

Derbyshire and Derby Minerals
Local Plan 2022 – 2038

Duty to Cooperate - Statement of
Common Ground

March 2025

Derbyshire County Council/Derby
City Council
and Historic England

1. Introduction and Background

Duty to Cooperate

- 1.1 An important element of local plan preparation is the requirement to fulfil the Duty to Cooperate provisions established by the Localism Act 2011 and as set out in Section 33A of the Planning and Compulsory Purchase Act 2004. It places a duty on local planning authorities (including county councils) and prescribed public bodies to engage on an ongoing basis, to maximise the effectiveness of a local plan in the context of strategic matters that cross administrative boundaries. Evidence of the discussions and the outcomes from them will need to be made available at the local plan examination as part of the tests of soundness.
- 1.2 In order to demonstrate effective and on-going joint working, the National Planning Policy Framework (NPPF), first published in 2012 and with the latest revision in December 2023, requires strategic policy-making authorities to prepare and maintain Statements of Common Ground (SoCG), documenting the cross-boundary matters being addressed and the progress in co-operating to address these. Planning Practice Guidance (PPG) sets out detailed guidance on the approach that planning authorities should take in the production of SoCG.

2. Purpose

- 2.1 The purpose of this SoCG is to document the level of agreement or otherwise with Historic England on the strategic cross boundary issues which have been identified through the preparation of the Derbyshire and Derby Joint Minerals Local Plan (DDMLP). The DDMLP is a local plan prepared jointly between Derbyshire County Council and Derby City Council. It covers the geographical county of Derbyshire excluding that part of the county which lies within the Peak District National Park (PDNP). The Plan period is from 2022 to 2038.

3. Parties

- 3.1 The Parties to this SoCG are Derbyshire County Council and Derby City Council, as the Mineral Planning Authority responsible for preparing the

DDMLP, and Historic England, in its role as a statutory consultee on the DDMLP.

4. Strategic Cross Boundary Issues/Matters for Consideration

- 4.1 Derbyshire County Council and Derby City Council published jointly the Derbyshire and Derby Pre-Submission Draft Minerals Local Plan Regulation 19 (Reg. 19 Plan) consultation on 7th March 2023. The consultation ran for eight weeks between 7th March and 2nd May 2023.
- 4.2 Historic England was consulted directly by the councils on the Reg.19 Plan on 2nd March 2023, as a statutory consultee on the Plan. It subsequently submitted comments on the Reg.19 consultation on 02/05/2023. It made comments on a number of issues covered by the Plan, but this SoCG relates specifically to comments it has made regarding the allocation of sites for sand and gravel working covered by Policy SP5: Allocation of Sites for Sand and Gravel Extraction, together with the Principal Planning Requirements which relate to these site allocations. The relevant policies are set out below.

Policy SP5: Allocation of Sites for Sand & Gravel Extraction

Land is allocated to provide for at least an additional 6.38mt of sand and gravel over the Plan period as extensions to Swarkestone and Elvaston Quarries and new sites at Foston and Sudbury, as shown on the Policies Map.

The extraction of sand and gravel from the proposed allocated sites at Swarkestone and Elvaston quarries will be supported:

- 1) where the extensions follow cessation of mineral working within the existing working area, unless it is demonstrated that there are operational reasons why this is not practicable or there would be significant environmental benefits to be gained from alternative phasing.***
- 2) provided that the processing of the material produced at the site will be carried out via the established plant and access arrangements, unless there are significant environmental benefits in alternative arrangements.***

Proposals will need to satisfactorily address the Principal Planning Requirements set out at Appendix A of the Plan.

Historic England's Position - Policy SP5 General

- 4.3 Historic England (HE) considers that Policy SP5 is unsound in its current format and objects to a number of proposed allocations that are included within this policy. It considers that a number of proposed allocations are not compliant with national planning policy and are not justified for inclusion within the Plan. These site-specific comments are considered in detail from Paragraph 4.7 below.
- 4.4 With respect to the specific policy wording of SP5, HE has concerns regarding criteria 1 and the reference to cessation of minerals working, except in a number of cases. It states that within the Principal Planning Requirements, there are a number of times when it is set out that limiting the timescale of operating at minerals sites is required in order to protect the significance of heritage assets, however, HE considers that this clause appears contrary to this mitigation measure.
- 4.5 HE recognises that since the last stage of plan making, the Councils have prepared a limited Heritage Impact Assessment screening report, in January 2023, which has been included as an evidence paper in this consultation. It welcomes the inclusion of this evidence paper.

Derbyshire County Council and Derby City Council's Position – SP5 General

- 4.6 It is the intention of Policy SP5 in this respect that, where extensions to existing permitted sand and gravel sites are proposed, their working will commence after the existing sites have been worked out and utilise existing plant and access arrangements which will ensure that existing permitted areas are being restored before working commences in extension areas. However, there may be instances where this is not practicable or where alternative arrangements would provide significant environmental benefits; it will be for the applicant to provide sufficient evidence to justify an alternative approach. It is considered that, in principle, the approach will have the effect of reducing the scale of land in extraction at any one time, however the policy has appropriate flexibility to allow alternative arrangements should there be adequate justification for these. Any principal planning requirements limiting the timescale of mineral operations will be taken into account in considering any alternative arrangements for working.

These requirements are included to minimise the amount of time that heritage assets are impacted by mineral working.

Historic England's Position regarding Specific Sites

Foston

- 4.7 Historic England is concerned about this proposed allocation given the potential harm to the significance of Tutbury Castle Scheduled Monument, through impacts on its setting and views to and from the Castle, especially given its prominent siting in an elevated position. Additionally, there may be considerable archaeological remains in this area and these would need to be assessed and understood prior to development. HE remains concerned about the impact on Grade II Leathersley Farmhouse and would require appropriate mitigation measures to be set out in the Plan, including details of a proposed landscape buffer. It considers also that the level of harm would be less than substantial and would require appropriate mitigation measures if the harm were to be overcome.
- 4.8 The Heritage Impact Assessment screening report January 2023 sets out the importance of the heritage landscape within this area and the presence of significant archaeological remains. Additionally, the report sets out the harm to Tutbury Castle Scheduled Monument and its setting. The proposed mineral site is within the best protected area of the setting of Tutbury Castle and the assessment notes that the development will be harmful and will be seen as a 'large and contiguous block', which given the Castle's elevated position and minimal field boundaries will be difficult to screen. HE remains concerned about the inclusion of this site within the Plan and the limited mitigation measures currently proposed. The Heritage Impact Assessment screening report January 2023 sets out the harm in paragraph 5.16 as 'less than substantial, towards the higher end'. In its present form, HE considers that the inclusion of this allocation and the proposed mitigation measures in Appendix A of the Plan are unsound. Furthermore, HE remains concerned about the potential cumulative impacts in this location, given the potential impacts on Sudbury Hall Grade I and its Grade II RPG, alongside the proposed allocation at Sudbury.

- 4.9 In summary, HE is concerned about the potential impact on archaeology present on the site and within the wider landscape and would require full archaeological investigation, which is informed by deposit modelling and agreed with the county archaeological officer, as well as looking at screening and bunding during mineral operations.

Sudbury

- 4.10 HE notes that there is the presence of ridge and furrow earthworks on the site and within the wider landscape and there is the potential for further archaeological remains on this proposed allocation and within its setting which would require full archaeological investigation.
- 4.11 HE welcomes the preparation of the Heritage Impact Assessment screening report January 2023, which sets out the impacts on Grade II Leathersley Farmhouse, of which paragraph 9.14 sets it as less than substantial harm, towards the higher end. Appropriate landscape buffering is suggested within the report, and HE considers that the details of this are essential to include within the Plan to overcome the harm identified.
- 4.12 Furthermore, HE considers that there should be wider consideration given to the potential for harm to Grade I Sudbury Hall and its Grade II RPG, including through setting issues, including noise, vibrations, traffic movements etc. and how any harm to these assets can be overcome. The Heritage Impact Assessment screening report January 2023 sets out some of these wider issues.

Elvaston

- 4.13 HE considers the inclusion of this proposed allocation in the Plan, as unsound, and neither compliant with national policy nor justified. It considers that the harm to Grade II* Elvaston Castle and Grade II* Elvaston Registered Park and Garden (RPG) to be on the severe end of less than substantial harm, through loss of setting and further has the potential to compromise the future sustainable use of the site. It states that the proposed allocation borders Elvaston RPG, thus devolving it of a relationship with its wider rural setting and also includes the direct impact of tree felling within the Eastern Avenue, which

forms part of the RPG and is the last remaining section in which to appreciate the approach to the RPG and how it may have been experienced at the time.

- 4.14 HE does not consider that the potential mitigation measures set out in Principal Planning Requirements will overcome the harm or mitigate to an acceptable level and requests the removal of this proposed allocation from the Minerals Local Plan.
- 4.15 It acknowledges that the Heritage Impact Assessment screening report, January 2023 recognises the harm to these heritage assets and in particular to the Registered Park and Garden of which the proposed allocation borders, and the associated heritage assets including Grade I St Bartholomew's Church, which draw their significance from the rural landscape within which they are sited, which is part of an older and wider medieval landscape with extant ridge and furrow earthworks.
- 4.16 HE considers also that there is a cumulative impact to consider as a result of existing mineral operations in this locality which have already harmed the historic landscape but of which an additional allocation will take it over the threshold and cause irreversible harm.

Swarkestone South

- 4.17 HE has raised concerns about the harm to heritage assets within this locality, with particular reference to the harm to the setting of assets within the settlement of Twyford, including Grade I St Andrews Church, setting of Twyford Conservation Area, setting of Scheduled Monument Round Low Henge and significant archaeological remains in the area including extant ridge and furrow earthworks. HE considers that the harm to these heritage assets would be on the severe side of less than substantial through loss of setting, which contributes to the significance of these assets. It considers that the smaller portion of the allocation closer to the aforementioned heritage assets has the greater level of harm and the less chance of mitigation and as such is unsound, so request the removal of this allocation from the Minerals Local Plan.
- 4.18 HE is further concerned about the lower, larger portion of this allocation and the potential impact on a number of heritage assets in the locality, specifically the

impact on the setting of Scheduled Monument Round Low Henge, impact on archaeological remains and the cumulative impact of the proposed allocation at Swarkestone North.

- 4.19 It sets out that the Heritage Impact Assessment screening report, January 2023 recognises the high potential for archaeological remains in this area and that this needs to be considered within the Plan.

Swarkestone North

- 4.20 HE considers the inclusion of this proposed allocation within the Plan as unsound and not compliant with national policy or justified. It considers that the proposed allocation will cause substantial harm to the Scheduled Monument Round Low Henge through the loss of its setting, which is fundamental to its significance. It sets out that the proposed allocation borders the Scheduled Monument and working of this site will divorce it entirely from its setting and its relationship with the wider prehistoric landscape, of which it derives much of its significance, through proposed minerals development on three of its sides. Consider that it will lose its relationship with the river to the south and there are no proposed mitigation measures that are available to overcome this harm.
- 4.21 The Heritage Impact Assessment screening report January 2023 recognises that there will be harm to the Scheduled Monument as a result of the proposed allocation. Whilst HE disagrees on the level of harm, it considers it a useful document which sets out some of the concerns within the Councils own evidence.
- 4.22 Furthermore, HE considers that there is the potential for harm to occur for a number of assets within the Twyford settlement, including the Twyford Conservation Area, Grade I St Andrew's Church, as well as impacts on significant archaeological remains, including non-designated barrows, cropmarks and ridge and furrow earthworks.

Derbyshire County Council and Derby City Council's Position Regarding Specific Sites

- 4.23 Derbyshire County Council and Derby City Council have considered carefully Historic England's position regarding the proposed sites for sand and gravel working, as set out above.
- 4.24 The Councils' assessment of all sites has considered rigorously all aspects relating to the potential impact of mineral working including on heritage assets, having taken account of advice from colleagues with expert knowledge in this field and having also consulted widely with stakeholders on the site assessment methodology since it was first drawn up in 2012. The site assessments have therefore considered the issues raised by Historic England and have shown that the sites proposed as allocations should, on balance, contribute towards the provision of sand and gravel over the Plan period.
- 4.25 The Councils recognise that there are always likely to be some negative impacts as a result of sand and gravel extraction, as there are with most new developments. This has to be balanced against the continued national and local need for sand and gravel. Since Derbyshire has resources of sand and gravel, it is required by national planning policy to make provision for this mineral.
- 4.26 A full and comprehensive assessment of all issues raised by Historic England would be undertaken as part of an Environmental Impact Assessment, to support a planning application, which would consider in detail all aspects of the potential impact of the development of this site. Mitigation measures would be proposed as a result to address any areas of concern and included as planning conditions in any subsequent planning approval for the sites. This approach has been commonly accepted by Inspectors who have presided over other Minerals Local Plans elsewhere in the Country, which have proposed sand and gravel site allocations that have potential heritage impacts.
- 4.27 At the request of Historic England, a Heritage Screening Impact Assessment was undertaken by the Councils in 2023. The recommendations from this assessment have been incorporated into the Principal Planning Requirements for each site, which address the majority of Historic England's concerns regarding the sites. Some further changes have also been proposed to the PPRs by the Councils as a result of the Council's Archaeology Officer considering these further as a result of HE's continued concerns. These

requirements will have to be addressed by the mineral operators when they submit planning applications for the sites.

4.28 Quarries are also monitored regularly by the Council's enforcement officers to ensure that planning conditions are being complied with and, if any significant issues arise, appropriate action will be taken to deal with these.

4.29 All issues raised by HE are ones which mineral operators in the river valleys are used to dealing with and have the necessary expertise and experience in ensuring that the impacts of mineral development on heritage assets can be mitigated to a satisfactory level.

4.30 The Councils, therefore, maintain their position and propose to continue to allocate the sites for sand and gravel working in the MLP.

5. Actions/Considerations

5.1 On the basis of the assessment above, Derbyshire County Council and Derby City Council as Mineral Planning Authority does not agree with Historic England's representations on the Reg. 19 DDMLP relating to the issue of the allocation of sand and gravel sites in the MLP and maintains its position regarding the allocation of sites for sand and gravel in the Plan.

5.2 The Councils consider that it is important to maintain the allocations, as set out in Policy SP5, in order to ensure the continued steady and adequate supply of sand and gravel, as required by national policy. They consider that the specific concerns expressed by Historic England regarding the proposed site allocations can be addressed by the Councils and the mineral operators working closely with other relevant stakeholders, ensuring that suitable measures to mitigate any impact on heritage assets are put in place when planning applications are considered for the sites.

5.3 The Councils consider that the main generic policy in the Plan relating to the consideration of the impacts of minerals development on important heritage assets (Policy DM7) has been drafted to take into account all the likely impacts of mineral development on the historic environment and does not need to be incorporated in a range of other policies, as suggested by HE.

6. Signatories

- 6.1 Signatories to this Statement have done so on the basis of the details set out in this document.

Organisation Historic England

Title of Signatory

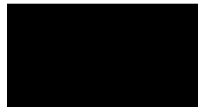
Signature

Date

Organisation Derbyshire County Council

Title of Signatory Cabinet Member for Infrastructure and Environment

Signature

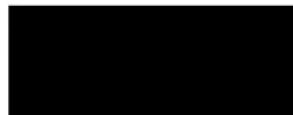


Date 6 December 2024

Organisation Derby City Council

Title of Signatory Chief Planning Officer

Signature



Date 5 November 2024