

LEICESTERSHIRE MDF TO 2021 - SUBMISSION DRAFT - CORE STRATEGY AND DC POLICIES

MINERALS - SUPPLY: MINERALS OTHER THAN AGGREGATES - COAL SUPPLY

SUBMISSION ON BEHALF OF UK COAL MINING LTD

1 Introduction/General

1.1 The Inspector has raised in his Issues and Matters for Discussion document, the following questions that apply to how the MDF CS deals with coal supply (and UK Coal have been identified as the party who could make a significant contribution to these questions):

- General - Whether there is clarity on the adequacy of and supply of coal to be extracted and the appropriateness of the source locations?
- General - Are the proposals for coal supply justified?
- Specific (Item 20) - Is there clear evidence and guidance on the locations where coal extraction may take place?
- Specific (Item 20) – Should sufficient environmentally acceptable sources of future coal working be identified under the provisions of Policy CS 7 which sets out the strategy for coal supply?

2 Background

2.1 UK Coal has made a series of responses to the previous preferred options documents as well as the Submission Draft of the MDF CS and DC Policies (referred to as the MDF CS below). Copies of these responses – x3 - are appended to this written submission as background (see appendix 1).

2.2 To summarize, the thrust of these representations has been to:

- Encourage the Council to take a more positive approach to forward planning for coal supply in Leicestershire, specifically to accord with the approach in MPG 3, concerning Plans, forward programmes and the RSS.
- Press the Council to treat planning for coal supply on a fair basis, rather than potentially placing more constraint upon coal supply than on other minerals, including, for example, objections over the inclusion of references to potential adverse effects of coal extraction on inward investment (not referred to fire clays, rock, etc), for which there has been no evidence presented by the Council.
- Raise concerns over the potential conflict between a presumption in Policy CS7 against extensions to existing coal extraction sites, when Policy CS1 – the strategy policy for the supply of minerals in Leicestershire – is to give priority to the extension of existing mineral extraction sites.
- Press the Council to produce a more appropriate spatial map to provide clarity to the industry and communities on potential environmentally acceptable areas from which coal supply could be achieved.
- Request clarification over the River Mease catchment area and its inclusion on the spatial maps.
- Note the shortfall in fireclay reserves and to support joint coal and fireclay extraction, including through the promotion of joint coal and clay extraction sites.
- Raise concerns over the interpretation and application of policy and text on cumulative impacts.
- Indicate that, beside the more general benefit of supplying coal, the document should highlight positive long term effects of reclamation to positive end uses, with contributions to the National Forest and Biodiversity, as well as the potential for sites to make positive contributions to the water environment.

3 Consideration of the Issues

General - Whether there is clarity on the adequacy of and supply of coal to be extracted and the appropriateness of the source locations?

- 3.1 In terms of the policy approach to coal and having regard to PPS12 (MCD 1 - see para 4.30) it is our view that some of the wording concerning a “presumption against” contained in Policy CS 7 is effectively a reformulation of national land use policy at para 8 of MPG 3 (MCD 34). This appears to run contrary to para 4.30 of PPS 12.
- 3.2 Para 8 of MPG 3 (MCD 34) can in fact be interpreted to mean that there is a presumption in favour of environmentally acceptable coal extraction sites and, where they are not environmentally acceptable, this can be offset by other benefits. We consider that the purpose of the MDF CS must be, having regard to PPS 12 (MCD 1 - concerning requirements for a delivery strategy and identification of strategic sites), to seek to identify potentially environmentally acceptable areas for future coal (and clay) workings to enable coal (and clay) supply across the plan period. Such a positive approach would not be contrary to para 8 of MPG 3 (MCD 34) and is supported by the Development Plan/Minerals Plan sections of MPG 3.
- 3.3 In simple terms, and as acknowledged in the supporting text to Policy CS 7, there is a continuing role for coal in energy supplies (see para 4.57 of the MDF CS). Its continued supply is supported by the Coal Forum and the Government considers that there is value in maintaining access to recoverable coal where it is environmentally acceptable to do so (see para 4.63 of the MDF CS). MPG3 (MCD 34) anticipates in the Development Plan and Mineral Local Plan sections forward planning for future coal supply. The more recent MPS 1 (MCD 2) at para 15 includes the following points that are relevant to coal supply in Leicestershire:
- Aim to source mineral supplies indigenously to avoid exporting potential environmental damage.
 - To identify sites, preferred areas, or areas of search, taking account of environmental considerations, to provide certainty.
 - The benefit of local supplies.

- To consider mineral specific guidance where extraction of more than one mineral is proposed (e.g. joint coal and fireclay operations)
- Enable the minerals industry, as far as practicable, to secure productivity, growth and high/stable levels of employment.

3.4 MPS 1's Practice Guide (MCD 3) also indicates:

- Exploitation of energy minerals, including coal, reflects Government policy objectives of ensuring secure, diverse, sustainable supplies at competitive prices
- Opencast coal can assist the ceramics and brick making industries through the supply of clay.
- The UK needs to make a suitable contribution to mineral (coal) supply to avoid exporting environmental damage.
- Para 37 to 42 indicates the potential approach to areas for future mineral working.
- The MPA is responsible for making sufficient provision of the various minerals in its area over the plan period and must justify its approach.
- Paras 48 to 51 highlight the potential longer term land use benefits that can flow from extraction sites including contributions to biodiversity/habitats and the National Forest.

3.5 It is our view, that in order to make the Leicestershire MDF CS sound, and thus accord with the requirements of PPS 12 (MCD 1), the document and the associated figures need to be much clearer on the following:

- That the Council is planning to ensure coal supply from environmentally acceptable areas/sites in Leicestershire across the plan period.
- That it is indicating – through its policies and key diagrams - where it is potentially environmentally acceptable to source coal supplies from across the plan period and perhaps also where there would be issues of environmental un-acceptability and therefore where other benefits would be needed to offset such impacts.

- Having a specific policy that supports joint coal and fireclay operations in order to ensure supplies of both minerals across the plan period.

General - Are the proposals for coal supply justified?

- 3.6 We consider that in the light of the planning policy guidance set out above the Council is not justified in being as non-committal to coal supply and vague on potential areas of extraction of coal (and clay) as the combination of Policy CS 7 and the Key Diagram on Energy Minerals achieves. It is therefore not appropriate to use, as the start point for the coal policy, a reformulation of part of national land use policy. Through a combination of text and policy it would help to make clearer what the approach to identifying environmentally acceptable coal (and fireclay) sites is.
- 3.7 Also, it is our view that there is little justification for having a presumption against lateral and depth extensions to coal sites, as set out in Policy CS 7, when the Council has already, in its Policy CS1 for the supply of minerals, given overall priority to the extension of existing extraction sites. Paragraph 4.8 provides the justification to the approach in CS 1 and we have not seen any evidence or justification as to why these points would not apply to a coal extraction site, particularly as an existing operational coal site must have been found to be acceptable in environmental/planning terms to have already obtained permission.
- 3.8 We are not aware of any evidence contained in the MDF CS or the Background Paper that demonstrate or indicate that coal extraction sites have a prejudicial effect on efforts to attract or retain investment in an area. At the Long Moor Surface Mine Public Inquiry - 2005, UK Coal presented evidence prepared by Messrs DTZ that considered inward investment issues in North-West Leicestershire as well as investment trends in the English coalfield. This demonstrated that the proposed surface mining development would not impact in this regard. The MPA did not field any evidence to consider this. In fact, the DTZ material indicates that surface coal mining schemes like Long Moor (which is currently operating) would make a positive contribution to the local economy.

Therefore, we suggest that this criterion is not necessary, particularly as it is not placed as a test against any other forms of mineral working, most of which also have the potential to impact on the local environment.

- 3.9 We consider that the Energy Minerals Spatial Map - in schematic form, with certain potential constraints identified – particularly the River Mease Catchment (we deal with this specifically in other submissions), at a small scale, is not the most appropriate strategy for identifying potential environmentally acceptable areas for coal (and clay) working when more certainty and a clearer picture for both investors/industry and local communities could be achieved with a better map. This should help to give a better understanding of where coal extraction might take place. In this regard coal is identified as a nationally and regionally important mineral in the East Midlands RSS – Proposed Changes July 2008 (MCD 9) – it is therefore strategically important. The Council has not though indicated that it is going to be more site-specific on coal in its “Allocations” document. It is therefore important that the Spatial Map/Figure provides as much clarity as possible.
- 3.10 Given that coal extraction is identified as the most likely means of securing further supplies of fireclay –as referred to in the fireclay text and policy, as well as the Council’s Topic Paper on clay, we do not consider that it is appropriate for the coal policy CS 7 to remain silent on joint coal and fireclay operations and the potential benefit of joint working. Another option, in terms of the most appropriate approach, would be to have a joint coal and fireclay workings policy, particularly as there is little prospect of there being stand alone fireclay operations.

Specific - Is there clear evidence and guidance on the locations where coal extraction may take place?

- 3.11 It is our view that neither the Policy CS 7, nor its supporting text, nor the Key Diagram 3, gives a clear indication of the locations where coal extraction may take place. The reasons are outlined in the points above.

Specific – Should sufficient environmentally acceptable sources of future coal working be identified under the provisions of Policy CS 7 which sets out the strategy for coal supply?

- 3.12 In simple terms Policy CS 7 and the Key diagram 3 takes planning for coal supply no further than national and regional policy, and this is in spite of the advice contained in national and regional policy for the Council to provide a framework for investment and to provide certainty for the industry and communities.
- 3.13 Whilst we recognize that environmental impacts have to either be avoided or mitigated to acceptable levels it is our view that the MDF CS should set out clearly, that it is planning to ensure some supplies of Leicestershire coal (and clay) by planning for future coal extraction sites across the plan period. In this regard the benefits of also supplying associated fireclays should be dealt with in a coal policy and an appropriate spatial map/figure should make clear where the remaining (un-worked) potential coal and clay resources are located. We would point out that figure 2 does not show the fireclay resources in the County. If there is a particular constraint then there needs to be clear evidence to justify its inclusion as a constraint to coal supply/extraction. As there is benefit from coal supply then this should be used as a justification for planning for future supplies and the document should give a clear indication where environmentally acceptable supplies might be sourced.
- 3.14 The difficulties in identifying environmentally acceptable sites as presented by the MDF CS are:
1. The reformulation of national policy with the general “presumption against” in Policy CS 7
 2. A reference in Policy CS 7 to potential effects of coal extraction on inward investment
 3. The reference to the avoidance of unplanned piecemeal working of deposits
 4. The identification and prominence in Figure 3 of the River Mease catchment area in Leicestershire

5. The scale and schematic nature of the Figure 3
6. The scale and schematic nature of Figure 2 and the absence of fireclay areas on it

3.15 This paper has already made comment on points 1 and 2 above.

3.16 We have serious concerns over point 3. Whilst the supporting text at para 4.65 (last bullet) takes a reference from MPG 3 (MCD 34) to the avoidance of unplanned piecemeal working there is no follow up text to indicate whether or not this has been an issue/problem in the Leicestershire coalfield and if it has, how the problem has manifested itself. It is not therefore clear what exactly is meant by unplanned and piecemeal working in the Leicestershire context. It is noteworthy that the reference to unplanned piecemeal working has though found itself into the Policy CFS 7 criteria but that the more positive means of dealing with such a potential problem – by making provision for proposals that would facilitate comprehensive working - has not. The opposite of unplanned and piecemeal working of deposits is to have a planned, comprehensive working programme, which is what MPG 3 encourages at para 13 and 17. In our view this is where the MDF CS has not really sought to make clear what the issues in the Leicestershire coalfield are and how they might be overcome. Whilst it is accepted that it is a relatively small coalfield and regard must be taken of environmental impacts, there are other aspects like the coincidence of coals and fireclay that potentially present opportunities for sustainable schemes, particularly if reclamation/end-uses can be targeted to biodiversity and National Forest objectives. Coal working can be a very effective delivery vehicle in this regard – the Long Moor scheme will deliver a significant forestry area, public access and biodiversity – and when other minerals can be worked as part of a comprehensive working programme there are benefits all round. If there is a concern over unplanned and piecemeal working then, having regard to PPS 12 (MCD 1), it is for the MDF CS to provide a clear, deliverable strategy as to how this will be avoided.

3.17 Issues over points 4, 5 and 6 are also dealt with in other submissions to the EIP. However we wish to make a number of points in regard to coal supply, as follows. At paras 4.60 and 4.61 of the MDF CS, reference is made to significant past working of the coal resource and extensive

opencast mining operations. It would be helpful for the MDF CS to have a clearer map/figure for coal and fireclay, using an OS base to allow features to be identified, and to include on it the past areas of working. A map showing the extent of past working was tabled at the Longmoor OCC Public Inquiry see attached (appendix 2). This would be beneficial to both industry and particularly the community, particularly if it also showed the fireclay areas. It would provide a much clearer picture of where remaining un-worked coal and fireclay reserves are located as well as showing particular constraints – where there is evidence to back up the constraint identification.

- 3.18 In regard to the River Mease Catchment, which appears on the Energy Minerals Spatial Map – Figure 3 – we have a number of points of concern. The fact that the supporting text to the coal policy, at para 4.67, contains the most extensive explanation as to why the Council has shown the River Mease catchment on its Spatial Maps/key diagram is reflective of the negative approach to coal. The same text/emphasis does not appear in the aggregates or other construction materials sections of the MDF CS even though the catchment is shown on the relevant spatial maps.
- 3.19 In any case, there is no advice in PPS 12 (MCD 1) for showing the whole of the river catchment for the Mease in Leicestershire. We have seen no evidence in the MDF CS or the Background Paper for showing the catchment area rather than the SAC itself. It is doubtful whether the district wide LDF will show the whole catchment in the same fashion and the emerging NW Leicestershire LDF should be checked for this. Although the Council uses PPS 12 to justify inclusion of the River Mease catchment – it is our view that PPS 12 places more emphasis on including “locations for strategic development” (like coal extraction) on key diagrams (para 4.1).
- 3.20 In regard specifically to coal (and fireclay) working it should be noted that these temporary forms of development (with reclamation and restoration) have taken place for many years and continue to take place within the River Mease catchment.
- 3.21 Also, coal and clay working schemes have the potential to deliver new habitats and drainage systems/improvements that would compliment or assist in maintaining the SAC in a favourable condition.