



meeting **PLANNING COMMITTEE**

date **15 JUNE 2004**

from: **Director of Environment**

agenda item number

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‘PLANNING FOR COAL’ – A CODE OF PRACTICE

Purpose of Report

1. To inform Members of the publication of a Code of Practice entitled ‘Planning for Coal’. The recommendation is for Members to note its publication and to endorse the approaches set out within the document, copies of which are supplied for Members only. A copy has also been deposited in the Local Government Library, County Hall.

‘Planning for Coal’ – A Code of Practice

2. The Code of Practice has been produced by the Confederation of UK Coal Producers (CoalPro) and a working party of the Planning Officers Society for England and Wales. It applies to all forms of coal mining.
3. The document seeks to promote best practice in the planning for, and controlling of, coal related activities. It encourages such activities to be carried out in an environmentally responsible manner and aims to assist both Mineral Planning Authorities (MPAs) and coal operators.
4. The document covers the following stages of the planning process with respect to coal development:
 - Formulation of Policies and Plans
 - Pre-Application stage
 - Community Consultation and Liaison
 - Planning Application
 - Operational Stages
 - Reclamation

- Restoration Bonds and Financial Guarantees
5. The Code of Practice recognises that coal, like any mineral, can only be worked where it lies. It reflects current Government policy that there should normally be a presumption against coal development unless it is environmentally acceptable or, if not, provides community benefits that clearly outweigh the anticipated impacts.
 6. MPAs will consult the Coal Authority and the coal industry in the preparation of statutory development plans which provide the local policy framework to guide future proposals. Members will be aware that the Local Plan Inquiry into the Replacement Nottinghamshire Minerals Local Plan is presently underway.
 7. The Code of Practice supports Pre-Application discussions between MPAs and operators and such dialogue is certainly positively encouraged by Officers within the Development Control Team at this Authority. Pre-Application discussions are particularly vital given that new mines will generally require a formal Environmental Impact Assessment (EIA).
 8. The Code recognises the importance of community involvement. It recommends that public consultation exercises take place prior to the submission of a planning application to enable proposals to be explained and, where possible, address specific concerns and/or accommodate local preferences. Mention is also made of Liaison Committees, comprising the operator, representatives of the local community and the MPA. Such committees provide a forum to discuss site working, forthcoming plans and address environmental impacts or complaints. Officers within the Development Control Team presently attend periodic Liaison Committees at the key minerals and waste sites within the County.
 9. In respect of the planning application stage, the Code usefully sets out commitments on behalf of the coal industry to provide all necessary information to enable proposals to be determined. Reciprocal undertakings are set out on behalf of MPAs as to how such applications will be processed and determined. Reference is also made as to arrangements for completing legal agreements to provide for certain planning obligations to be separately negotiated.
 10. The Code of Practice also sets out mutual approaches in respect of the operational stages of coal related developments. The MPA will impose planning conditions with any permission and operations will be monitored to ensure such conditions are being met and investigate any complaints. Operators will ensure staff are aware of these conditions and undertake regular monitoring to ensure compliance. This County Council operates a Monitoring and Enforcement Protocol in respect of Minerals and Waste Sites ensuring that sites are monitored on a regular and consistent basis and any complaints thoroughly investigated and addressed appropriately.

11. Operators and MPAs are encouraged to ensure the highest standards of best practice are employed in the reclamation of sites and their subsequent aftercare to bring the restored land to the required standard for its proposed after-use. This will cover regular audits of the quality of replaced soils and new planting and may extend to legal agreements to provide for the long-term management of the site.
12. Reference is also made to instances where financial guarantees may be required by MPAs. The Code advises that the value of the guarantee should be commensurate with the scale of site operations taking into account progressive restoration whilst operators should ensure sufficient finance is available within the guarantee to meet the agreed requirements.
13. Finally the Code highlights the fact that brick clays and other ancillary minerals are often worked in conjunction with coal, noting that the contraction of the coal industry could threaten the future supply of certain clays to the brick industry. This relationship underlines the need for close liaison and the importance the coal industry has with its input into the formulation of future development plan policies to ensure a sustainable supply of minerals.

Coal Development in Nottinghamshire

14. The Code of Practice is intended to cover both deep mining and opencast coal development. The current position in the county on this is that there remain three active collieries – Harworth, Thoresby and Welbeck – all operated by UK Coal Limited, with no currently active opencast coal sites. The most recently active opencast site is the Smotherfly site, north of Selston. Later phases of restoration currently remain in aftercare. The colliery spoil tip at Welbeck Colliery was increased in height through a permission granted by the County Council in 2002.
15. No new major deep coal mining development is anticipated in the foreseeable future. Opencast coal mining is limited to the exposed coalfield in the west of the county and in the Erewash valley, alongside the County boundary with Derbyshire. There are no proposals currently under consideration, either at pre-application or at application stage. Policies in the Replacement Minerals Local Plan Revised Deposit Draft define a series of “opencast constraint areas” where, under Policy M12.7, opencast coal extraction would not be granted permission. There are also policies setting out general criteria to be applied in the case of proposals for new deep coal mining development, disposal of colliery spoil, reworking of colliery spoil tips and extraction of incidental minerals (fireclays and brick shales) as part of any opencast coal extraction.

Conclusions

16. The publication of this Code of Practice updates the coal industry’s joint Code of Practice first published in 1996 and takes account of the latest Government guidance. It seeks to provide a consistent approach in the preparation and assessment of coal related developments which, in turn, should assist in

reducing potential conflict between the Coal Industry, MPAs and the wider public. Where coal related development takes place, the Code seeks to provide the optimum balance of community, social, environmental and economic interests consistent with the principles of sustainable development. Accordingly the approaches put forward within it are welcomed.

Statutory and Policy Implications

17. This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, Crime and Disorder and users. Where such implications are material, they have been brought to out in the text of the report.

RECOMMENDATION

18. It is RECOMMENDED that Members note the publication of the Code of Practice and endorse the approaches presented within it.

PETER WEBSTER
Director of Environment

Director of Resources' Financial Comments

The report contains no financial implications and its contents are noted. [DJK 2.6.04]

Head of Democratic and Legal Services' Comments

This report is for noting. [SHB 28.5.04]

Background Papers Available for Inspection

'Planning for Coal' – A Code of Practice

Electoral Division(s) Affected

All.

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27 May 2004