

CHAPTER 13 - MINERAL WORKING POLICIES

MW INTRODUCTION

Objections to Draft Deposit Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
728	O	016	MW		Lancashire County Council		

Supporters of Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
747	S	026	MW		Wigan Borough Action Group		

Note

This policy is subject to DINC16.

Main Issue

Whether the introduction to the mineral working policies is appropriate, having regard to the reference made to the Government's Minerals Planning Guidance.

Inspector's Considerations and Conclusions

13.1 An objector argues that the reference to MPG6 in the third line of the second paragraph of the introduction to the Mineral Working policies should be replaced with 'the revision of MPG6 (1994)'. The LPA concurs and has proposed DINC16 to secure this. I conclude that this wording should be adopted in the interests of accuracy.

Recommendation

I recommend:

(REC 13.1) that the RDD be modified by the replacement of the reference to MPG6 in the third line of the second paragraph of the introduction to the Mineral Working policies with 'the revision of MPG6 (1994)', in accordance with DINC16.

(REC 13.2) that no other modification be made to the RDD in response to this objection.

MW1A PROTECTION OF MINERAL RESOURCES

Objections to Draft Deposit

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
424	O	031	MW	1A	Government Office for the North West		
723	O	001	MW	1A	Coal Mining Ltd		

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
747	O	041	MW	1A	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	055	MW	1A	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	128	MW	1A	Wigan Borough Action Group		WMBC 747

Main Issue

Whether this policy is appropriate, having regard to the terminology used.

Inspector's Considerations and Conclusions

13.2 RDD policy MW1A provides that, in considering development proposals, the LPA will take account of the desirability of protecting mineral deposits from sterilisation by development and, where appropriate, the prior extraction of minerals will be encouraged before such development proceeds.

13.3 In the heading to policy MW1A at FDD stage the reference was to mineral 'reserves'. At RDD stage this was changed to 'resources'. An objector argues that the wording should revert to that used in the FDD. Mineral reserves are generally understood to be those with planning permission for their extraction. The policy is intended to provide wider ranging protection to mineral resources generally. For this reason a reversion to the FDD wording would not be appropriate.

Recommendation

I recommend:

(REC13.3) that no modification be made to the RDD in response to these objections.

MW1C MINERAL WORKING AND EXPLORATION

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
291	O	007	MW	1C	Lancashire Wildlife Trust		WMBC 291
424	O	032	MW	1C	Government Office for the North West		WMBC 424 GONW
457	O	014	MW	1C	Highways Agency		WMBC 457
583	O	026	MW	1C	Peel Investment (North) Ltd	Halliwell Landau	WMBC 583 WR
682	O	020	MW	1C	English Nature		WMBC 628/A
697	O	010	MW	1C	Viridor Waste Management		WMBC 697

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
728	O	009	MW	1C	Lancashire County Council		

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
682	O	039	MW	1C	David Jeffreys		WMBC 682/A
747	O	025	MW	1C	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	053	MW	1C	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	054	MW	1C	Wigan Borough Action Group		WIGAN MBC 747/A

Supporters to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
421	S	001	MW	1C	Mrs E M Stephenson		
725	S	007	MW	1C	United Utilities Facilities and Property Services		

Supporters of Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
747	S	024	MW	1C	Wigan Borough Action Group		

Note

This policy is subject to DINC14.

Main Issues

Whether this policy is appropriate, having regard to:

- the format of the policy;
- the type of waste to be controlled;
- the protection of environmentally sensitive properties;
- the scope for bonds or other financial guarantees to be required;
- nature conservation interests;

- the effect on the trunk road network.

Inspector's Considerations and Conclusions

The format of the policy

13.4 RDD policy MW1C provides that mineral working and exploration, including the erection of surface buildings, plant and infrastructure and the surface disposal of mineral waste will be permitted only when it complies with other relevant policies of the plan and stated criteria are satisfied.

13.5 An objector notes that, in explicitly requiring that proposals must not only satisfy the stated criteria but also comply with the other relevant policies of the plan, policy MW1C is not in conformity with the approach taken in the UDP as a whole as set out in Chapter 1, that all the policies are inter-related and should be read as a whole.

13.6 The LPA argues that the policies relating to mineral working have been substantially reduced in length, compared with those in the adopted UDP, by the removal of repetitive references to matters covered in other policies. It inserted the wording to draw the attention of plan users to the new approach. In my view, in conformity with the advice of PPG12 that development plans should be succinct, the reference to this aspect in Chapter 1 is sufficient. For this reason the initial element of policy MW1C should be modified to refer only to the specific criteria.

The type of waste to be controlled

13.7 At FDD stage policy MW1C referred simply to the surface disposal of waste. An objector argues that, because this policy deals with mineral working and exploration, the text should refer explicitly to the surface disposal of 'mineral' waste. The LPA concurs and, at RDD stage, the wording of the policy was changed to secure this. A further objector seeks a reversion to the FDD wording. The qualification introduced by the RDD is, however, necessary in order to avoid the importation to the site of waste which does not arise from the mineral working operation.

The provisions made for mineral exploration

13.8 Criterion (a) provides that adequate reserves of the mineral, in terms of both quality and quantity, must be proved. An objector argues that this criterion cannot be applied to the determination of planning applications for mineral exploration because the whole purpose of such activity is to determine the extent of reserves. The LPA concurs and proposes, via DINC14, to change criterion (a) by inserting the words 'Except in the case of mineral exploration' before the RDD text of that criterion. I conclude that this satisfies the concerns of the objector.

The protection of environmentally sensitive properties

13.9 Criterion (e) provides that, in the case of opencast coal, sandstone and gritstone, extraction and storage of mineral over-burden will not take place within 200 metres of a significant number of dwellings or other environmentally sensitive properties, taking into account local circumstances. An objector considers that this is an arbitrary measure. It is, however, based on the experience gained by the Borough Council in respect of the determination of appeals by planning inspectors. The wording of criterion (e) does, in any case, allow local circumstances to be taken into account when the separation distance is determined in a particular case. This allows the scope for a prospective developer to argue that, on a particular site, material factors justify a different separation distance. This approach would be more clearly expressed if, as an objector argues, the words ‘taking into account local circumstances’ were replaced with ‘unless local circumstances dictate otherwise’.

The scope for bonds or other financial guarantees to be required

13.10 At FDD stage policy MW1C(g) required that mineral working applications be accompanied by a bond or other financial guarantee to cover the cost of site restoration and aftercare. An objector argues that this is contrary to the advice of MPG7. The LPA concurs and, at RDD stage, the criterion was changed to apply to opencast coal working only, in accordance with the advice of MPG3 (paragraphs 64 and 65). A further objector at RDD stage argues that the FDD wording should be reinstated. This would, however, be contrary to the advice of that MPG.

13.11 The provisions of criterion (g) are, however, duplicated by criterion (j) of policy MW1E. PPG12 advises that development plans should be succinct. For this reason I conclude that criterion (g) should be deleted from policy MW1C.

Nature conservation interests

13.12 An objector argues that nature conservation interests should be explicitly safeguarded by this policy. The plan is to be read as a whole, however. The objector’s concerns are addressed by policies EV2 and EV2A to EV2E.

The effect on the trunk road network

13.13 An objector argues that policy MW1C does not adequately protect the safe and efficient operation of the trunk road network. The plan is to be read as a whole. Policy A1A provides that a Transport Assessment will be required for all proposed developments that would, either individually or together with other recently completed developments or outstanding planning permissions in the locality, give rise to a material increase in the volume or other impact of road traffic. The reasoned justification to this policy confirms that a Transport Assessment should include any implications for the trunk road network.

Recommendation

I recommend:

(REC 13.4) that the RDD be modified by the re-wording of the initial part of policy MW1C as follows. ‘Mineral working and exploration, including the erection of surface buildings, plant and infrastructure, and the surface disposal of mineral waste, will be permitted only when the following criteria are satisfied’.

(REC 13.5) that the RDD be modified by the insertion of the words ‘Except in the case of mineral exploration’ before the text of criterion (a) of policy MW1C in accordance with DINC14.

(REC 13.6) that the RDD be modified by the deletion from criterion (e) of policy MW1C the words ‘taking into account local circumstances’ and their replacement with ‘unless local circumstances dictate otherwise’.

(REC 13.7) that the RDD be modified by the deletion of criterion (g) from policy MW1C.

(REC 13.8) that no other modification be made to the RDD in response to these objections.

MW1D REMNANT MOSSLAND

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
291	O	006	MW	1D	Lancashire Wildlife Trust		WMBC 291
422	O	010	MW	1D	Lancashire CPRE		WMBC 422/A
456	O	003	MW	1D	Salford City Council		WMBC 456
583	O	027	MW	1D	Peel Investment (North) Ltd	Halliwell Landau	WMBC 583 WR
682	O	021	MW	1D	English Nature		WMBC 682/A

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
424	O	033	MW	1D	Government Office for the North West		

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
682	O	040	MW	1D	English Nature		WMBC 682/A
747	O	040	MW	1D	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	052	MW	1D	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	129	MW	1D	Wigan Borough Action Group		WIGAN MBC 747/A

Supporters to Draft Deposit

Ref No	a	B	c	d	Name	Agent	Response Ref.
727	S	024	MW	1D	Greater Manchester Ecology Unit		

Supporters of Revised Deposit

Ref No	a	B	c	D	Name	Agent	Response Ref.
727	S	035	MW	1D	Greater Manchester Ecology Unit		
747	S	023	MW	1D	Wigan Borough Action Group		

Main Issues

Whether this policy is appropriate, having regard to:

- the title of the policy;
- the reference to the improvement of mosslands for agriculture;
- the relationship of policy MW1D to other UDP policies;
- the provisions for the restoration of remnant mosslands;
- the relevance to mosslands of a bond or other financial guarantee to cover the cost of site restoration and after-care;
- the importance for nature conservation of restoration to a bog habitat.

Inspector's Considerations and Conclusions

The title of the policy

13.14 RDD policy MW1D provides that permission will not be granted for peat extraction on the remaining fragments of remnant mossland shown on the proposals map. In other cases, peat extraction will be permitted only when the criteria listed in policy MW1C are satisfied. Subsequent restoration of such sites should, wherever possible, be for wetland rehabilitation and enhancement of the nature conservation resource. This two tier approach satisfies the concerns of an objector that a higher degree of protection from extraction should be given to the most sensitive areas.

13.15 At FDD stage policy MW1D was entitled 'Peat Extraction'. At RDD stage this was changed, in response to an objection, to 'Remnant Mossland'. A further objector seeks a reversion to the FDD wording in both the policy and Appendix 7. It is clear however, from the wording of the policy and its reasoned justification, that the RDD title better encapsulates its purpose. In the interests of consistency the areas to which policy MW1D applies should be referred to on the Proposals Map Key as 'Remnant Mossland'.

The reference to the improvement of mosslands for agriculture

13.16 Policy MW1D, at FDD stage, provided that permission would not be granted for peat extraction and subsequent improvement for agriculture on the remaining fragments of remnant mossland shown on the proposals map. An objector argues that reference to this should be removed because, in accordance with MPG13, the future extraction of peat from any new site should be restricted to areas that have already been significantly damaged by recent human activity or are of limited or no current nature conservation value. The LPA concurs and, at RDD stage, has removed the reference to subsequent improvement for agriculture.

The relationship of policy MW1D to other UDP policies

13.17 An objector, at FDD stage, argues that policy MW1D is not required because policies EV2B and MW1C deal adequately with its areas of concern. Policy MW1D, at FDD stage, was entitled 'Peat Extraction'. It sought to prevent peat extraction and subsequent improvement of the land for agriculture on the remaining fragments of remnant mossland. Policy EV2B protects Sites of Special Scientific Interest, Sites of Biological Importance and Local Nature Reserves. Most, but not all of these remnant mosslands are subject to that designation. Policy MW1C deals with mineral working and exploration. Its criteria do not include the protection and enhancement of nature conservation resources. For these reasons I conclude that policy MW1D does not duplicate the provisions of these other policies.

13.18 A further objector argues that policy MW1D should contain a cross-reference to policy EV2C in order to emphasise the importance of protecting the nature conservation value of remnant mosslands. The UDP is to be read as a whole, however, in conformity

with the advice of PPG12 that development plans should be succinct. There is, therefore, no need for such a cross-reference.

The provisions for the restoration of remnant mosslands

13.19 Objectors at FDD stage argue that policy MW1D should encourage the enhancement of mosslands to upgrade their nature conservation value. The LPA concurs and, at RDD stage, has added text to the policy to provide that subsequent restoration of remnant mosslands should, wherever possible, be for wetland rehabilitation and the enhancement of the nature conservation resource. I conclude that this satisfies the concerns of objectors.

The relevance to mosslands of a bond or other financial guarantee to cover the cost of site restoration and after-care

13.20 Policy MW1D refers to the criteria listed in policy MW1C. An objector, at FDD stage, argues that criterion (g) which relates to the need for a bond or other financial guarantee, is not appropriate to mosslands. The LPA concurs and, at RDD stage, has changed that criterion to make it relevant only to open cast coal working.

The importance for nature conservation of restoration to a bog habitat

13.21 An objector, at FDD stage, argues that, where peat extraction is to be permitted, policy MW1D should seek to secure nature conservation after-use with a preference for lowland bog or complementary habitat. At RDD stage the LPA provides, via this policy, that subsequent restoration of such sites should, wherever possible, be for wetland rehabilitation and the enhancement of the nature conservation resource. The RDD policy is, however, silent on the nature of the wetland to be secured. MPG13 advises that, if approval is given for peat extraction, there should generally be a requirement for restoration to a nature conservation after-use on such sites and, more particularly, the aim should be to restore a peat extraction site to a state conducive to the support of a bog habitat. I conclude that such a reference within the policy would emphasise the importance of securing the restoration of the lowland bog habitat in the south eastern parts of the Borough in conformity with the acknowledgement of the Greater Manchester Biodiversity Action Plan that lowland raised bog is a UK Priority Habitat. It would also recognise the cross boundary importance of the issues to be considered in seeking restoration to lowland bog habitat in both Wigan and the neighbouring City of Salford.

Recommendation

I recommend:

(REC 13.9) that the key to the RDD Proposals Map be modified by the deletion of the wording ‘Peat Extraction (MW1D)’ and its replacement with ‘Remnant Mossland (MW1D)’.

(REC 13.10) that the RDD be modified by the deletion of the final sentence of policy MW1D and its replacement as follows. ‘Subsequent restoration of such sites should, wherever possible, be for wetland rehabilitation with a preference for lowland bog or complementary habitat and the enhancement of the nature conservation resource’.

(REC 13.11) that no other modification be made to the RDD in response to these objections.

MW1E OPERATION AND RESTORATION OF MINERAL WORKINGS

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
002	O	005	MW	1E	Red Rose Forest		WMBC 002/A
424	O	034	MW	1E	Government Office for the North West		WMBC 424 GONW
583	O	028	MW	1E	Peel Investment (North) Ltd	Halliwell Landau	WMBC 583 WR
682	O	022	MW	1E	English Nature		WMBC 682/A
697	O	011	MW	1E	Viridor Waste Management		WMBC 697
723	O	004	MW	1E	UK Coal Mining Ltd		WMBC 723 004

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
728	O	010	MW	1E	Lancashire County Council		

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
682	O	041	MW	1E	English Nature		WMBC 682/A
723	O	006	MW	1E	UK Coal Mining Ltd		WMBC 723/A
747	O	028	MW	1E	Wigan Borough Action Group		WIGAN MBC 747/A

Supporters of Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
003	S	001	MW	1E	George Seaward		
421	S	002	MW	1E	Mrs E M Stephenson		

Note

This policy is subject to DINC15.

Main Issues

Whether this policy is appropriate, having regard to:

- the requirement for progressive working and restoration;
- the scope for bonds or other financial guarantees to be required;
- the merits of restoration via afforestation;
- nature conservation interests.

Inspector's Considerations and Conclusions

The requirement for progressive working and restoration

13.22 RDD policy MW1E provides that applications for mineral workings will not be approved unless they make satisfactory provision for a number of stated matters. Criterion (a) requires that provision be made for progressive working and restoration in the case of extensive workings. An objector argues that this may be possible even on relatively small sites. The LPA concurs and, proposes, via DINC15, to seek progressive working and restoration where this is feasible. I conclude that this satisfies the concerns of the objector.

The scope for bonds or other financial guarantees to be required

13.23 At FDD stage policy MW1E(j) required a financial guarantee or bond to cover the cost of site restoration and aftercare. Objectors argue that this is contrary to the advice of MPG7. The LPA concurs and, at RDD stage, the criterion was changed to apply to open cast coal working only in accordance with the advice of MPG3 (paragraphs 64 and 65). The LPA confirms that an established and properly funded industry guarantee scheme which would adequately finance a programme of restoration and aftercare in the case of default by an operator would satisfy the terms of clause (j). In such a circumstance a bond would not be necessary. I conclude that this satisfies the concerns of the objectors. A further objector, at RDD stage, seeks a reversion to the FDD wording. This would, however, be contrary to the advice of MPG3.

The merits of restoration via afforestation

13.24 An objector argues that policy MW1E should refer to the potential for mineral workings to be restored to community woodlands, with a specific reference to the role of the Red Rose Forest. There is, however, a wide range of after-uses to which former mineral workings can be put. Afforestation is only one of these. A specific reference to it would be potentially misleading. The plan is to be read as a whole. Policy EV2E refers specifically to the support given by the LPA to the implementation of proposals for the Red Rose Forest and no further reference is necessary.

Nature conservation interests

13.25 An objector argues that nature conservation interests should be explicitly safeguarded and promoted by this policy. The plan is to be read as a whole, however. The objector's concerns are addressed by policy EV2(B) in addition to criterion (g) of policy MW1E.

Recommendation

I recommend:

(REC 13.12) that the RDD be modified by the deletion of the words ‘in the case of extensive workings’ from criterion (a) of policy MW1E and their replacement with ‘where feasible’ in accordance with DINC15.

(REC 13.13) that no other modification be made to the RDD in response to these objections.