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proposed local development plan  
**technical note 6** 2016

PLANNING FOR MINERALS

# CONTENTS

LIST OF ABBREVIATIONS .....	ii
INTRODUCTION.....	1
NATIONAL AND REGIONAL PLANNING POLICY, GUIDANCE AND ADVICE .....	1
National Planning Framework 3 .....	1
Review of Recent Changes in Scottish Planning Policy.....	2
Scottish Planning Policy (SPP) (2010).....	2
Scottish Planning Policy (2014).....	4
Summary of Relevant PANS – PAN 50 Annexe A-D and PAN 64.....	5
Scottish Government Research into Bonds and Guarantees for Decommissioning and Restoration of Sites .....	6
South East Scotland Strategic Development Plan (SESPlan).....	6
SESPLAN EXAMINATION.....	7
Current Mineral Context in East Lothian .....	7
Coal .....	7
Onshore oil and Gas.....	8
Sand and Gravel .....	9
Hard Rock.....	9
Limestone .....	10
SESplan Aggregate Survey 2011 – Landbank Position.....	10
CONSIDERATION OF MIR CONSULTATION RESPONSES .....	12
THE PROPOSED LDP APPROACH TO MINERAL RESERVES.....	14
Hard Rock, Sand and Gravel Reserves and Limestone .....	14
Coal .....	14
Shale Oil and Gas including Coal Bed Methane .....	17
Policy Framework .....	18

## LIST OF ABBREVIATIONS

<b>ABBREVIATION</b>	<b>FULL TITLE</b>
LDP	Local Development Plan
NPF	National Planning Framework
PAN	Planning Advice Note
SDP	Strategic Development Plan
SESPlan	The South East Scotland Strategic Development Planning Authority
SPP	Scottish Planning Policy
AMRI	Annual Minerals Raised Inquiry (AMRI)

## INTRODUCTION

1.1 East Lothian Council's Proposed Local Development Plan (PLDP) is accompanied by a series of Technical Notes that describe the approach taken by the Council to various planning strategy or policy issues. This Technical Note is prepared in relation to planning for minerals.

1.2 This Technical Note explains the approach that the proposed LDP takes to meet the SDP requirement to safeguard existing mineral resources, identify areas where mineral extraction could be supported within East Lothian, and set out an appropriate policy framework for mineral safeguarding and against which planning applications for new mineral developments can be assessed. This Technical Note on Minerals describes the following:

- Relevant provisions of the Scottish Government's National Planning Framework 3 (2014), Scottish Planning Policy (2010 and 2014)
- Relevant requirements of the Strategic Development Plan for Edinburgh and South East Scotland and the Minerals Technical Note that accompanied that Plan;
- Relevant findings of the Examination in Public of the Strategic Development Plan for Edinburgh and South East Scotland, including the Reporter's interpretation and reasoning, conclusions and recommendations;
- Relevant considerations from consultation responses to the Council's Main Issues Report;
- The approach of the Proposed LDP to planning for minerals, including existing areas of mineral resource that are to be safeguarded, site identification and the associated policy framework.

1.3 As such, this Technical Note focuses on how East Lothian Council has interpreted and applied the relevant national and regional planning policies advice and guidance for its Proposed LDP.

## NATIONAL AND REGIONAL PLANNING POLICY, GUIDANCE AND ADVICE

### National Planning Framework 3

2.1 The Scottish Government's National Planning Framework 3 (NPF3) is a material consideration in plan-making. NPF3 states minerals make an important contribution to the economy, providing materials for construction, energy supply and other uses, and supporting employment. Paragraph 4.11 of NPF3 notes that construction materials and energy minerals will be required to support the Scottish Government's ambition for diversification of the energy mix. In Paragraph 4.26 it states that coal bed methane could contribute to secure energy supplies but will require careful planning to avoid negative environmental and community impacts from extraction activities. However, in January 2015 the Scottish Government announced a moratorium on the granting of planning consents for unconventional oil and gas developments in Scotland until further assessment has been carried out into the impacts of such works. At the time of writing the moratorium is still in place and will remain so until such times as the results of the public consultation have been assessed. This moratorium is being imposed through the planning process as a devolved power as the issuing of consents for the exploration and extraction of on shore oil and gas are issued by the Department of Energy and Climate Change (DECC) which is a department of the UK Government.

## Review of Recent Changes in Scottish Planning Policy

2.2 The Local Development Plan must, by law, conform to the Strategic Development Plan for Edinburgh and South East Scotland (SDP). The SDP was prepared and approved in the context of the previous Scottish Planning Policy (2010). Since approval of the SDP, the Scottish Government has published a new Scottish Planning Policy (2014). This means the SDP and LDP will be prepared under different national policies. However, the new SPP is clear that plans, such as the SDP, are not to be considered out-of-date if adopted prior to the publication of the new SPP. The new SPP is a material consideration in plan-making and when determining applications, but it should be read and applied as a whole<sup>1</sup> when preparing plans and making decisions. However, in terms of mineral extraction, there are no fundamental changes in the Policy Principles of SPP2014 with regard to its expectations on LDPs which generally reflect the Policy Principles of SPP2010.

## Scottish Planning Policy (SPP) (2010)

2.3 The SPP sets out national planning policy which reflects Scottish Ministers' priorities for operation of the planning system for the development and use of land. It directly relates to the preparation of development plans as well as the design of development and the determination of planning applications and appeals.

2.4 In paragraph 225 Scottish Planning Policy (SPP) 2010 stated that an adequate and steady supply of minerals including coal was essential to support sustainable economic growth. In paragraph 226 it required planning authorities to have regard to the availability, quality, accessibility and requirement for mineral resources when preparing development plans. It advised that broad areas of search where construction aggregates and coal extraction may be acceptable should be identified. However, only where the extraction of the mineral resource is likely to be acceptable should those broad areas be safeguarded in development plans. In this respect SPP 2010 distinguished between the existence of a mineral resource and the identification of a viable mineral reserve that should be safeguarded within a Plan area. A viable mineral reserve is one that is capable of being extracted without impacting significantly on local communities or on the natural and historic environment. It is these areas that are to be safeguarded only where there is a realistic opportunity for extraction.

2.5 However, SPP 2010 at paragraph 231, and with regards coal extraction paragraph 242, was clear that extraction of a mineral reserve should only be permitted where impacts on local communities and the environment could be adequately controlled or mitigated. As such it required LDPs to set out a policy framework and the criteria by which any application for the extraction of a mineral reserve in any safeguarded area could be assessed, which includes but need not be limited to:

- disturbance and disruption from noise, blasting and vibration, and potential pollution of land, air and water;
- effect on communities;
- effect on the local and national economy;
- cumulative impact
- impact on the natural heritage and historic environment, including landscape and/or habitats benefits associated with the restoration and aftercare proposals;
- landscape and visual impact;
- the benefits of restoration proposals which remediate areas of dereliction or land instability;

- transport impacts; and
- restoration and aftercare proposals.

2.6 At paragraph 226 SPP 2010 was clear that where land is allocated for development that is underlain by mineral deposits, then prior to development commencing those mineral deposits should be extracted and not be sterilised unnecessarily by development if the extraction of those minerals would be beneficial and economically viable.

2.7 In paragraph 227 SPP 2010 also advised that planning authorities should ensure a landbank of permitted reserves for construction aggregates is available for a minimum 10 years extraction at all times in all market areas. For this technical note and in respect of in the of SDP1 the market area should be the market area is the SESplan area. The SESplan aggregates survey established the current position in this regard and is discussed below at paragraph 2.38.

2.8 With regards on shore oil and gas extraction paragraph 236 of SPP 2010 made it clear that Scottish Government saw this resource as potentially contributing to Scotland's diverse and sustainable energy supply with the aim to maximise the potential of Scotland's oil and gas reserves in an environmentally acceptable way. For the extraction of on-shore oil and gas there whilst this is licensed by the UK Government through Petroleum Exploration and Development Licences (PEDL), planning permission for the works to facilitate extraction is issued by local planning authorities as a devolved power governed by Scottish Government . The methods of on-shore oil and gas extraction covered by this include:

- on shore oil and gas development – extraction of petroleum or hydrocarbon oils and gases by drilling and pumping
- coal bed methane – extraction by drilling into un-mined coal seams to release methane:
- capture of methane that has accumulated in coal mine workings, and
- gas derived from shale reservoirs

2.9 Paragraph 237 of SPP 2010 stated that development plans for areas covered by PEDL licences should identify the factors that will be taken into account when deciding planning applications for wellheads and transmission infrastructure, including disturbance and disruption from noise, pollution of land, air and water, impacts on communities, the economy, cumulative impacts, impacts on natural heritage and the historic environment, landscape and visual impact and transport impacts. Therefore it is clear that SPP 2010 expects LDPs to have policy criteria against which any application for the extraction of on shore oil and gas including coal bed methane would be assessed. The criteria include but need not be limited to:

- disturbance and disruption from noise, blasting and vibration;
- potential pollution of land, air and water;
- impact on communities and the economy;
- cumulative impact;
- impact on the natural heritage and historic environment;
- landscape and visual impact; and
- transport impacts.

## Scottish Planning Policy (2014)

2.10 Scottish Planning Policy (SPP) 2014 reiterates the policy statements of SPP 2010 that minerals make an important contribution to the economy, providing materials for construction, energy supply and other uses and supporting employment and asserts that planning authorities are expected to plan for minerals and where appropriate safeguard mineral resources and facilitate their responsible use.

2.11 In paragraph 235 it states that the Planning system should:

- Recognise the national benefit of indigenous coal, oil and gas production in maintaining a diverse energy mix and improving energy security;
- Safeguard workable resources and ensure that an adequate and steady supply is available to meet the needs of the construction, energy and other sectors;
- Minimise the impacts of extraction on local communities, the environment, and the built and natural heritage; and
- Secure the sustainable restoration of sites for beneficial after-use after working has ceased.

2.12 It states that it is for strategic development plans (SDPs) to ensure that adequate supplies of construction aggregates can be made available from within the plan area to meet the likely development needs of the city region over the plan period and that it is local development plans (LDPs) that should safeguard all workable mineral resources that are of economic or conservation value and ensure that these are not sterilised by development. Importantly, SPP 2014 continues to make a distinction between the existence of a mineral resource and the existence of a viable mineral reserve that is capable of being extracted without impacting significantly on local communities or on the natural and historic environment. It is these viable mineral reserves that are to be safeguarded only where there is a realistic opportunity for extraction.

2.13 Where such viable mineral reserves have been identified and safeguarded then paragraph 237 of SPP 2014 requires LDPs to have a robust policy against which any application for the extraction of the mineral reserve is assessed which includes:

- disturbance and disruption from noise, blasting and vibration, and potential pollution of land, air and water;
- effect on communities;
- effect on the local and national economy;
- cumulative impact (see paragraph 222);
- impact on the natural heritage and historic environment, including landscape and/or habitats benefits associated with the restoration and aftercare proposals;
- landscape and visual impact; and
- the benefits of restoration proposals which remediate areas of dereliction or land instability.

2.14 In paragraph 238 SPP 2014 states that plans should support the maintenance of a land bank of permitted reserves for construction aggregates for a minimum 10 years at all times in all market areas through the identification of areas of search. In this respect the market area for construction aggregates should be taken to be the SESplan area. Areas of search can be promoted by planning authorities where they wish to guide development to particular areas. As an alternative to identifying areas of search, a criteria based approach may be taken within an LDP, particularly where a sufficient landbank already exists or substantial unconstrained deposits are available. In this regard SPP allows LDPs to use policies that outline the criteria against which applications for mineral extractions would be assessed.

2.15 In January 2015 the Scottish Government announced a moratorium on the granting of planning consents for unconventional oil and gas developments in Scotland. To date that moratorium is still in place and will remain so until such times as the results of the public consultation have been assessed, a full public health impact assessment has been completed and any strengthening of planning guidance and environmental regulations undertaken. However, the UK Government does not have the same moratorium and therefore Petroleum Exploration and Development Licences (PEDL) are still being offered by Department of Energy and Climate Change (DECC) (a UK Government Department) and issued for areas where resources exist.

2.16 Notwithstanding the moratorium paragraph 240 of SPP 2014 stipulates that for areas covered by a Petroleum Exploration and Development Licence (PEDL), local development plans should:

1. Identify licence areas;
2. Encourage operations 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;
3. Confirm that applicants should engage with local communities, residents and other stakeholders at each stage of operations;
4. Ensure that when developing proposals, applicants should consider, where possible, transport of the end product by pipeline, rail or water rather than road; and
5. Provide a consistent approach to extraction where licences extend across local authority boundaries;

2.17 However there are limitations on the ability of the LDP to achieve the expectations of SPP outlined above. Whilst LDPs can clearly identify areas where a mineral resource exists and set out a robust Policy framework against which any planning applications for the extraction of unconventional oil and gas can be assessed it would be for Development Management working closely with an applicant to ensure that the other SPP requirements are fulfilled through the determination of any planning applications for works to extract unconventional oil and gas, for example to ensure that conditions attached to any grant of planning permission are complied with and the restoration of sites once works have ceased.

## **Summary of Relevant PANS – PAN 50 Annexe A-D and PAN 64**

2.18 With regards mineral workings there are two Planning Advice Notes (PANs ) that are relevant to any assessment of any planning applications for mineral extraction. These are material considerations in the determination of planning applications for mineral extraction:

- PAN 50 Controlling the Environmental Effects of Surface Mineral Workings - In respect of noise, dust, traffic and blasting, the acceptability of any proposed surface mineral workings will be assessed in accordance with the provisions of PAN 50 and its annexes A-D . If considered necessary, conditions will be attached to any grant of planning permission in accordance with the advice contained in the annexes, which area outlined below;
  - Annexe A: The Control of Noise at Surface Mineral Workings
  - Annexe B: The control of Dust at Surface Mineral Workings
  - Annexe C: The control of traffic at Surface Mineral Workings
  - Annexe D: The control of blasting at Surface Minerals Workings

- PAN 64 – Reclamation of Surface Mineral Workings – In respect of the restoration and afteruse of historic, existing and future mineral workings any proposals will be assessed in accordance with the provisions of PAN64. If considered necessary, conditions will be attached to any grant of planning permission in accordance with the advice contained within it.

## **Scottish Government Research into Bonds and Guarantees for Decommissioning and Restoration of Sites**

2.19 The Scottish Opencast Coal Taskforce was set up in 2013 by Scottish Government in response to the liquidation of two coal companies which had repercussions for employment, continued coaling and the restoration of a number of sites across the Scottish coalfields. A Scottish Government consultation “Opencast Coal Restoration: Better Regulation” was carried out in 2014 and its findings considered by the Task Force with the aim of implementing change. They have looked at how more effective regulatory processes could be put in place and have been considering how to ensure a better understanding of financial guarantee options for site restoration and aftercare. The Taskforce considered in detail the specific compliant monitoring and financial factors relevant to surface coal mines restoration. It found the operators of opencast workings and planning authorities need to be better equipped to ensure that future surface coal mines are operated effectively with better regulatory systems in place. However, to date, whilst there have been a number of recommendations made, no amendments have been made to SPP 2014 or planning guidance or advice issued which would affect the framing of mineral policies or proposals within the LDP to reflect those recommendations. However it is still open to LDPs to require any planning permission granted for mineral extraction to set out a need for restoration as part of that planning permission. The detailed manner in which this restoration could be secured should be considered on a case by case basis, including any advice or guidance issued by the Scottish Government on these matters as a material consideration.

## **South East Scotland Strategic Development Plan (SESPlan)**

2.20 SDP1 was prepared and approved in the context of Scottish Planning Policy (2010) and NPF2. Since approval of SDP1, the Scottish Government has published Scottish Planning Policy (2014) and NPF3.

2.21 Policy 4 of SDP 1 requires the LDP to:

- Safeguard minerals 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;
- 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 SDP;
- Set out the criteria to be addressed when assessing individual proposals, including restoration and enhancement; and
- Support and encourage the use of secondary and recycled aggregates.

2.22 In paragraph 103 of SDP1 it is recognised that the SESplan area contains reserves of onshore gas including coal bed methane and that LDPs should support extraction subject to local planning considerations.

2.23 SDP1 requires the LDP to include criteria-based policies to assess mineral extraction proposals, including provision for restoration and enhancement. There is scope for some minor change to existing local plan policies, for example to strengthen the requirements for restoration and aftercare and associated guarantees.

## SESPLAN EXAMINATION

3.1 The examination of SESplan SDP 1 commenced in October 2012 and considered 29 issues arising from unresolved representations. Issue 14 was in respect of Minerals. The matters addressed included:

- The wording of Policy 4;
- Whether surface coal mining should be recognised as a policy topic in its own right;
- Areas of Search being identified at SESplan regional level; and
- Onshore Oil and Gas.

3.2 The Reporter's conclusions were:

- There was some rewording and amendments to the wording of Policy 4 in line with representations;
- No additional protection was required specifically for coal;
- Policy 4 gives a clear responsibility to LDPs to identify areas of search for aggregate minerals and coal and [at the time] there is no requirement under SPP for Strategic Plans to do so; and
- SPP makes clear national support for the production of oil and gas and the SDP is in line with this. Any prohibition in the plan of gas extraction would be contrary to SPP. The Plan sets out a clear responsibility of support exploitation of onshore gas reserves and LDPs are the correct level to deal with these issues. No modification was required.

## Current Mineral Context in East Lothian

### Coal

4.1 There are coal reserves in what is known as the Midlothian Coalfield which includes parts of East Lothian. The extent of the East Lothian Coalfield is shown on Map 1 below and covers an area of approximately 21% of East Lothian. It is concentrated in the west of East Lothian. The A1 trunk road and the East Coast Mainline also pass through the coalfield.

**Map 1: The East Lothian Coalfield.**



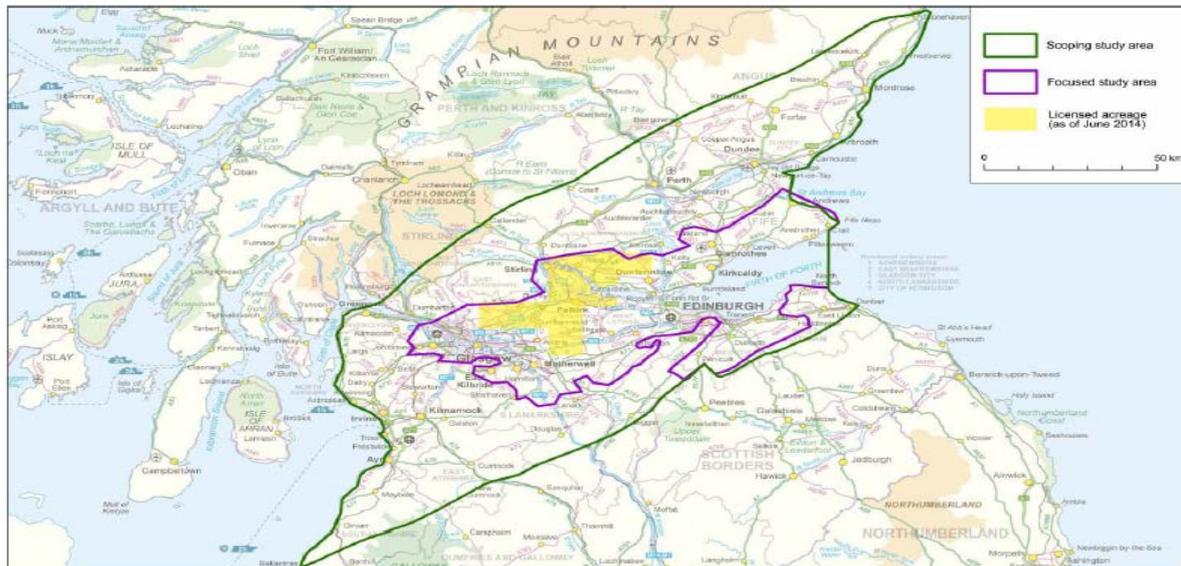
4.2 There are no operational coalmines within East Lothian. Previous coal extraction operations have ceased at Blindwells, with British Geological Survey plans illustrating the current allocated site and land to the east of it as a “worked area”.

4.3 In January 1997 planning permission 95/00643/HIS was sought and refused for an opencast quarry at South Elphinstone Farm, Tranent. In July 1997 and June 2006 respectively planning permissions P97/00374/HIS\_P and 00/00005/FUL were also refused for an opencast quarry at Harry’s Burn, Elphinstone. An appeal against the refusal of planning permission 00/00005/FUL was dismissed in May 2002. The reason for the refusal of planning permissions 97/00374/HIS\_P and 00/00005/FUL and the dismissal of the associated appeal was due to the proximity of the proposed coal workings to established communities as well as the associated landscape and amenity impacts. In that respect such refusals were entirely compliant with SPP requirements.

### **Onshore oil and Gas**

4.4 Paragraph 236 of SPP 2010 is clear that unconventional gas and oil should contribute to the UK energy resource and support Scotland’s economy. A joint study of the shale reserve carried out by Department of Energy and Climate Change (DECC) and BGS identified the potential for a significant volume of gas beneath the Central Belt of Scotland, reaching from Greenock and Glasgow in the west to Stonehaven and Dunbar in the east, See map 2 below. It should be noted that the shale resource also extends beneath the Firth of Forth. Whilst the shale resource has been identified it is not yet known how much oil and gas would be “recoverable” from this resource - i.e. how much of a viable reserve exists, especially on the peripheries of the identified resource beneath East Lothian. To undertake such exploratory testing a PEDL Licence would have to be obtained which confers the right to search and bore for petroleum. In addition to the PEDL licence, planning and environmental consents would also be required. If the proposed well encroaches on coal seams, permission must also be sought from The Coal Authority. At the time of writing no PEDL licences have been issued by the Department of Energy and Climate Change (DECC) for reserves within the East Lothian Area.

**Figure 1: The Carboniferous Shales of the Midland Valley of Scotland: Geology and Research Estimation**



Extent of Midland Valley of Scotland scoping study area and Midland Valley of Scotland focused study area, shown with currently licensed acreage. Ordnance Survey data Crown copyright 2014

## Sand and Gravel

4.5 There are reserves of sand and gravel throughout the SESplan area and several consented sand and gravel extraction sites including 2 working sand and gravel quarries operating in East Lothian at Longyester and Skateraw Farm.

4.6 Longyester - Planning permission (Ref: P/0224/74) was originally granted for a sand and gravel quarry at Longyester in 1975. In 1994 planning permission (Ref: P/0466/93) was granted for an extension to Longyester Quarry for a period up until December 2009. In May 2009 planning permission 08/00235/FUL was granted to vary condition 2 of planning permission P/0466/93 to extend the period of mineral working at the quarry by a further 2 years. In October 2010 planning permission was sought for an extension to the existing consented quarry the subject of planning permission P/0466/93 as a continuation of the existing site. Planning permission P/0466/93 was granted in December 2011 for a period of 21 years which will expire in December 2032.

4.7 Skateraw – Planning permission 01/00290/FUL was originally granted for a sand and gravel quarry at Skateraw in September 2001 (adjacent to the cement works). Planning permission 08/00358/FUL was granted in September 2011 for an extension to that sand and gravel quarry for a period of 6 years. That planning consent will expire in September 2017.

## Hard Rock

4.8 There are numerous consented Hard Rock quarries throughout the SESplan area including 2 consented quarries that currently operate within East Lothian at Bangley and at Markle Mains.

4.9 Bangley Quarry has been in operation for many years commencing with significant production from around 1970. The most recent planning permission was granted in 1990 when an

extension to the quarry was granted planning permission. In 2004 planning permission was granted for an aggregate recycling facility within the boundaries of the quarry.

4.10 Markle Mains – in January 1979 planning permission 468/78 was granted for the extraction of hard rock from a quarry at Markle for a period up until 2007. In 1998 planning permission 98/00054/HIS\_P was again sought for the extraction of hard rock from the quarry. That planning permission was granted in October 2010 for a period of 26 years. Therefore planning permission 98/00054/HIS\_P will expire in October 2028.

## Limestone

4.11 Limestone resources are relatively scarce in the SESplan area and there is only one active limestone quarry – Owellmains near Dunbar in East Lothian. There has been a quarry at Oxwellmains extracting limestone since 1963. Since then planning permission has been granted for extensions to that quarry with the latest consent 04/00882/FUL being issued in September 2003 and which gave consent for the winning and working of limestone up until 2044.

## SESplan Aggregate Survey 2011 – Landbank Position

4.12 The current landbank position and market areas with the SESplan area was examined by SESplan through a comprehensive survey of the aggregates industry in South East Scotland in early 2011. A total of 47 sites within the SESplan and east Fife area were surveyed. Where no response was received and where available, estimates of consented reserves and extraction rates were obtained from planning application records. Where estimates of reserves and extraction rates could not be obtained from planning records, these sites have been excluded from analysis. Consequently a total number of 31 sites were analysed. The survey recorded output of materials from the quarries and the destination of those outputs to ascertain the market area.

**Table 1: Consented Quarries in the SESplan area (2011)**

	Hard Rock	Sand and Gravel	Total
City of Edinburgh	3	0	3
East Lothian	2	2	4
Mid/West Fife	7	2	4
Midlothian	0	2	2
Scottish Borders	11	3	15
West Lothian	0	0	0
<b>Total</b>	<b>23</b>	<b>8</b>	<b>31</b>
Note: Includes quarries that are active, inactive or yet to begin			

Quarries known to be dormant have been excluded from the table

Where consent has been granted for an extension to an existing quarry it is represented as a single site.

Source – SESplan Member Planning Authorities, SESplan Minerals Survey 2011 and British Geological Survey Mines and Quarries Survey 2010.

Quarry operators in areas neighbouring SESplan were also surveyed to establish imports from them into the SESplan area. Levels of future demand were also considered, which examined factors such as the level and split between sectors of construction activity, the use of alternatives to primary aggregates and amount of aggregates used per unit of construction cost.

4.13 SESplan findings in regard to whether the landbank of minerals required by SPP is available are set out in the Edinburgh and South East Scotland Strategic Development Plans Minerals Technical Note (SESplan MTN).

4.14 There are significant reserves of sand and gravel throughout the SESplan area and several consented sand and gravel extraction sites including 2 working sand and gravel quarries operating in East Lothian.

4.15 The SESplan Aggregate Survey found that there was a 20 year supply of sand and gravel from the start of 2011 (based on 2010) production levels) or 17 years based on anticipated 2011 levels. The findings for hard rock were a 37 and 34 year supply respectively. Therefore there is not, at present, a need for additional sites for sand and gravel extraction.

**Table 2: Maximum supply of aggregates at 2010 production levels and anticipated 2011 production levels**

	Consented reserves (thousand tonnes at 31/12/10)	Production 2010 (thousand tonnes)	Maximum supply at 2010 production levels in years	Production 2011 (thousand tonnes)	Maximum supply at anticipated 2011 production levels in years
Sand and Gravel	9060	447	20	525	17
Hard Rock	80959	2205	37	2405	34

4.16 However, there are limitations in using the method utilised by SESplan for this survey as it was conducted during an economic recession, and caution should be exercised with a voluntary survey as the absence of some respondents may also skew results.

4.17 An alternative landbank assessment technique has been presented in the SESplan Minerals Technical Note for comparison purposes. The Annual Minerals Raised Inquiry (AMRI) is carried out by the Office of National Statistics. By assuming that extraction in the SESplan area is the same per head of population as Scotland overall, a SESplan extraction rate can be derived. The information on the consented reserves from the SESplan minerals survey is then used to calculate the landbank.

**Table 3: Landbank position based on AMRI reported Scotland wide extraction levels adjusted for SESplan population**

	Consented reserves (thousand tonnes at 31/12/10)	SESplan extraction based on adjusted AMRI data (5 year average, thousand tonnes)	Landbank in years based on AMRI method
Sand and Gravel	9060	2000	4.5
Hard Rock	80959	6000	13.5

4.18 By this method a 4.5 year landbank for sand and gravel, and a 13.5 year landbank for hard rock is calculated. This method whilst not ideal is more consistent with the earlier Scottish Aggregates Survey, and the operators’ opinion, voiced at liaison meetings, that there is a national shortage of sand and gravel reserves.

## CONSIDERATION OF MIR CONSULTATION RESPONSES

5.1 The following section summarises the main points made through East Lothian Council’s LDP1 Main Issues Report (MIR) consultation. It summarises the responses made in relation to the MIRs approach to meeting SDP1s requirements with regard minerals. The Council’s response to the consultation responses is summarised in the following section.

The table below sets out the MIR preferred approach to meeting the requirements of SDP1 with regards minerals.

<b>Preferred Approach</b>	<p><b>In relation to minerals, aggregates and coal, the preferred approach is as follows:</b></p> <p>Spatial Strategy approach:</p> <ul style="list-style-type: none"> <li>• Do not identify an area of search for open cast coal extraction;</li> <li>• Approval of planning permission for an extension of Longyester sand and gravel quarry has increased associated reserves in East Lothian so no further action proposed other than to identify consented area and delete existing area of search for sand and gravel extraction;</li> <li>• Hardrock can be met from existing operational and non-operational quarries so no further action proposed other than to safeguard these existing extraction areas.</li> </ul> <p>Policy approach:</p> <ul style="list-style-type: none"> <li>• Develop policy to manage proposals for the extraction of shale gas or oil;</li> <li>• Clarify the role of restoration bonds / guarantees in relation to proposals for mineral workings.</li> </ul>
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<b>Reasonable Alternative</b>	<p><b>In relation to minerals, aggregates and coal, the alternative approach is as above, <u>but</u> in relation to an area of search for open cast coal:</b></p> <ul style="list-style-type: none"> <li>• An Area of Search may be identified south of the A6093 due to proximity to the trunk road network. However, it is not clear if a potential area of search there is underlain by deposits which are of sufficient scale or quantity to be of commercial interest or if extraction could be carried out in a way which would be acceptable. Features in this area, including individual houses, would be protected by criteria based policy. Based on the constraints mapping described above this is one of the areas not directly covered by the constraints listed. However, notwithstanding this, it remains the Council’s view that any open cast operation in any of these areas is likely to have unacceptable impacts.</li> </ul>

5.2 The Coal Authority were of the view that the LDP, to be consistent with SPP and SDP1, should identify an area of search where opencast extraction may be acceptable. Therefore it did not support the Preferred Approach outlined in the MIR. It was also concerned that the MIR did not contain a policy on prior extraction to ensure that mineral resources that lay beneath land allocated for development were extracted prior to development commencing and were not unnecessarily sterilised.

5.3 The general public were vocal in their opposition to the identification of any areas of search within which opencast coal extraction may be acceptable. Given that within the coal field there are a substantial number of settlements including Musselburgh, Prestonpans, Tranent, Pencaitland, Ormiston and Elphinstone and a large number of smaller settlements of 10 houses or more there was considerable concern that opencast coal extraction would:

- Significantly impact on the amenity and quality of life of the residents of those local communities;
- that such operations would be detrimental to the landscape character of East Lothian; and
- that opencast coal operations would have a detrimental effect on tourism in East Lothian and undermine that sector of the local economy.

5.4 Consequently there was widespread support from the general public for the preferred approach of the MIR to not identifying an area of search where opencast coal extraction may be acceptable.

5.5 With regards other minerals, there was general support from the public for continuing opencast operations at existing sites where minerals were being worked and not identifying any new areas where extraction may be acceptable.

5.6 Some landowners were of the view that the minerals policy should be less restrictive to allow new mineral workings to come forward on land in their control. However despite this there was no opposition from landowners for not identifying any new areas of search for mineral extraction.

5.7 There was widespread concern from the general public on the matter of unconventional oil and gas extraction and a general view that the LDP should not contain a policy that would support proposals for this. It was felt that this would reflect the moratorium in place by Scottish Government.

5.8 There was broad support from key agencies and the general public for a robust policy framework for minerals against which planning applications for mineral extraction, including those for unconventional oil and gas extraction would be assessed. This is to ensure that significant detrimental effects can be identified and where required mitigated. This policy should include securing financial guarantees for the restoration of any future opencast site.

5.9 There was no consultation responses received from any coal operators objecting to the preferred approach or supporting to or objecting to the reasonable alternative approach proposed in the MIR.

## THE PROPOSED LDP APPROACH TO MINERAL RESERVES

6.1 SDP1 Policy 4 – Minerals requires LDPs to:

- Safeguard mineral resources from sterilisation where the deposits are of 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;
- 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 SDP;
- Set out the criteria to be addressed when assessing individual proposals including restoration and enhancement
- Support and encourage the use of secondary and recycled aggregates;

## Hard Rock, Sand and Gravel Reserves and Limestone

6.2 The LDP will safeguard all workable mineral reserves which are of economic value and ensure that these are not sterilised. These areas are identified on the plans at Appendix 1 of this technical note. Consequently the operational land at Bangley Quarry, Markle Mains, Longyester, Skateraw and Oxwellmains has been -safeguarded.

## Coal

6.3 There are no operational or consented coal mines in East Lothian that can be safeguarded by the LDP. Paragraph 239 of SPP requires LDPs to identify, review and safeguard any areas of search for mineral extraction, including for surface coal extraction, where possible and appropriate. In addition, the LDP should contain criteria based policies against which any new proposals for mineral extraction, including surface coal extraction, can be assessed, such as in relation to the impacts of extraction on local communities and the built and natural heritage including cumulative impacts.

6.4 In terms of the MIR reasonable alternative approach, and in an attempt to identify a potential area of search for open cast coal workings, the following methodology was pursued. A map

of the coal resource in East Lothian which was produced by British Geological Survey was used to identify the East Lothian coal field. Within this study area, areas where coal extraction should not take place due to the proximity to existing communities or which are close to areas that have international, national or local sites designated as built or natural heritage assets were identified and screened out. Factors such as access to good rail/road links or opportunities for landscape restoration that would suggest that area should be considered as a potential location for extraction, were identified (within this the introduction of the A68 Dalkeith by-pass was acknowledged).

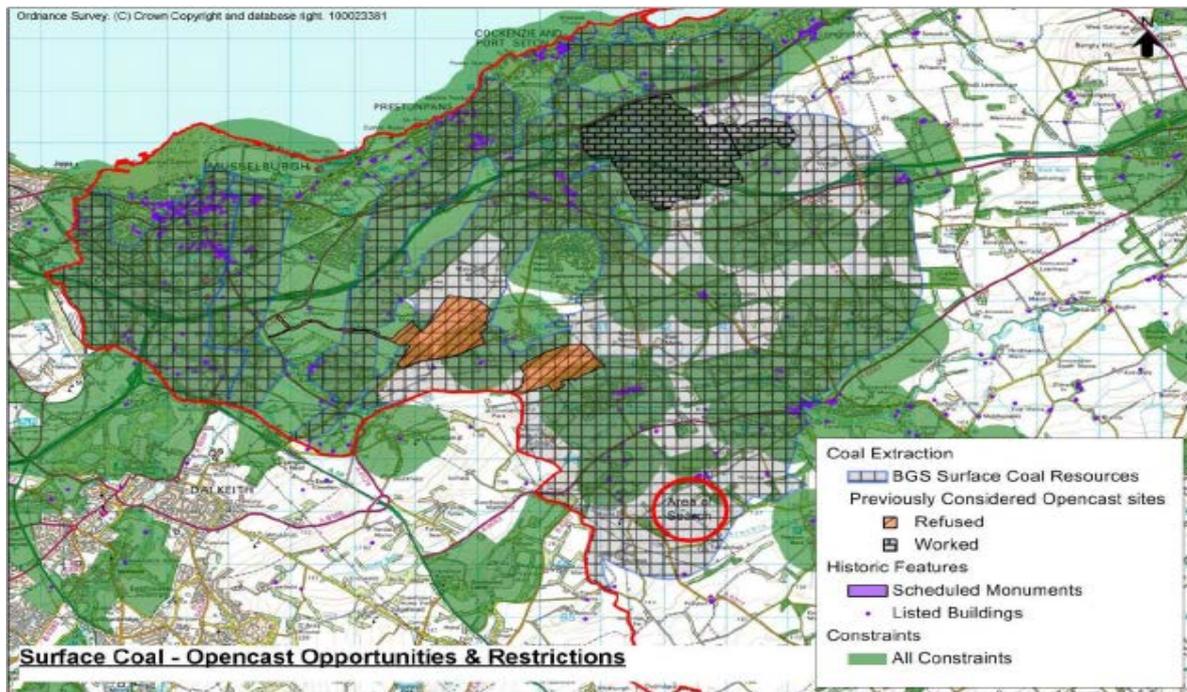
6.5 It is for the planning authority to determine what constitutes a community. The groupings identified as communities were settlements identified in the current local plan and groupings of 10 or more houses as a reasonable way of acknowledging settlement at smaller scale. A 500m buffer around these communities was used, and included those outwith East Lothian. Any proposals for coal extraction within this buffer area would be unlikely to be successful due to the significant impacts such proposals would have on those communities. The groupings so identified were: Carberry, Crossgatehall, Cousland, Newcraighall, Queen Margaret University, Boggs Holdings, Ormiston Hall/West Byres, Smeaton, Goshen Farm Steading, Dolphingstone, Buxley Farm Steading, Elphinstone Tower Farm cottages, Greendykes, Penston and Seton, see Map 2. Where there are also groupings of less than 10 houses, or Individual houses, they would be protected by policy criteria; however, their existence may make obtaining planning permission for coal extraction less likely.

6.6 In terms of cultural and natural heritage, international designations such as Special Protection Areas, Special Areas of Conservation and RAMSAR sites were sieved out of the study area. The same is true of national designations such as Sites of Special Scientific Interest, Gardens and Designed Landscapes, Scheduled Monuments and Listed Buildings. Peat and rare soils do not overlap the coal area, and there are no water supply catchment areas that affect the coal area. There are some areas that are affected by 1:200 year flood risk zones. The coal field is also contiguous with the Drinking Water Protected Area (Groundwater). There are also areas of ancient and semi-natural woodland in the area underlain by coal deposits. Local natural and cultural heritage assets which have also been sieved out of the study area include Local Biodiversity Sites, Conservation Areas and that part of the Green Belt within East Lothian.

6.7 Other factors that were taken into account were that some employment locations may be sensitive to opencast workings. Some sites important for tourism, whether for accommodation or as an attraction could be impacted by opencast workings. The strategic employment sites on or near the coalfield are at Old Craighall Business Park, Macmerry, and Blindwells are relevant. Some other existing employment or tourism sites may also be sensitive. These include Elphinstone Research Centre, Seton Sands Holiday Park, Old Craighall Travelodge, Carberry Tower, Adniston Manor, Drummohr Caravan site, Winton House, Levenhall Links Nature Reserve and Musselburgh Racecourse. Locations where dismissed planning appeals for such development were also identified.

6.8 The map below illustrates these constraints / features / decisions and the potential area of search for open cast coal working which lies outwith these areas that was suggested by the MIR.

**Map 1: Surface Coal – Opencast Opportunities & Restrictions**



6.9 However, if an area of search were to be identified, traffic and environmental impacts must be minimised. On this basis, the area covered by the mapped constraints was excluded as well as the area between Tranent, Macmerry, Pencaitland and Ormiston as it would not be suitable due to its likely visual impact and the need for traffic to route through Tranent or Pencaitland. A potential area of search for surface coal working was therefore identified at the location shown on the plan above. However whilst that area is less constrained than other parts of East Lothian, it is in relatively close proximity to the A68 and the minor roads providing direct access to that road. Therefore any opencast coal operations in that area are likely to have significant visual impacts on the landscape character of that rural part of East Lothian.

6.10 Furthermore, it is not clear if the potential area of search indicated on the map above underlain by deposits which are of sufficient scale or quality to be of commercial interest. No land owner or developer came forward during the MIR consultation period to suggest there was any interest in extracting coal in this or indeed in any other part of East Lothian. Moreover, if such a mineral resource exists, it is not clear if the extraction of it is technically feasible and could be carried out in a way that is environmentally and socially acceptable. To establish this a full assessment of the environmental effects and need for mitigation would be required at the level of any project and it is very likely that project level EIA would be required. Therefore, it remains the Council's view that any open cast coal operation in this area is likely to have unacceptable impacts and consequently identifying this as an area of search could be contrary to SPP and Policy 4 of SDP1. As such, the Proposed LDP does not identify a specific area of search for surface coal extraction.

6.11 The East Lothian coalfield has a significant number of communities interspersed throughout it. These and the landscape between them have a high degree of intervisibility. They are also connected by a network of roads of rural character which tend to converge through the settlements.

East Lothian also has many areas that are designated for their landscape, natural and cultural heritage significance. For the LDP to identify any area of search for open cast coal extraction there would need to be a reasonable degree of certainty that any proposals for surface coal extraction within it could, if they were to be supported, be implemented without significant detrimental impacts on communities and on the natural and cultural heritage of the area. There would also need to be a reasonable degree of certainty that within any area of search that coal deposits are of sufficient scale or quality to be of potential commercial interest – i.e. there is a viable reserve. In light of environmental constraints, previous planning appeal decisions and the limited response to the Main Issues Report (particularly from industry) the Proposed LDP does not identify an area of search for open cast coal extraction.

### **Shale Oil and Gas including Coal Bed Methane**

6.12 The British Geological Survey has recently produced plans indicating that areas in the west of East Lothian have potential for the working of shale oil and gas. The plans below illustrate the areas where there may be shale oil and gas deposits in East Lothian.

6.13 To date no PEDL licences have been issued by the Department of Energy and Climate Change (DECC) for the reserves within the East Lothian Area. If any PEDL licences were to be issued then the key factors in the assessment of any associated planning application would include the impact on neighbouring uses, communities and the environment, including the water environment, as well as on health and on amenity in general. The LDP includes a criteria based policy against which any such proposals can be assessed and that will seek to manage any such operations while seeking to safeguard the environment and amenity.

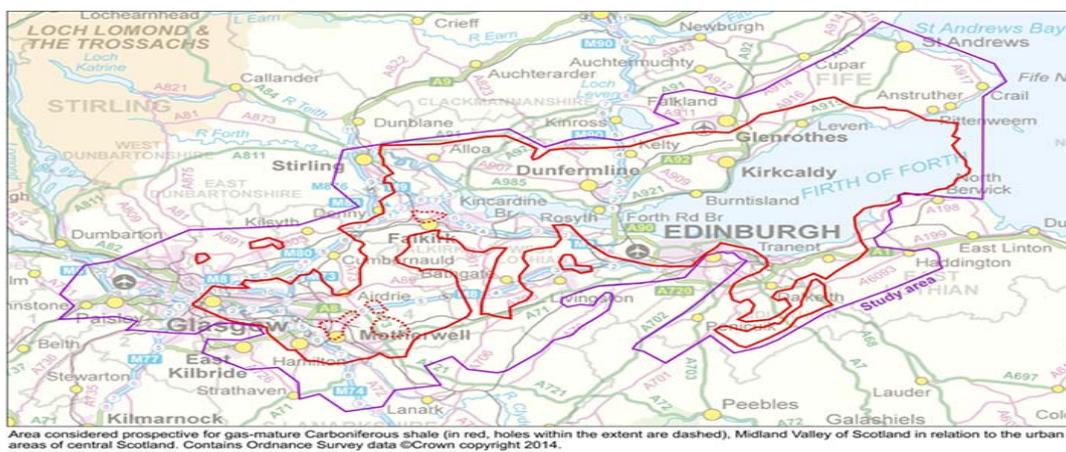
6.14 It is likely that any such proposals would require Environmental Impact Assessment. In addition to assessing the impact of any such proposals on those considerations identified above, a particular focus of any assessments would include the identification of onsite activities that may pose a potential risk, including the emission of pollutants and the creation and disposal of waste. As part of any such assessments, a source – pathway – receptor model should be used to monitor, manage and mitigate any identified risks.

6.15 One of the outputs of such assessments would be the identification of buffers zones between such operations and sensitive receptors such as existing communities, natural / cultural heritage assets and uses sensitive to / at risk from such operations. It would be for the planning authority, in consultation with other statutory consultees, to determine if such buffers zones are appropriate and sufficient. Where they are deemed inappropriate, planning permission would be refused.

**Figure 2: Area Prospective for Shale Oil**



**Figure 3: Area for prospective Shale Gas**



## Policy Framework

6.16 The minerals Policy framework of the LDP is outlined in the table below. Through these policies the LDP aims to safeguard viable mineral reserves where they exist and direct mineral development to the right place all in accordance with the requirements of SPP and SDP1. In summary:

- Policy MIN1 and PROP MIN2-4 all safeguard existing and future mineral resources in East Lothian in accordance with the requirements of SPP and Policy 4 subsection (a) of SDP1. In addition Policy MIN11 will ensure the prior extraction of any viable mineral that exists and underlays a site allocated for permanent built development prior to development commencing;
- Policies MIN5-MIN8 will ensure any proposals for the future extraction of minerals will only be supported where they can be carried out in a way that is environmentally and socially acceptable in accordance with the requirements of SPP and Policy 4 subsection (a) of SDP1;
- Policies MIN 9 and 10 will ensure that any planning applications for the extraction of minerals are accompanied by sufficient information and assessments to ensure that a full and robust assessment of that planning application can be undertaken, with any significant environmental effects identified. Where these proposals are to be supported then these

policies will also ensure that necessary mitigation measures are stipulated and put in place, including the restoration and afteruse of the site, which are required to be fully costed with the necessary financial guarantees assured.

6.17 Through these policies the requirements of NPF3 and SPP have been addressed and the LDP and will ensure that the extraction of viable mineral reserves can continue to be carried out within East Lothian in a sustainable and environmentally acceptable way, with the impact of those workings on local communities and the landscape minimised and mitigated. The policies will also ensure that where mineral works have ceased that sites are appropriately and adequately restored.

**Table 4: Minerals Policies MIN1-MIN11 of LDP**

<b>Policy/Proposal of the LDP</b>	<b>Policy Wording</b>
Policy MIN1: Protection of Mineral Reserves	Proposals for permanent development will not be permitted where this would result in the sterilisation of mineral deposits that have, or can be shown to have, a real prospect of being extracted economically and in conformity with development plan policies. The only exception to this will be in circumstances where the development is to meet the development requirements of the Strategic Development Plan.
PROP MIN2: Safeguard Oxwellmains Limestone Quarry	The existing operational Limestone Quarry at Oxwellmains is safeguarded for the continued extraction of this mineral resource.
PROP MIN3: Safeguard Longyester and Skateraw Sand and Gravel Quarries	The existing operational Limestone Quarry at Longyester and Skateraw are safeguarded for the continued extraction of this mineral resource. The consented extension to Longyester sand and gravel quarry is also included within this safeguarded designation.
PROP MIN4: Safeguard Bangley and Markel Mains Hard Rock Quarries	The existing hard rock quarries at Bangley and Markel Mains are safeguarded for the continued extraction of this resource.
Policy MIN5: Mineral Resources	Proposals for the winning and working of minerals including hard rock, sand and gravel and limestone will not normally be permitted except (a) where related to existing working or in exceptional cases, where resources of a particular type or quality are unavailable from an alternative source within a reasonable distance, and (b) where they are proven to be acceptable having regard to Policy MIN8 and other relevant development plan policies.
Policy MIN6: Opencast Coal Extraction	Proposals for opencast coal extraction will be supported where they are proven to be acceptable having regard to Policy MIN8 and other relevant development plan policies.
Policy MIN7: Onshore Oil and Gas	The extraction of onshore oil and gas, including coal bed methane and associated infrastructure will only be supported where it is proved to be acceptable having regard to Policy MIN8 and other relevant development plan policies.

<p>Policy MIN8: Mineral Extraction Criteria</p>	<p>Proposals for surface mineral extraction or for the extraction of onshore oil or gas or coal bed methane will only be permitted where there will be no significant adverse impact on the environment or the local community. Proposals will be assessed against other relevant LDP policies and must meet all the following criteria:</p> <ol style="list-style-type: none"> <li>1. There would be no unacceptable environmental impacts, including from disturbance, disruption, noise, dust, vibration, seismic activity, blasting, traffic, visual intrusion, landscape impact, or pollution, on any of the following: <ol style="list-style-type: none"> <li>a. the character, setting, appearance and amenity of the area, including any settlements;</li> <li>b. natural heritage interests, including biodiversity and geodiversity;</li> <li>c. all land, but especially prime agricultural land, carbon rich and rare soils;</li> <li>d. the water environment;</li> <li>e. air quality;</li> <li>f. cultural heritage; or</li> <li>g. any other sensitive receptors.</li> </ol> </li> <li>2. There would be no significant loss of public access to or enjoyment of the countryside, including the use of rights of way, the core path network and the John Muir Way;</li> <li>3. The development would not be conspicuous when viewed from any of the following major transportation corridors and tourist routes: <ol style="list-style-type: none"> <li>a. any part of the A1 trunk road</li> <li>b. the A199 between Macmerry and Dunbar</li> <li>c. the Coastal, Hillfoots and Saltire tourist trails</li> <li>d. the East Coast Main Line railway and North Berwick branch line;</li> </ol> </li> <li>4. The development would not have a significantly adverse cumulative impact on the environment or on local communities when combined with the effects of other existing or consented mineral workings;</li> <li>5. Where there is a material risk of disturbance or environmental damage, this is outweighed by demonstrable and significant local or community benefits related to the proposal.</li> <li>6. In the case of proposals for surface minerals extraction, the proposal is for a specific type, quality and quantity of minerals required to meet an established need, and which are not available from: <ol style="list-style-type: none"> <li>a. sites with existing permissions; or</li> <li>b. through the use of suitable secondary or recycled materials.</li> </ol> </li> </ol>
<p>Policy MIN9: Supporting Information</p>	<p>Proposals for surface mineral extraction and for the extraction of onshore oil and gas including coal bed methane must be supported by the following detailed information on the proposals:</p> <ol style="list-style-type: none"> <li>1. A detailed assessment of the expected environmental impacts of the proposals on landscape and built heritage features, including flora, fauna, the water environment, drainage, archaeology, local communities and residential property, and agricultural land and any Appropriate Assessment required under the Habitats Regulations. The use of photomontages is required to assist in the assessment of landscape impact;</li> <li>2. The benefits that would result from the development locally, including details of any employment benefits.</li> </ol> <p>Applications must also be accompanied by a Method Statement. The Statement must include details of the following, where relevant:</p> <ol style="list-style-type: none"> <li>i. the estimated total volume of the reserve to be worked;</li> <li>ii. the type(s) of mineral to be worked, expected quality and the market need for the mineral at the local, regional or national level;</li> <li>iii. the rate of extraction and timescale for working the reserve;</li> <li>iv. details of the proposed working methods, including details of any overburden</li> </ol>

	<p>storage, estimated noise levels and any proposals for blasting;</p> <ul style="list-style-type: none"> <li>v. proposed hours of operation;</li> <li>vi. an assessment of traffic generation resulting from the proposal, including details of the proposed volume, frequency and routing of traffic;</li> <li>vii. an explanation of measures to prevent the deposition by vehicles of mud and other materials on the public road;</li> <li>viii. details of mitigation measures proposed; and</li> <li>ix. details of restoration, aftercare and afteruse proposals, including details of finished ground levels, landscaping and drainage proposals. In the case of prime quality agricultural land, applicants must demonstrate that the site will be reinstated to agricultural land of a similar quality to that existing prior to mineral working.</li> </ul> <p>In respect of proposals for the extraction of onshore oil and gas reserves including coal bed methane the following information must also be submitted:</p> <ul style="list-style-type: none"> <li>i. A risk assessment of the proposal and details of any appropriate buffer zone as specified in Scottish Planning Policy (2014); and</li> <li>ii. Information on the extent of operations for each relevant phase of the development, including exploration, appraisal and production.</li> </ul>
<p>Policy MIN10: Restoration and Aftercare</p>	<p>Planning applications for the extraction of minerals, including the extraction of onshore gas and oil and coal bed methane, must be accompanied by a fully costed and appropriately phased scheme for the restoration and/or after use of the site, including provision for its long term management and maintenance.</p> <p>Unless satisfied that a suitable restoration fund is available, the Council will seek to conclude an agreement with applicants under section 75 of the Town and Country Planning (Scotland) Act 1997, or other appropriate legislation, to provide a restoration guarantee or bond adequate to cover the cost of restoration in the event of failure of the operator to carry out the agreed works.</p>
<p>Policy MIN11: Prior Extraction of Shallow Coal</p>	<p>Proposals for new built development within the East Lothian Coalfield that would result in the unnecessary permanent sterilisation of known workable reserves of shallow coal will only be permitted if there is an overriding need for the development. In assessing if there is an overriding need for the development, the economic viability of extracting the coal will be taken into account. Unless extracting the coal is shown not to be economically viable, it will be necessary to consider the prior extraction of the coal before development takes place. Without prior extraction, development will only be permitted where it is demonstrated that prior extraction of the coal is not feasible. Any proposal for prior extraction must not have a significant adverse effect on local communities or the environment and be consistent with all relevant development plan policies.</p>



St Baldred's Craule

Tyne Mouth



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