taking into account the scale and duration of the mineral working and the character and setting of the dwellings concerned.

Restoration

102. To ensure that restoration and aftercare proposals are carried out, the council will normally require developers to provide a financial guarantee bond or make other financial provision, of a sum to be agreed with the council, to cover any failure to implement restoration proposals in accordance with the conditions imposed on the grant of planning permission.

103. The only exception to this requirement will be where the council considers that the restoration proposals have such limited financial requirements as to make such a financial provision unnecessary. The financial guarantee bond or other financial provision will be made before permission is granted. With regard to the type of financial provision, the council will require a financial guarantee bond unless, in the context of the SPP, the operator can satisfactorily demonstrate that another arrangement, such as an industry guarantee scheme, will be sufficient to ensure the implementation of the restoration proposals, including the necessary financing, phasing and aftercare of the site. These requirements are set out in policy MRW 4 of the LDP. High quality and appropriate restoration and aftercare are essential and guarantees will be sought. Whilst there are a range of guarantees that may be acceptable, the use of bonds is the council's preferred option.

104. Proposals for mineral extraction will only be permitted where proper provision has been made for the progressive restoration and aftercare of the site to the highest appropriate standards, ensuring that no future liability from land instability and/or cost to the public purse will arise from inadequate engineering practices. As part of planning applications, the council will require developers to submit detailed restoration plans including:

- an assessment of the existing landscape and ecological features/habitats and a practicable scheme showing how the reclaimed site will be assimilated into the landscape;
- details of phasing, filling, landforms, drainage, pollution prevention measures, soil management, landscaping, and arrangements for public access, if appropriate;
- where appropriate, measures to improve the landscape such as new woodland planting and landscape features and measures to create wildlife habitats to add value to the locality, including wetland areas, based upon professional advice from Scottish Natural Heritage and other appropriate nature conservation bodies;
- community engagement; and
- arrangements for a five year aftercare scheme for the site.

105. The restoration of land following mineral extraction is an integral part of the working of any site. Restoration of soil to its original quality or better is consistent with the aim of the Scottish Soils Framework which seeks to promote the sustainable management and protection of soils consistent with the economic, social and environmental needs of Scotland. Policies ENV 5 and ENV 6 of the LDP provide guidance on soil sustainability plans and peatlands and carbon rich soils.

106. It is important that restoration should follow on quickly from extraction and whenever possible, a phased programme will be strongly encouraged in order to reduce the impact of the extraction operation.

107. Whilst existing topography and woodland may provide an element of screening for plant and workings, it will usually be necessary to provide further complementary landscaping. To create an effective screen, trees, hedges and shrubs must be planted well before extraction commences, possibly even before consent is sought. This can provide an opportunity to plant native species to compensate for their loss elsewhere and may provide a crop of timber in later years. When preparing restoration plans operators should seek professional advice from Scottish Natural Heritage and other appropriate organisations and also have regard to the West Lothian Landscape Character Assessment and the Local Landscape Designation Review.

108. Wherever possible, reclamation of mineral sites should be seen as an opportunity to create land uses of benefit to the environment and the public in order to compensate, at least in part, for the disturbance that extraction will cause. This is particularly true where a degraded site is being rehabilitated.

109. Appropriate after uses for mineral sites can help to conserve and improve the character and nature conservation value of the landscape while maximising benefits to local communities and the environment. In some circumstances, it may be appropriate to restore land to its former use. Such restorations however, should utilise opportunities for environmental enhancements and other public benefits such as the creation of new features of natural heritage or amenity value including community woodlands, public open space and wetlands or other habitats of nature conservation interest.

110. The council will seek high quality restoration which should at least restore the previous usefulness of the site and will seek to secure restoration proposals which enhance the sites biodiversity and landscape value, as a long term benefit of the development.

111. Restoration to agriculture will be required when the loss of agricultural land would adversely affect the economic viability of a farm unit. On some sites, mineral extraction followed by high quality restoration can improve the agricultural productivity of the site. Replacement of surface soil to its original quality or better is consistent with the aim of the Scottish Soils Framework which seeks to promote the sustainable management and protection of soils https://www.gov.scot/publications/scottish-soil-framework/

112. The aftercare period is essentially a programme of positive land management lasting for up to five years after restoration is completed. Its purpose is to bring the reinstated land to a condition where it is fit for the intended after use.

113. Following a consultation in 2017, the Scottish Government introduced a new fees regime for monitoring surface coal mines (Circular 2/2017 fees for monitoring surface coal Mining Sites (Scotland) regulations 2017). For mineral operations other than coal, the council may seek a legal agreement to support monitoring arrangements (the scale of the monitoring to be determined as proportionate on the basis of the sensitivity and scale of the proposals).

114. The council will require to be satisfied that there are adequate funds in place to restore the site at all phases of operations, including a margin for risks and uncertainty and may seek independent advice to determine these sums.

115. The use of ring-fenced funds is supported by the council and will be secured through legal agreement to provide a robust financial instrument to effect restoration and aftercare. Depending on the site characteristics, the amount of money in the fund might be linked to the sequence of activities in the mine or quarry progress plan and 'profiled' so that the amount in the fund steps up as each stage of extraction proceeds, then steps down again as liabilities are reduced by sequential restoration. In the case of surface coal mines, funding arrangements must make allowance for handling any polluting discharges at the surface, post restoration when water levels have recovered fully. The fund would have to be topped up to exceed inflation, and to include allowance for risk. The fund would be set aside from other creditors in the event of a company liquidation, and be available in the event of such a failure to the council and other agencies carrying out restoration work.

116. Depending on the circumstances, the council will consider other simpler approaches to securing site restoration, but it must at all times be demonstrated to the council's satisfaction that there is no risk of a site being left in un-remediated condition.

Environmental Assessment

117. Under the *Environmental Impact Assessment (Scotland) Regulations 2017*, the council as the planning authority can request an Environmental Statement for certain developments where the authority considers that such developments would create "significant" environmental effects. Where a formal Environmental Statement is not warranted, the council will use its powers under Article 13 of the *Town and Country Planning (General Development Procedure) (Scotland) Order 1992*, if necessary, to request environmental information. It should also be noted that in certain circumstances Scottish Ministers can use their powers under Regulation 7(5) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 to direct that an EIA is required.

118. Where necessary, the council will require an Environmental Statement to be submitted by the applicant/operator. Certain projects not requiring statutory Environmental Impact Assessment may still require adequate assessment to inform options, design and mitigation as necessary. in such circumstances the council will require information addressing the risks to the water environment; site waste management; and also covering landscape; visual impact; biodiversity; soil, air water and climate; human beings; cultural heritage; public footpaths, bridle ways and Rights of Way; agricultural interests; and restoration details.

119. For either the Statement or Assessment, the scoping should be agreed with the council at the outset, and final documents submitted with the planning application to avoid unnecessary delay.

Development Monitoring

120. Operators will be required to submit regular and frequent environmental monitoring and technical information, audits and progress plans through an independent consultant. The scope and frequency of these will be established through planning conditions. These progress plans will, at a minimum, set out the progress of operations and extent to which environmental and operational conditions of any consent and/or legal agreement are being complied with. They will also require to detail any proposed changes or departures from the planning consent and address any implications that these may have on the satisfactory restoration, end uses or other operational aspects of the site.

121. Monitoring will be a continuous process with regular data being provided to the council on a range of potential impacts including noise, vibration and dust levels, routing and number of vehicles, and blasting. It is acknowledged practice that this work is undertaken by an independent consultant reporting to the operator and the council. Where appropriate, monitoring should be undertaken from agreed sensitive locations outwith the site. An audit and a progress plan will be submitted on an annual basis, or more frequently if required, identifying the compliance with the planning consent and any legal agreements.

122. The council will determine at the planning application monitoring points and the frequency of monitoring, and the reporting arrangements. For very large applications use of a Compliance Assessor or 'Environmental Clerk of Works' approach is required to provide a monitoring service funded by but independent of the applicant to ensure that environmental standards are complied with. At smaller sites the council will come to a judgement on the appropriate level of monitoring and oversight. Community Liaison Committees are encouraged by the council as a way to increase community oversight of an operation and increase mutual understanding between the community, operators and regulators. This will not replace the regulatory activity carried out by the Council in respect of planning and other statutory functions, and the work of other environmental agencies.

eight

Community engagement

123. In accordance with planning legislation for pre-application consultation, the council requires proposals to include a Community Engagement Statement setting out how local people have been informed and involved in the preparation of the scheme - and how their views have been taken into account in the submitted scheme.

124. This should comply with the council's requirements – ensuring that the process has been open, transparent and sought to inform people and seek their views. It should summarise accurately the views expressed and, where appropriate, indicate how these views have been taken into account or the scheme amended in the light of comments made.

125. Notwithstanding the potential controversial nature of minerals applications, the council will expect to see a genuine dialogue take place. Planning Advice Note 81 - *Community Engagement Guidance* sets out a range of methods by which this could take place.

126. To assist with this process and to ensure that the local community can voice concerns direct to the operator, a Community Liaison Committee will require to be established. These committees will comprise of local council and community representatives together with the operator and will have a locally elected representative as the chairperson. Meetings will require to be held regularly, and will focus on any difficulties being experienced by local residents and how these can be overcome, along with progress updates consistent with the advice highlighted in Scottish Planning Policy. *Planning Advice Note (PAN) 81: Community Engagement Guidance* advises that applicants/developers and operators are encouraged to consider entering into Good Neighbour Agreements and these could provide positive benefits for both operators and local residents. In certain circumstances developers may wish to agree a community benefit package with developers, out with the scope of any planning permission.

nine

Other matters

Pipeline Protection

127. West Lothian has a number of installations holding notifiable substances, including pipelines. Whilst they are subject to stringent controls under existing health and safety legislation, it is also a requirement to control the limits of development permitted in the vicinity of these installations. For this reason, the council has been advised by the Health and Safety Executive of consultation distances for each of these installations. In determining whether or not to grant planning permission for a proposed development within these consultation distances, the council will consult the Health and Safety Executive about risks to the proposed development from any notifiable installation.

Peat

128. Peatlands are one of Scotland's most important environmental assets and have a potentially important role in mitigating climate change as they act as a carbon sink. However, extensive areas of peat are relatively rare in West Lothian. Commercial peat cutting can therefore raise environmental concerns and will therefore only be permitted where:

- it does not conflict with any other policies in the West Lothian Local Development Plan;
- the peat land is already degraded or significantly damaged by human activity; and
- the conservation value is low and restoration is not possible;

129. For ancillary extraction of peat associated with other mineral development, the council will seek to ensure that best practice is used for the handling, storage and restoration of the peat in order to minimise potential degradation and promote active peat formation and, where appropriate, the creation of habitats of nature conservation interest.

130. All proposals for the extraction and storage of peat should be supported by details demonstrating how the handling, storage and restoration of the material will reflect current best practice and how potential degradation will be minimised and active peat formation promoted. The LDP contains a policy seeking to protect peatland, it is identified as policy ENV5.

Development Management

131. Proposals for mineral extraction have the potential to create both positive and negative impacts on the environment, communities and the economy. To enable the council to fully consider the potential impact of mineral development, planning applications must include sufficient supporting information to allow them to be assessed. Where appropriate, planning applications should demonstrate consideration of noise, dust, vibration, traffic and transportation, landscape and visual amenity, the water environment, biodiversity and protected species and their habitats. Planning applications which do not include sufficient supporting information to allow a proper assessment of the impact of the proposed development will be refused. Developers are also required to secure other regulatory authorisations in accordance with Planning Advice Note 51 Planning, Environmental Protection and Regulation.

132. A mine or quarry progress plan as part of a planning application are required to be submitted. These, or another approved mechanism to document the phasing of the work and the planned progress towards environmental and site restoration, are necessary in large developments involving multiple phases. The purpose of the plan is to provide transparency and oversight to ensure projects are developed and restored as intended. The mine or quarry progress plan would form the basis of the agreed working and restoration programme, and be secured by condition. The planning authority (and where appropriate the community liaison committee as well) would monitor implementation of the progress plan.

Legal Agreement

133. Planning or other legal agreements may be necessary where impacts cannot be sufficiently mitigated or controlled by means of planning conditions alone. The council in discussion with applicants need to consider whether an agreement is required to regulate the development and to ensure external effects related to the operator are provided for. The council may use other powers or statutes to control particular issues such as the care of highways and continued existence of bonds. A legal agreement is the safest way to ensure this however, there may be circumstances where planning conditions would suffice for example new planning applications.

Mineral Surveys

134. The council will require mineral operators to provide information on individual sites. Regular liaison and surveys are needed to update information on production figures, remaining reserves and market areas served. To effectively monitor the implementation of the Local Development Plan and, in particular, the aggregate landbank position, the council and its partners need access to up-to-date estimates and assessments. Whilst recognising that some of this information can be commercially sensitive, it is important that basic statistics on production and remaining reserves are available to effectively monitor the effectiveness of the Local Development Plan and this Supplementary Guidance. So that the supply and demand for aggregates can be monitored, and to measure compliance with the required 10 years landbank in SPP, operators of new aggregates sites will be required to supply annual statements of production and remaining reserves.

135. The availability of this data will allow the supply position to be monitored and ensure that reserves can be brought forward timeously to meet any shortfall that may be identified in the aggregate landbank. The council's preference will be to use any survey information gathered by the Scottish Government and SESplan authorities to avoid unnecessary duplication. The council will co-operate fully with any such surveys. This will be supplemented, if necessary, by the gathering of information locally.

Recycling/Secondary Aggregates

136. The extraction of a secondary material (for example fireclay from a coal extraction site) is supported provided that its removal does not detract from high quality restoration, or have unacceptable environmental effects (including from cumulative vehicle movements).

137. The recycling of construction and demolition waste and the reworking of waste material from old mineral sites can be a substitute for primary aggregates and reduce the need for primary extraction. This is a more sustainable approach to the supply of minerals and to waste management. The introduction of the *Landfill Tax and Aggregates Levy* on newly dug aggregates, may act as an encouragement in reducing the amount of recyclable materials going to landfill.

138. Applications for the re-working of material from former mineral workings will be supported where the material produced will be a substitute for primary material and where the site is to be satisfactorily restored after reworking. Applications will not be supported where a site has already been satisfactorily restored, unless the material is required for a proven need that cannot otherwise be met.

139. Reprocessing of demolition and construction waste is in most cases likely to be an open-air activity and it should be located carefully to minimise the impact on residential areas and other sensitive land uses (schools, hospitals etc.). Locating reprocessing plant in operational landfill or mineral sites must not prejudice or delay the restoration of the sites, nor establish permanent reprocessing plant in a location which would otherwise be unsatisfactory. The additional disturbance to adjoining uses from traffic, dust and noise will be carefully considered.

140. Spoil heaps or bings from former extractive workings which contain residual mineral deposits may have been in place for some time and natural regeneration may have occurred to an extent that makes the deposit an attractive feature in its own right. Mineral wastes may also have been used in the restoration of a former mineral site that has already been brought into a satisfactory after use. In these circumstances, unless there is a proven need for the material that cannot otherwise be met, the removal of material will not be supported. An example of where mineral wastes have been reused is at Niddry Castle Bing, near Winchburgh where aggregate has been used in the construction of the Replacement Forth Crossing.

Carbon Footprint

141. New minerals development should aim to minimise the negative impacts of extraction by reducing its carbon footprint, thus contributing to sustainable development. In doing so, it should seek to limit greenhouse gas emissions from operations and support zero waste objectives. This can be done in a variety of ways, for example, locating extraction sites as close as possible to the markets to be served in order to minimise haul distances and transport emissions. Minerals working can reduce the carbon storage capacity of a site through, for example, soil and vegetation stripping but it is quite possible to redress this imbalance by good quality appropriate restoration. In this way the carbon storage capacity of a site can be increased after production has finished.

Mineral Waste

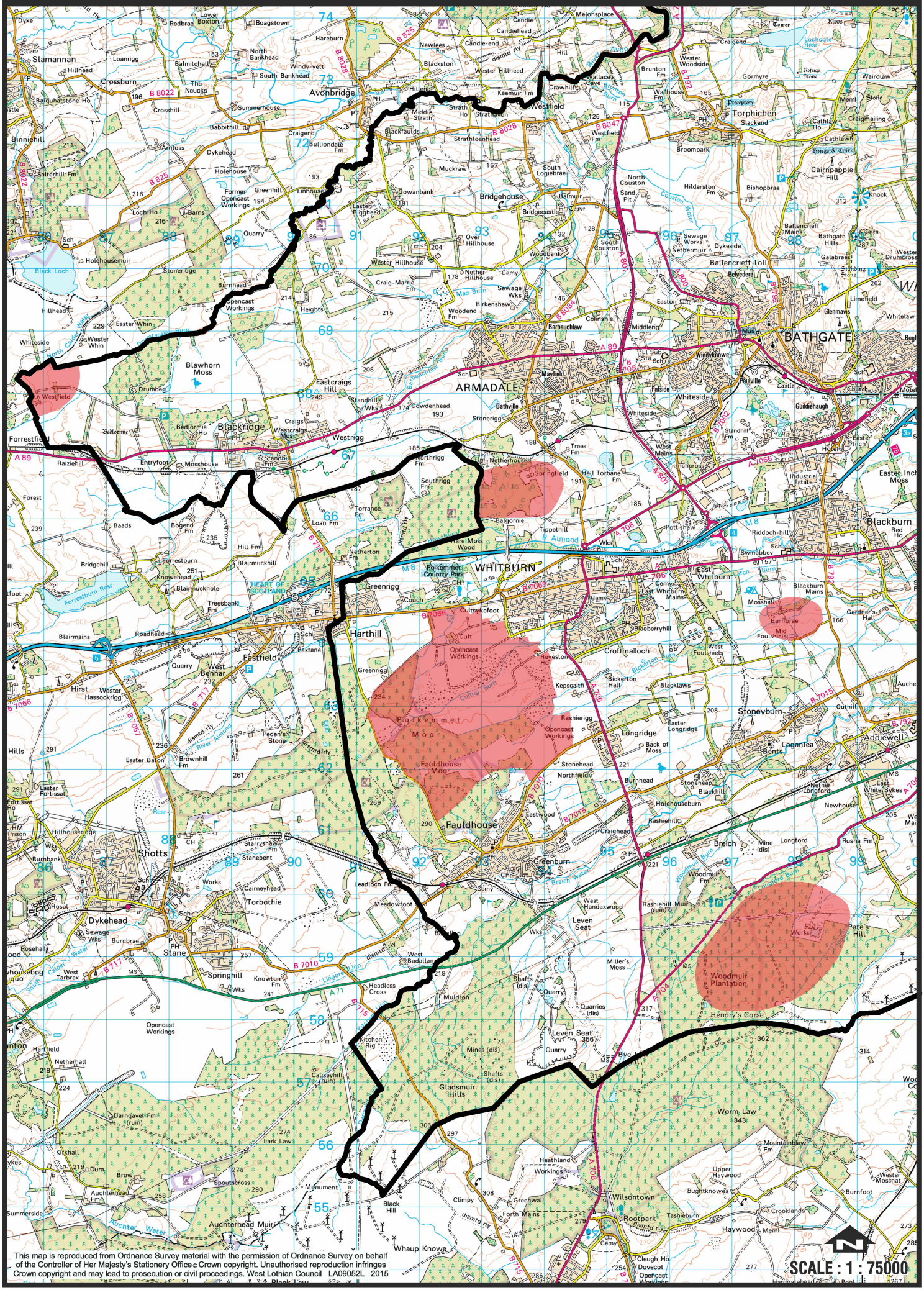
142. Mineral waste comprises overburden, unusable rock and process waste such as fines from construction and screening. Most mineral waste is deposited within the curtilage of the site as backfill or to form screening mounds. It is possible to re-work it and put it to new use.

143. Proposals for the use and deposit of mineral waste at a mineral site must be addressed through a waste management scheme for the site. The surface deposit of mineral waste at an operational mineral site will be supported where it can be demonstrated it would make a positive contribution to the screening or the restoration of the site and no opportunity exists to recycle the waste.

144. The *Management of Extractive Waste Regulations (Scotland) 2010* which came into effect in 2010 transpose the *Mining Waste Directive (MWD)* in Scotland and new sites are required to be compliant. This aims to ensure that measures are in place to prevent or minimise any adverse effects on the environment, especially water, air, soil fauna and flora and landscape, and any resultant risks to human health, as a result of the management of waste from extractive industries. The MWD addresses wastes including slurries, waste rock, overburden and soil which are left over once mineral extraction operations have been completed.

145. How mineral waste will be managed should be an integral issue for all new applications for mineral working. If not disposed of carefully, such waste can have a detrimental impact on the environment and on the amenity of local communities. In assessing proposals, consideration will be given to the extent the material is being positively used or re-used and how it otherwise accords with the policies of the Local Development Plan.

FIGURE 1 : OPENCAST COAL SEARCH AREAS IN WEST LOTHIAN



Links to key documents:

National Planning Framework 3
https://www.gov.scot/publications/national-planning-framework-3/

Scottish Planning Policy 2014
https://www.gov.scot/publications/scottish-planning-policy/

Planning Advice Note 50 (Controlling the Environmental effects of Surface Minerals Workings)
https://www2.gov.scot/Publications/1996/10/17729/23423

Planning Advice Note 51 (Planning Environmental Protection and Regulation)
https://www.gov.scot/publications/planning-advice-note-pan-51-revised-2006-planning-environmental-protection/

Planning Advice Note 64 (Reclamation of Surface Minerals Workings)
https://www.gov.scot/publications/planning-advice-note-pan-64-reclamation-surface-mineral-workings/

Planning Advice Note 75 (Planning for Transport)
https://www.gov.scot/publications/planning-advice-note-pan-75-planning-transport/

Town & Country Planning (Scotland) Act 1997
https://www.legislation.gov.uk/ukpga/1997/8/contents

Strategic Development Plan (SDP1)
https://www.sesplan.gov.uk/assets/files/docs/290813/SESplan%20Strategic%20Development%20Plan%20Approved%2027%20June%202013.pdf

West Lothian LDP
https://www.westlothian.gov.uk/LDP

The Environmental Impact Assessment (Scotland) Regulations 1999
https://www.gov.scot/policies/environmental-assessment/environmental-impact-assessment-eia/

Glossary

Aggregate: sand, gravel, crushed rock and other bulk materials used by the construction industry.

Brownfield Site: Land which has previously been developed. The term may encompass vacant or derelict land; infill sites; land occupied by redundant or unused buildings; and developed land within the settlement boundary where further intensification of use is considered acceptable. A brownfield site should not be presumed to be suitable for development.

Carboniferous period: the period of geological time between 360 and 300 million years ago.

Coal Bed Methane (CBM) extraction: the process of de-watering old coal workings to allow trapped gas to be collected.

Development: the carrying out of building, engineering, mining or other operations in, over or under land or the making of any material change in the use of buildings or other land (as defined by Section 25 of the Town and Country Planning (Scotland) Act 1997).

Flyrock: the projection of material from a blast site to any area beyond the designated Danger Zone.

GPDO (Scotland) 1992: General Permitted Development (Scotland) Order: A statutory instrument which defines what does and does not require planning permission.

Greenfield Site: Land in a settlement or rural area which has never been developed, or where traces of any previous development are now such that the land appears undeveloped.

Hard rock: consolidated rock such as dolerite or andesite.

Hydraulic Fracturing: use of high pressure water and sand proppant to break open and collect oil and gas from shale deposits.

Local Nature Reserve: a nature reserve established by a local authority under the powers in the National Parks and Access to the Countryside Act 1949.

Mineral reserve: part of a mineral deposit economical to mine or quarry, fully evaluated and free of any legal impediment to extraction.

Mineral resource: all other mineral deposits other than reserves.

National Nature Reserve: a site designated by Scottish Natural Heritage which is considered to be of national importance for its natural heritage interest. National Nature Reserves are managed with nature conservation as the primary objective.

Natura 2000 site (also referred to as European site(s)): part of a European network of Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

Overburden: soil and other material that overlays a mineral deposit which has to be excavated and either tipped or stockpiled to gain access to the underlying mineral.

PEDL Licence: Petroleum Exploration Development Licences awarded to operators by the Department of Energy and Climate Change. They are commercial licences and are awarded on the basis of an applicant's financial status and technical competence.

Precautionary Principle: taking action to avoid possible environmental damage when evidence for acting is inconclusive but the potential environmental change could be great.

Prime agricultural land: classes 1, 2 and 3.1 of the James Hutton InstituteSoil Survey of Scotland. The classes are termed "land capability" classes reflecting the range of crops which the different types of soil are able to sustain.

Scheduled Ancient Monument: a monument, existing above or below ground, which because of its national archaeological importance, has been statutorily protected under the Ancient Monuments and Archaeological Areas Act 1979.

Settlement: Generally regarded a group of 10 or more dwellings.

Shallow Coal: coal measures which lie sufficiently close to the surface to allow extraction by surface mining methods.

Site of Special Scientific Interest (SSSI): a site notified by Scottish Natural Heritage (SNH) under the Wildlife and Countryside Act 1981 as an area of land or water which, in the view of SNH, is of special interest in a national context. SSSIs form the main national designation which underpins other designations including those of international status.

Sterilisation: when a change of use or the development of land prevents possible mineral exploitation in the foreseeable future.

Surface Mining: mineral extraction involving surface working as opposed to sub- surface or deep mining.

Sustainable development: development that meets the need of the present without compromising the ability of future generations to meet their own needs.

Unconventional Gas: the chemical composition is identical to conventional natural gas and is only labelled as such due its atypical geological locations. Usually found in fractures and pore spaces in compact rocks with low permeability such as coal or shale.

Vibration Sensitive Buildings: any building occupied by a person or persons either on a regular or irregular basis as a form of dwelling, workplace, meeting place etc.

(SG) Minerals (Including Restoration Bonds)

Approved by West Lothian Council Executive 8 October 2019
Subsequently adopted as Supplementary Guidance (SG) 6 February 2020

West Lothian Council, Development Planning & Environment, Civic Centre, Howden South Road, Livingston, EH54 6FF
Tel: **01506 28 00 00** Email: dpgeneral@westlothian.gov.uk

West Lothian Council