



**The Coal
Authority**

West Lothian Local Development Plan (Main Issues Report)

Consultation Deadline – 17 October 2014

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Person Making Comments

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Date of Response

13 October 2014

Background on The Coal Authority

The Coal Authority is a Non-Departmental Public Body sponsored by the Department of Energy and Climate Change (DECC). The Coal Authority was established by Parliament in 1994 to: undertake specific statutory responsibilities associated with the licensing of coal mining operations in Britain; handle subsidence claims which are not the responsibility of licensed coalmine operators; deal with property and historic liability issues; and provide information on coal mining.

The main areas of planning interest to the Coal Authority in terms of policy making relate to:

- the safeguarding of coal in accordance with the advice contained in The National Planning Policy Framework and Planning Practice Guidance in England, Scottish Planning Policy in Scotland, and Minerals Planning Policy Wales and MTAN2 in Wales;
- the establishment of a suitable policy framework for energy minerals including hydrocarbons in accordance with the advice contained in The National Planning Policy Framework and Planning Practice Guidance in England, Scottish Planning Policy in Scotland, and Minerals Planning Policy Wales and MTAN2 in Wales; and
- ensuring that future development is undertaken safely and reduces the future liability on the tax payer for subsidence and other mining related hazards claims arising from the legacy of coal mining in accordance with the advice in The National Planning Policy Framework and Planning Practice Guidance in England, Scottish Planning Policy in Scotland, and Planning Policy Wales and MTAN2 in Wales.

Background on Coal Mining Issues in West Lothian

Surface Coal Resources and Prior Extraction

As you will be aware, the West Lothian Council area contains coal resources which are capable of extraction by surface mining operations. These resources cover an area amounting to approximately two-thirds of the West Lothian Council area.

The Coal Authority is keen to ensure that coal resources are not unnecessarily sterilised by new development. Where this may be the case, The Coal Authority would be seeking prior extraction of the coal. Prior extraction of coal also has the benefit of removing any potential land instability problems in the process. Contact details for individual operators that may be able to assist with coal extraction in advance of development can be obtained from the Confederation of Coal Producers' website at www.coalpro.co.uk/members.shtml.

The plan area contains a number of sites from which coal has been removed previously by surface mining methods. There are also a number of other sites with licences for extraction, exploration and coal bed methane.

As The Coal Authority owns the coal on behalf of the state, if a development is to intersect the ground then specific written permission of The Coal Authority may be required.

Coal Mining Legacy

As you will be aware, the West Lothian Council area has been subjected to coal mining which will have left a legacy. Whilst most past mining is generally benign in nature, potential public safety and stability problems can be triggered and uncovered by development activities.

Problems can include collapses of mine entries and shallow coal mine workings, emissions of mine gases, incidents of spontaneous combustion, and the discharge of water from abandoned coal mines. These surface hazards can be found in any coal mining area, particularly where coal exists near to the surface, including existing residential areas.

Within the plan area there are approximately 1470 recorded mine entries and around 52 coal mining related hazards have been reported to The Coal Authority which have required an emergency response. A range of other mining legacy features are present, in total The Coal Authority High Risk Development Area covers approximately 17% of the Council area.

Mine entries may be located in built up areas, often under buildings where the owners and occupiers have no knowledge of their presence unless they have received a mining report during the property transaction. Mine entries can also be present in open space and areas of green infrastructure, potentially just under the surface of grassed areas. Mine entries and mining legacy matters should be considered by Planning Authorities to ensure that site allocations and other policies and programmes will not lead to future public safety hazards. No development should take place over mine entries even when treated.

Although mining legacy occurs as a result of mineral workings, it is important that new development recognises the problems and how they can be positively addressed. However, it is important to note that land instability and mining legacy is not a complete constraint on new development; rather it can be argued that because mining legacy matters have been addressed the new development is safe, stable and sustainable.

As The Coal Authority owns the coal and coal mine entries on behalf of the state, if a development is to intersect the ground then specific written permission of The Coal Authority may be required.

Specific comments on the West Lothian Local Development Plan (Main Issues Report)

The comments and/or changes which The Coal Authority would like to make or see in relation to the above document are:

Representation No.1

Site/Policy/Paragraph/Proposal – Questions 3 and 4, Aims Main Issue 8, Waste and Minerals

Comment – We consider that to comply with paragraph 234 of SPP the aim for Issue 8 should be expanded to address the safeguarding of mineral resources in addition to their responsible extraction.

Change Requested – Amend the aim to read:

“Safeguard mineral resources and support the extraction and re-use of minerals where justified and in doing so ensuring this is done in an environmentally sensitive manner by minimising impacts on the environment, local residents and local businesses.”

Representation No.2

Site/Policy/Paragraph/Proposal – Main Issue 8: Minerals and Waste, Questions 94, 95 and 96

Comment – Since the adoption of the South East Scotland SDP, the latest version of SPP has now resolved what minerals issues fall to the remit of the SDP and what fall to be addressed in the LDP.

The MIR recognises the presence of the coal resources available in West Lothian. In paragraph 3.236 reference is made to the existing six broad areas of search for coal extraction, and indicates the intention to publish these alongside the LDP at the proposed plan stage. Paragraph 239 of SPP requires areas of search to be defined in the LDP. These should however be reviewed having regard to the views of the minerals industry and they should also be reviewed in the context of areas of search defined in neighbouring LDPs such as South Lanarkshire to ensure cross-border consistency.

PEDL licences 133 and 162 partially intersect the plan area, paragraph 3.241 recognises this fact. As per advice in paragraph 240 of SPP these PEDL areas should be indicated in the LDP.

The Coal Authority would prefer the ‘Alternative’ approach, widening the area of search to include the whole plan area would increase flexibility and would be more consistent with the adopted approach in South Lanarkshire. Policies and designations can ensure that planning permission is then actually only granted where it is acceptable against all relevant criteria including environmental and amenity considerations.

The LDP also needs to set out a policy context for the following topics that SPP requires:

- Local development plans should safeguard all workable mineral resources which are of economic or conservation value and ensure that these are not sterilised by other development – SPP paragraph 237
- Where possible, plans should secure extraction prior to permanent development above workable coal reserves – SPP paragraph 239
- Set out a policy framework for hydrocarbons – SPP paragraph 240

The Coal Authority considers that this should all be addressed within the LDP in line with SPP as opposed to placing some or all of this policy content in Supplementary Planning Guidance.

Representation No.3

Site/Policy/Paragraph/Proposal – Policy Omission – Unstable Land

Comment – It is noted that Policy NWR 19 – Contaminated Land Rehabilitation is proposed to be retained and carried forward to the LDP. Mining legacy and the consequential ground instability is a significant issue within West Lothian and we consider that this should also be included within a

wider policy addressing contaminated and unstable land. Where land is suspected to be unstable a developer needs to undertake site investigations and where instability is demonstrated the developer must provide a detailed programme of remedial works.

Ground instability arising from mining legacy affects approximately 17% of the plan area.

CONCLUSION

The Coal Authority welcomes the opportunity to make these comments. We are, of course, willing to discuss the comments made above in further detail if desired and would be happy to negotiate alternative suitable wording to address any of our concerns. The Coal Authority also wishes to continue to be consulted both informally if required and formally on future stages.

Thank you for your attention.

For and on behalf of

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