



**The Coal
Authority**

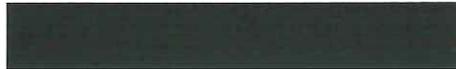
Scottish Borders Council - Local Development Plan (Proposed Plan)

Consultation Deadline – 03/03/2014

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BACKGROUND ON THE COAL AUTHORITY

The Coal Authority is a Non-Departmental Public Body sponsored by the Department of Energy and Climate Change (DECC). The Coal Authority was established by Parliament in 1994 to: undertake specific statutory responsibilities associated with the licensing of coal mining operations in Britain; handle subsidence claims which are not the responsibility of licensed coalmine operators; deal with property and historic liability issues; and provide information on coal mining.

The Coal Authority set up a Planning and Local Authority Liaison Department in 2008 to re-engage with the three planning systems across England, Scotland and Wales. The main areas of planning interest to the Coal Authority in terms of policy making relate to:

- the safeguarding of coal in accordance with the advice contained in Scottish Planning Policy in Scotland;
- the setting of an appropriate policy framework for addressing future energy mineral extraction in accordance with the advice contained in Scottish Planning Policy in Scotland; and
- ensuring that future development is undertaken safely and reduces the future liability on the tax payer for subsidence and other mining related hazards claims arising from the legacy of coal mining in accordance with the advice in Scottish Planning Policy in Scotland.

Comments on the Scottish Borders Council - Local Development Plan - Proposed Plan

Surface Coal Resources and Prior Extraction

As you will be aware, the Scottish Borders Council area contains coal resources which are capable of extraction by surface mining operations.

The Coal Authority is keen to ensure that coal resources are not unnecessarily sterilised by new development. Where this may be the case, The Coal Authority would be seeking prior extraction of the coal. Prior extraction of coal also has the benefit of removing any potential land instability problems in the process. Contact details for individual operators that may be able to assist with coal extraction in advance of development can be obtained from the Confederation of Coal Producers' website at www.coalpro.co.uk/members.shtml.

As The Coal Authority owns the coal on behalf of the state, if a development is to intersect the ground then specific written permission of The Coal Authority may be required.

Coal Mining Legacy

As you will be aware, the Scottish Borders Council area has been subjected to coal mining which will have left a legacy. Whilst most past mining is generally benign in nature, potential public safety and stability problems can be triggered and uncovered by development activities.

Problems can include collapses of mine entries and shallow coal mine workings, emissions of mine gases, incidents of spontaneous combustion, and the discharge of water from abandoned coal mines. These surface hazards can be found in any coal mining area, particularly where coal exists near to the surface, including existing residential areas. The Planning Department at the Coal Authority was created in 2008 to lead the work on defining areas where these legacy issues may occur.

The Coal Authority has records of over 171,000 coal mine entries across the coalfields, although there are thought to be many more unrecorded. Shallow coal which is present near the surface can give rise to stability, gas and potential spontaneous combustion problems. Even in areas where coal mining was deep, in some geological conditions cracks or fissures can appear at the surface. It is estimated that as many as 2 million of the 7.7 million properties across the coalfields may lie in areas with the potential to be affected by these problems. In our view, the planning processes in coalfield areas need to take account of coal mining legacy issues.

Within the Scottish Borders Council area there are approximately 150 recorded mine entries and around 34 coal mining related hazards have been reported to The Coal Authority. Overall high risk mining legacy features cover around 0.25% of the plan area. Mine entries may be located in built up areas, often under buildings where the owners and occupiers have no knowledge of their presence unless they have received a mining report during the property transaction. Mine entries can also be present in open space and areas of green infrastructure, potentially just under the surface of grassed areas. Mine entries and mining legacy matters should be considered by Planning Authorities to ensure that site allocations and other policies and programmes will not lead to future public safety hazards.

Although mining legacy occurs as a result of mineral workings, it is important that new development recognises the problems and how they can be positively addressed. However, it is important to note that land instability and mining legacy is not a complete constraint on new development; rather it can be argued that because mining legacy matters have been addressed the new development is safe, stable and sustainable.

As The Coal Authority owns the coal and coal mine entries on behalf of the state, if a development is to intersect the ground then specific written permission of The Coal Authority may be required.

Specific comments on the Scottish Borders Council - Local Development Plan (Proposed Plan)

The comments and/or changes which The Coal Authority would like to make or see in relation to the above document are:

Representation No.1

Policy – Policy PMD1: Sustainability

Support – The Coal Authority welcomes the recognition in the LDP highlighting the importance of protecting natural resources as one of the sustainability principles underpinning all the plan's policies.

Representation No.2

Policy – Policy ED11: Safeguarding of Mineral Deposits

Support – The Coal Authority supports the prevention of the sterilisation of mineral deposits when development proposals are being considered. This policy accords with paragraphs 226 and 241 of SPP.

Representation No.3

Policy – Policy ED12: Mineral and Coal Extraction

Support – The Coal Authority supports the identifying of areas of search in the north-west and south-west of the region and the setting out of criteria against which proposal for mineral and coal extraction will be considered. This accords in principle with the advice in paragraph 240 of SPP. It is noted that further policy content will be published in the future in the form of Supplementary Guidance on Minerals. The Coal Authority supports the recognition in criterion d) that there may be mitigating circumstances which could allow for coal extraction within 500m of a settlement; this reflects national planning policy in paragraph 245 of SPP.

Representation No.4

Policy – Policy IS13: Contaminated Land (Policy Omission Unstable Land)

Objection - Given the presence of legacy of past mining activity within the Scottish Borders, The Coal Authority considers that the LDP should incorporate the following:

- A reference to the range of potential public safety issues relating to the legacy of coal mining within the Scottish Borders. Potential hazards include: collapse of shallow mine workings; collapse of mine entries; gas emissions from coal mines; transmission of gases into adjacent properties; coal mining subsidence; and water emissions from coal mine workings. These hazards may currently exist, be caused as a result of development, or occur at some time in the future; and
- Appropriate general policies/policy criteria requiring new development proposals to take account of any risks associated with former coal mining activities and, where necessary, incorporate suitable mitigation measures to address them.

Unfortunately the LDP has not responded positively to the issue of unstable land and no policy content is set out to address this issue.

The Coal Authority considers that Policy IS13 could be amended to address this issue as follows:
"Where development is proposed on land that is contaminated, suspected of contamination, or unstable the developer will be required to:

- a) carry out, in full consultation with, and to the satisfaction of Scottish Borders Council, appropriate phased site investigations and risk assessments; and*

- b) *where necessary, and to the satisfaction of Scottish Borders Council, design, implement and validate appropriate remedial or mitigation measures to render the site suitable for its proposed use.*

The supporting text should also be amended as follows:

“1.1 The aim of this policy is to allow for development on land where contamination or instability is known or suspected but in a manner that ensures the redevelopment of such sites is made possible without unacceptable risks to human health and the wider environment.”

Reason – To ensure that the legacy of past coal mining activity in the Scottish Borders and the resulting potential for unstable land is highlighted through planning policy to enable the issue to be considered at an early stage in the development process; ensuring that developers take account of the risks associated with unstable land as part of development proposals in the interests of public health and safety.

CONCLUSION

The Coal Authority welcomes the opportunity to make these comments. We are, of course, willing to discuss the comments made above in further detail if desired and would be happy to negotiate alternative suitable wording to address any of our concerns.

Thank you for your attention.

For and on behalf of

Miss Rachael A. Bust *B.Sc.(Hons), MA, M.Sc., LL.M., AMIEnvSci., MInstLM, MCMI, MRTPI*

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