

**LEICESTERSHIRE MINERALS CORE STRATEGY DPD
INDEPENDENT EXAMINATION – MARCH 2009**

**ENVIRONMENTAL MATTERS
And
DEVELOPMENT CONTROL POLICIES**

HEARING STATEMENT by THE COAL AUTHORITY (289)

Policy CS17 – Fails Test 4B

Policy DC17 and DC20 - Fails Test 4B

Introduction

This Hearing Statement is designed to address questions 19 and 24 posed by the Inspector in relation to ground stability.

(19) Should Policy CS17 refer to minimising future public safety hazards and ground stability problems?

(24) Should Policy DC17, Box 3 and Policy DC20, Box7 refer to future ground stability?

Background on The Coal Authority

The Coal Authority Planning and Local Authority Liaison Department was established in April 2008 in order to define and implement the process to re-engage with the planning systems across England, Scotland and Wales.

Previous mining activities have left a considerable environmental and public safety legacy across the coalfields. Mining legacy issues 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.

The Coal Authority has the responsibility for managing the legacy from coal mining this is achieved by:

- A 24hr/365 day emergency call out service for surface hazards

- A rolling inspection and treatment programme for mine entries
- Monitoring and installing a network of unobtrusive vents to safely release mine gases into the atmosphere
- Monitoring minewater recovery and designing, building and operating minewater remediation schemes
- Providing plans and information on coal and coal mining activities

It is the aim of the new Planning and Local Authority Liaison Department that the planning processes, both policy making and development/land use management in coalfield areas needs to take more account of the coal mining legacy issues.

Main Points Raised by The Coal Authority in Original Representation on Policies CS17, DC17 and DC20

The Coal Authority made a representation on Policies CS17, DC17 and DC20 because in its view it failed soundness test 4b because it felt that it did not adequately take account of the need to address land instability arising out of former mineral workings and restoration proposals as required by Planning Policy Guidance 14¹, Development and Unstable Land (PPG14) and Minerals Policy Statement 1 (MPS1)².

Changes Being Sought by The Coal Authority in Original Representations

- A. The Coal Authority's suggested improvement to Policy CS17: *"...land is reclaimed at the earliest opportunity and that high quality restoration and aftercare takes place **using industry best practice at the time which seeks to minimise the future public safety hazards and ground stability problems which can arise from the legacy of mineral workings. To ensure that** an appropriate after use that enhances and complements the natural environment....."*
- B. Suggested improvement to Policy DC17:
*"No.29. Restoration proposals including finished levels, depths and source of soils and landscaping; **and measures to ensure future ground stability.**"*

¹ Planning Policy Guidance 14 (1990) Development and Unstable Land, Department of Environment and Welsh Office.

² Minerals Planning Policy 1 (2006) Planning and Minerals, Communities and Local Government

C. *Suggested improvement to Policy DC20 an additional information requirement:*

“Details which will ensure the future stability of the ground following restoration.”

The Coal Authority Examination Commentary – Public Safety Hazards and Ground Stability

1. Although PPG14 is one of older PPGs, published in 1990, the principles it contains are still highly relevant and it remains a valid planning consideration both in terms of development plan preparation and planning decision making. PPG14 is accompanied by two Technical Annexes 1 (Landslides and Planning, 1996)³ and Annex 2 (Subsidence and Planning, 2002)⁴ which collectively all form part of the policy guidance on this topic. PPG14 refers to the old development plan system but as it is still in force the principles are therefore still relevant to the new development plan making system.
2. PPG14 sets out national planning policy on the effects of instability on development and land use. It emphasises that the ways in which instability might be treated in development plans and in considering individual planning applications.
3. The Leicestershire Minerals Core Strategy includes the overarching spatial strategy for minerals development within Leicestershire until 2021. In the opinion of The Coal Authority it is important that this document highlights the issue of ground stability is one which arises out of minerals developments and therefore creates a distinct spatial issue for Leicestershire. This is a county-wide document and one which all of the Leicestershire District Authorities will need to have regard to in their respective plans and strategies.
4. The Coal Authority has records of approximately 914 recorded mine entries for Leicestershire. Mine entries are point features for ventilation and access/egress into underground workings. Typically these are either shafts (vertical entrance into the ground) or adits (inclined passageways driven into the ground from the surface).

³ PPG14, Annex 1 (1996) *Landslides and Planning, Department of Environment*

⁴ PPG14, Annex 2 (2002) *Subsidence and Planning, Department of Transport, Local Government and the Regions*

5. The Coal Authority fully acknowledges that there may be many more unrecorded mine entries within Leicestershire because of the long history of coal mining in the North West Leicestershire coalfield. New mine entries are being found every day and The Coal Authority has a rolling programme of inspecting and treating recorded mine entries.

6. Mine entries have the potential to cause a serious public safety hazard which has resulted in some unfortunate fatalities by people falling into mine shafts and being asphyxiated by the mine gases which are always present. Some mine shafts have been treated to prevent access using a variety of methods from very basic techniques of wooden boards or asbestos sheeting to the most appropriate method which is drilling and grouting. Many of the old mine shafts also pose risks to public safety by unexpected collapses. The ground opens up and material slumps into the shaft leaving the shaft itself exposed and uncovered.

7. Addressing the legacy of coal mining is important. The Coal Authority as the owner of old mine entries has a duty to protect public safety under Section 3 of the Coal Industry Act 1994 and operates both a Mines Rescue Service and a comprehensive 24 hour, 365 days a year emergency response service to deal with any incidents which pose a risk to the safety of the public that are associated with former coal mining anywhere across the coalfields of England, Scotland and Wales.

8. In 2007/08 across the UK coalfields there were 335 reported hazards, of which 69 were in the East Midlands.⁵

9. The Coal Authority is seeking a specific reference in the Policy CS17 which makes it clear that the County Council is seeking the highest possible standards of restoration which will address any potential mining legacy matters which may arise in the future to prevent any public safety problems arising. This is supported by the approach advocated in MPS1, paragraph 17 and PPG14, Paragraph 2.

⁵ *The Coal Authority Annual Report & Accounts 2007-2008*

10. Without a specific reference in the policy itself as proposed, The Coal Authority is seriously concerned that the issue of mining legacy will not be highlighted to Leicestershire LPAs and plan users. In our opinion it is a matter of fact and degree in terms of clarity and a perception of weight and importance by the plan reader. Furthermore, in the event that there is a need in the future to 'save' policies, then it is the policies which become saved and not the plan and its content itself.

11. The Coal Authority is seeking to influence both policy making and development/land use management to raise this issue in order to ensure mining legacy matters are adequately addressed and considered. MPG3 details the particular role that The Coal Authority has in relation to formulating development plan policies for Coal. MPG3 in paragraph 14 talks about priority being given to proposals which bring about environmental improvements including the restoration of previously derelict areas or the stabilisation of unstable ground. MPG3 goes on in paragraph 56 to say *"It is established Government policy that restoration and aftercare of appropriate quality will be required to make mineral workings fit for beneficial after-use..."* and it goes on in paragraph 64 to talk about the risks associated with opencast sites being left un-restored. Whilst restoration can be a detailed matter to be addressed through a planning application, an effective development plan policy context is considered appropriate in line with the objective of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The primacy of the Development Plan would be further supported by paragraph 2 of PPG14 which indicates the need for guidance should be set out at all stages of planning.

12. Guidance in MPS1 paragraph 21 in relation to the content of LDDs states *"They should cover all aspects of environmental and resource protection including restoration."* This is in addition to the detailed guidance it then gives in paragraphs 48 to 51 on restoration, after-care and after-use in relation to the development control system.

13. The Coal Authority is currently piloting the inclusion of a Development Stability Report requirement for planning applications within coalfield LPAs which fall into an area which The Coal Authority has defined as having mining legacy matters. This

'local requirement' is to be included with the 1App information requirements for planning applications where necessary. This will ensure that developers have the information to then undertake a risk assessment of their proposals to ensure that the proposed development will be stable. It is important that minerals and waste developments do not leave a future legacy which the remediation of which will be paid for by public funds. In the opinion of The Coal Authority it is vital that the County Council provides sufficient guidance to the minerals and waste developers to ensure that there is no legacy and as such it is correct place to identify this issue in order that the District LDFs within Leicestershire take this into account when preparing their own LDFs.

Conclusion

15. The Coal Authority remains of the view that Core Strategy Policy CS17, DC17 and DC20 should be amended to include reference to tackling full restoration including issues which could compromise public safety in order to comply with advice in MPS1, MPG3 and PPG14. This would allow Soundness Test 4 on consistency with national policy to be met in our opinion. Development Control Policies DC17 and DC20 should then conform to the parent Core Strategy Policy CS17 in order to ensure coherence and constancy between development plan documents as Soundness Test 6 requires.

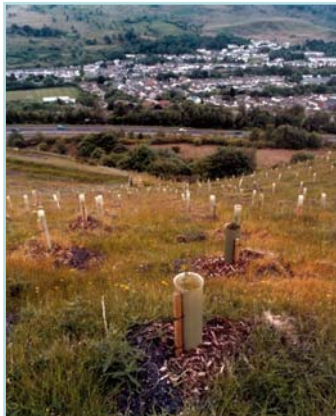
The Coal Authority

December 2008

Photographs of Mining Legacy Matters



- **Subsidence Damage**
- **Minewater Treatment**
- **Surface Hazards**
- **Mine Gas Management**
- **Property Management**



*Leicestershire Minerals Development Framework
Environmental Matters – Reclamation and After Use
Development Control Policies
Hearing Statement by The Coal Authority (289)*
Shaft collapses





Catastrophic failure



Shallow mining collapses





Developer Activity





.....contained outburst



Minewater



.....uncontained outburst