
Statement prepared by Gloucestershire County Council | May 2019**Main Matter 7 | Development Management**

Issue: Whether the Development Management policies strike an appropriate balance between seeking to provide sustainable development and protecting people and the environment?

Policy DM01**Question 39:**

Is the Policy sufficiently clear as to what is meant by amenity and are the examples provided in the policy unduly restrictive?

1. Subject to the acceptance of Main Modifications PMM12, 13 and 14 ([EX5a](#)) Policy DM01 and its supporting text are considered by the County Council to be sufficiently clear as to the meaning of amenity. The examples provided in the policy are also considered not to be unduly restrictive.
2. The supporting text to Policy DM01 provides an explanation of what amenity is, as understood for the purposes of the plan (page 78, [SUB001](#)). It also sets out characteristics of amenity impacts and what items it may incorporate (page 77, [SUB001](#)).
3. The examples of impacts set out in Policy DM01 are deemed to be sufficiently broad to effectively encompass individual matters that are associated with minerals development and thus an influence upon amenity.

Question 40:

Should the Policy cater for any circumstances where mitigation may not be achievable?

4. It is the view of the County Council that Policy DM01 has taken a balanced and considered approach to responding to matters of amenity. Provision is made for mitigation to be employed to ensure that unacceptable impacts will not arise. The policy also enables applicants to pursue alternative approaches such as impact avoidance and agreeable controls. The policy offers no thresholds or specific requirements other than the need to eradicate unacceptable impacts.

This is not the same of eradicating all adverse impacts. The unacceptability of impacts must be defined on a case-by-case basis.

Question 41:

Should the Policy refer to the use of any buffer zones?

5. No – it is the view of the County Council that the use of buffer zones does not require a specific reference within Policy DM01. Defining and implementing a buffer zone is a practical tool that functions as a mitigation measure and should be assessed on a site-by-site basis. A universal or indeed a qualified requirement for buffer zones does not appear in national policy as contained in NPPF 12 ([PSD2](#)). Instead, buffer zones are discussed within national planning practice guidance in the manner previously described¹. As a consequence their use in principle has already attained policy backing through Policy DM01 which makes provision for mitigation to be used where it will eradicate the possibility of unacceptable adverse impacts. An example of this would be putting forward a designated and defined 'stand-off' area that would exclude any working or other activities to support mineral working between a quarry working face and a particular sensitive receptor(s) in order to demonstrate accordance with Policy DM01.

Question 42:

Are the circumstances in which development proposals will require a Health Impact Assessment clear and justified?

6. Subject to the acceptability of Main Modifications PMM12, 13 and 14 ([EX5a](#)) the County Council considers there is clarity and justification for the approach to Health Impact Assessment (HIAs) within Policy DM01 and its supporting text.
7. Main Modification PMM12 clarifies the relevance of HIA to planning proposals and Main Modifications PMM13 confirms how HIAs could be employed as part of the evidence base to support planning proposals.

¹ National Planning Practice Guidance (PPG), Minerals section, Assessing environmental impacts from minerals extraction sub-section, paragraph 018, reference ID, 27-018-20140306

Question 43:

Does the Policy provide sufficient guidance to inform developers of the content and extent of information that should be provided in support of development proposals to demonstrate that the adverse impacts on amenity can be mitigated?

8. Subject to the acceptability of Main Modifications PMM12, 13 and 14 ([EX5a](#)) the County Council considers Policy DM01 and its supporting text to provide sufficient guidance about the information needed to support development proposals in respect of amenity impacts. In particular, detailed and comprehensive thematic advice is set out in the interpretation and implementation section of the supporting text (pages 79 to 83, [SUB001](#)).

Policy DM02**Question 44:**

Is the policy sufficiently clear as to how cumulative impacts are to be determined and considered?

9. Yes – it is considered by the County Council that Policy DM02 and its supporting text is sufficiently clear as to how cumulative impacts should be determined and considered. The policy provides clarity as to what different circumstances generate a cumulative impact and how these impacts should be assessed. The key assessment factors are whether unacceptable cumulative adverse impacts are at risk of occurring, or to what extent the benefits of the development will outweigh the presence of unacceptable cumulative adverse impacts.

Policy DM03**Question 45:**

Is the policy consistent with paragraph 32 of the NPPF?

10. National policy contained in paragraph 32 of the NPPF 2012 ([PSD2](#)) is concerned with: - the need for Transport Statements or Assessments (TSs and TAs); support for opportunities for sustainable transport modes to be taken up; ensuring safe and suitable access; and circumstances under which proposal could be refused on transport grounds.
11. Subject to the acceptance of Main Modification PMM15 ([EX5a](#)) the County Council considers Policy DM03 to be consistent with NPPF 2012 ([PSD2](#)). Part a of the policy, incorporating Main Modification PMM15, provides clear opportunities for alternative, non-road based (and potentially more sustainable) transport to be promoted. Part b of the policy deals with matters of safety and function including the introduction of a 'severity' test for those circumstances where the highway network could be subject to unavoidable adverse impacts. In addition, the supporting text to Policy DM03 explains that TSs and TAs could be required (page 89, [SUB001](#)),

Question 46:**Is the policy appropriately worded and should it recognise that the use of road transport should be minimised but in some circumstances it cannot be eliminated?**

12. Subject to the acceptance of Main Modification PMM15 ([EX5a](#)) Policy DM03 is considered by the County Council to be appropriately worded in respect of support for minimising the use of road transport. Main Modification PMM15 clarifies that mineral development proposals will be acceptable in terms of transport, where it can be demonstrated road-based transport will be minimised and where possible more sustainable alternatives will be used.

Question 47:**Should the policy refer to the amenity impacts of road transport?**

13. It is considered by the County Council that amenity related impacts associated with road transport are sufficiently covered by the full policy framework contained across the plan. For example, Policy DM01 and Policy DM02 consider individually and collectively amenity related impacts associated with road transport such as air pollution including fumes, odour and dust, light pollution and noise. To provide a separate amenity-related policy exclusively for road transport would largely lead to duplication and could also risk confusion for plan users as when different policies may or may not be applicable.

Policy DM04

Question 48:

Is the policy consistent with the NPPF. Is the policy unduly onerous or restrictive?

14. Subject to the acceptance of Main Modifications PMM18 and 19 ([EX5a](#)) the County Council does not consider Policy DM04 to be unduly onerous or restrictive. The policy has undergone considerable scrutiny by key technical experts (the Environment Agency) and in order to try and eliminate objectives from a statutory consultee an agreement has been reached on detailed content, which incorporates the Main Modifications and has been set out in a Statement of Common Ground ([SUB021](#))

Question 49:

As minerals can only be worked where they are found, should this be reflected in Part a of the Policy?

15. Subject to the acceptance of Main Modifications PMM18 and 19 ([EX5a](#)) it is considered by the County Council that Policy DM04 provides sufficient clarity on how mineral working outside of Flood Risk Zone 1 should be dealt with. The Main Modification PMM18 represents a considerable revision of Policy DM04 including part a. The changes largely remove the mechanism of the sequential test as the main factor in setting different policy criteria. Instead, clearer criteria for all proposals have been included as the starting point, followed by specific policy criteria dependant upon the presence of different flood risk zones and circumstances.

Question 50:

Is it clear as to what is meant by ‘water compatible’?

16. Subject to the acceptance of Main Modification PMM18 ([EX5a](#)) the County Council considers that the plan provides a clear view on what is meant by ‘water compatible’. Main Modification PMM18 introduces a new footnote that signposts the part of national planning practice guidance, which defines ‘water compatible’ development by way of types of activities that fall into this category.

Policy DM05**Question 51:**

Does the policy provide sufficient clarity and appropriately considers the manner in which watercourses are to be taken into account?

17. Subject to the acceptance of Main Modifications PMM20 and PMM23 ([EX5a](#)) the County Council considers Policy DM05 does provide sufficient clarity and appropriately considers the manner in which watercourses should be taken into account.
18. Main Modification PMM20 is specifically concerned with the policy and introduces new qualifying criteria under which the integrity of watercourse may not necessarily need to be preserved and could be subject to managed change. Main Modification PMM23 covers the supporting text relating to the handling of watercourses with minerals development. It introduces additional guidance on how applicants should approach the issue of possible watercourse changes. It is made clear that in order to pursue this option, robust and credible evidence as to why an alternative solution cannot be secured must be provided.

Policy DM06**Question 52:**

Is the policy consistent with the NPPF?

19. National policy on protecting wildlife or geodiversity sites is outlined in NPPF 2012 under paragraph 113 ([PSD2](#)). It is considered by the County Council that subject to Main Modification PMM24 ([EX5a](#)) Policy DM06 fully accords with the NPPF 2012 ([PSD2](#)) and this is supported by the technical advice received during the policy's preparation from Natural England.
20. In respect of the approach towards legally protected species, this is a potentially pivotal material planning matter that warrants a local policy stance. Legal protection affords the requirement, in certain circumstances, of the need to obtain wildlife licences. It is the likelihood that a licence will be granted that should be factored into the decision on whether a proposal should be granted planning permission or not. The approach set out in Policy DM06 clearly establishes this as a key local policy test with specific attention given to the provision of suitable safeguarding measures.
21. It is also worth noting that, in the presence of European Protected Species, the County Council is required to consider 3 tests under the Habitats Regulations to determine whether a licensed derogation is possible as a consequence of permitting a development. Legally protected species are also often priority species appearing on the English List (S41 of the NERC Act) which is the basis of the MPAs biodiversity duty (S40 of the NERC Act). Legally protected species must be considered as part of biodiversity assessment overall so that it can be determined if conservation or net gain for biodiversity can be achieved.
22. Main Modification PMM24 ([EX5a](#)) updates 'Key Wildlife Sites' to 'Local Wildlife Sites' and to clarify the policy on net gain for biodiversity.

Policy DM07

Question 53:

Does the policy imply that soil enhancement should be demonstrated in all mineral development proposals?

23. Subject to the acceptance of Main Modification PMM25 ([EX5a](#)) the County Council considers that Policy DM07 does not imply soil enhancement should be demonstrated in all mineral development proposals. Main Modification PMM25 introduces qualifying text to the policy that clarifies '*wherever possible*' soil improvements should be brought forward.

Policy DM08

Question 54:

Is the policy consistent with the NPPF and supporting guidance?

24. It is considered by the County Council that Policy DM08 is fully compliant with national policy on the historic environment as outlined under section 12 of NPPF 2012 ([PSD2](#)). This is supported by the fact Historic England was involved in the policy drafting.
25. In respect of the supporting text, subject to the acceptance of Main Modifications PMM26 and 27 ([EX5a](#)) the County Council also considers this to NPPF 2012 compliant ([PSD2](#)). The Main Modifications are to improve clarity only and do not introduce any new or divergent requirements or provisions.

Question 55:

Is the policy unduly onerous with regard to the preservation of non-designated assets in situ?

26. No – the County Council does not consider Policy DM08 to be unduly onerous with regard to the preservation of non-designated assets in situ. The policy is fully compliant with national policy and in particular paragraph 139 of NPPF 2012 ([PSD2](#)) that responds to issues affecting non-designated assets deemed to be of equivalent significance to scheduled monuments. The policy makes a reasonable provision for those circumstances, where heritage assets of the highest significance may be present and therefore could be affected by minerals development.

Annex 2 of the 2012 NPPF also provides an explanation of significance in relation to heritage assets; this does not make any differentiation between designated and non-designated assets ([PSD2](#)). Furthermore, Policy DM08 makes provision for occasions when it is not possible to preserve assets in situ. The County Council can also confirm it has not put forward any requirements to achieve the enhancement of non-existent heritage assets.

Question 56:

Are elements of paragraphs 372 and 376 contradictory?

27. The County Council does not consider the supporting text to paragraphs 372 and 376 of the plan to be contradictory. Paragraph 376 refers to 'suitably detailed' assessments (page 113, [SUB001](#)). It allows for both a reasonable initial assessment and for further information to be asked for in stages, where required to adequately understand any impact on significance.
28. Nevertheless, Main Modification PMM26 ([EX5a](#)) is proposed to improve clarity and avoid potential confusion over phasing within paragraph 372 of the plan.

Policy DM09

Question 57:

Should the policy recognise that mineral development may not be sympathetic to the landscape during the extraction phases?

29. The County Council considers that Policy DM09 presents the appropriate and proportionate approach to landscaping matters within the context of minerals development and the local circumstances prevalent within Gloucestershire. A significant proportion of the county in general, and more specifically with its minerals resources lie within, are adjacent to / or are within the sphere of influence of an Area of Outstanding Natural Beauty (AONB) and other landscape designations.. National policy contained in NPPF 2012 is clear in that great weight should be put on conserving landscape and scenic beauty ([PSD2](#)).

30. Mineral developments and landscape impact matters should be looked at in a holistic manner taking account of the fact that different phases could have an influence upon each other. It is under this circumstance that the policy has been prepared and it is in the entirety that mineral proposals will be judged regarding sympathy to landscape character, features and qualities. This includes consideration that extraction phases might have the potential to impact on the character of the landscape and / or visual impact. The County Council will always be aiming to work with operators to successfully ensure that impacts are minimised to an acceptable level.
31. Policy DM09 and its supporting text have been prepared with the support of Natural England who considers the Council's approach to be wholly in accordance with national policy.

Question 58:

Should the Policy or supporting text be more positive in recognising that mineral extraction can contribute to the quality of the built environment within the AONB?

32. The County Council does not consider it appropriate within the local policy framework to make further provisions within Policy DM09 to accommodate associated benefits of mineral extraction upon the built environment found within the AONB. Policy MW02 affords sufficient scope to demonstrate how allowing mineral extraction may positively contribute to maintaining the historic built assets, achieving high quality design and local distinctiveness or its reinforcement with new development (page 49, [SUB001](#)). All of these positive outcomes could be applied in localities found within AONBs as well as elsewhere in the county.
33. In practice for mineral extraction proposals that could contribute to the quality of the built environment of the AONB designation, the plan encourages decision makers to consider weighing up the degree of adherence or not with policies DM09 and MW02. This will undoubtedly be a key part of a proposals determination.

Policy DM10

Question 59:

Should the policy or supporting text recognise that mineral development may have a temporary effect on openness?

34. The County Council does not consider Policy DM10 or its supporting text should specifically make provision for recognising the temporary effect on openness of minerals development. The policy is very clear that there is distinction between 'extraction' and other types of minerals-related activities and this is taken from the position set out in national policy contained in NPPF 2012 ([PSD2](#)). Furthermore, the supporting text provides clarity as to how mineral development proposals in the Green Belt should be dealt with. Any temporary effect on openness will undoubtedly need to be considered on a case-by-case basis and such consideration should contribute to a wider view of how openness might be affected. This will then be added to the planning balance at the overall determining stage of any planning application.
35. However, in respect of the supporting text to DM10, the County Council does propose a Main Modification – PMM28 ([EX5a](#)). This clarifies the circumstance concerning the difference between 'extraction' and other types of mineral-related activities and also identifies the key components for any future openness assessment, which are visual impacts and spatial effects.

Question 60:

Notwithstanding the guidance provided in the NPPF, is paragraph 395 sufficiently clear for the Plan to be effective?

36. The County Council considers paragraph 395 to be sufficiently clear when read alongside the interpretation and implementation section of the supporting text to Policy DM10 (pages 122 to 123, [SUB001](#)). This is augmented by Main Modification PMM28 ([EX5a](#)) which identifies the key components for any future openness assessment as visual impacts and spatial effects.

Question 61:

Should the policy also refer to minerals infrastructure?

37. The County Council does not consider it appropriate for Policy DM10 to make specific reference to minerals infrastructure. The matter is adequately dealt with under part b of the policy, which accommodates all mineral development activities (including infrastructure) other than extraction. The sub-division is deliberate and is reflective of the different assessment regimes afforded to these types of mineral development as laid down in national policy contained in NPPF 2012 ([PSD2](#)).

Policy MR01

Question 62:

Is the policy and supporting text sufficiently clear regarding the effect of new restoration proposals on previously agreed schemes and the potential need for the importation of waste materials and relationship with the Waste Core Strategy?

38. Subject to the acceptance of Main Modification PMM30 ([EX5a](#)) the County Council considers the supporting text to Policy MR01 to be clear about new restoration on previously agreed schemes. Main Modification PMM30 clarifies what matters should be taken account by applicants. It includes consideration of the potential adverse impacts on the final environmental status of the site if restored to original scheme; the avoidance of environmental degradation more generally; and evidence of enhancement opportunities.

39. Subject to the acceptance of Main Modifications PMM31 and 32 ([EX5a](#)) the County Council considers the supporting text to Policy MR01 to be clear about the need to import waste materials and the relationship with the adopted Gloucestershire Waste Core Strategy ([PSD1](#)). Main Modification PMM31 removes unnecessary additional guidance, which is already adequately covered elsewhere in the supporting text to Policy MR01. Main Modification PMM32 clarifies the broader local policy approach towards the use of waste in a recovery or landfill for restoration purposes as set out in the adopted Gloucestershire Waste Core Strategy ([PSD1](#)).

Questions 39 to 62 response word count: 2852 (excluding Inspector's Questions)