

Hertfordshire County Council

Supplementary Planning Document:

**MINERAL CONSULTATION AREAS
IN HERTFORDSHIRE**



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1 INTRODUCTION

The purpose of this document

- 1.1 Much of Hertfordshire is underlain by sand and gravel deposits which could, potentially, help to meet the future needs of the local community for construction materials. Allowing new building and other development to take place on top of these deposits could 'sterilise' them, either by making them inaccessible for extraction, or by introducing new activities (such as new houses) into the area which would not be compatible with mineral extraction nearby.
- 1.2 This Supplementary Planning Document (SPD) has been produced to identify the areas of the county where particular care is needed to prevent the unnecessary sterilisation of sand and gravel resources, and to explain the way in which the County and District/Borough Councils will work together to protect the resources in those areas.
- 1.3 These areas are referred to as 'Mineral Consultation Areas', or MCAs. In these areas, before planning applications are decided by the District or Borough Councils, the County Council will be given the chance to consider whether the development proposed would lead to unacceptable sterilisation of mineral resources.
- 1.4 An important point to bear in mind is that **including land in a Mineral Consultation Area does not mean that mineral extraction will necessarily ever be allowed in that area.** There is no presumption that the mineral resources safeguarded by this means will ever actually be worked for minerals.
- 1.5 This SPD also provides for the protection of depots for transporting aggregate minerals by rail. These depots have an important long-term role to play in meeting society's needs for these minerals, and it is therefore important that they are not lost unnecessarily to other forms of development.

What is a Mineral Consultation Area?

A Mineral Consultation Area, or MCA, is an area identified by a County Council where planning applications for non-minerals development submitted to the District/Borough Councils may not be determined until the County Council has been given the opportunity to comment on whether the proposal would unacceptably sterilise mineral resources.

In practice, the County Council may narrow down the consultation requirement so that it applies only to more major planning applications, and not (for example) to minor householder applications. This is what is proposed in Hertfordshire - see Section 3 below.

Background to this document

- 1.6 Consultation on a draft version of this SPD, setting out three possible options for the definition of MCA in the county, took place in the summer of 2007. Most of those responding favoured 'Option 2', which suggested that the MCA should consist of the 'sand and gravel belt' in the southern part of the county, apart from areas within it that are known to be barren of minerals. However, there was some support for 'Option 3' which proposed a more site- or area-specific approach.
- 1.7 The County Council has concluded that the most efficient way of securing the safeguarding of mineral resources while keeping the process as straightforward as possible for the District/Borough Councils is by a combination of Options 2 and Option 3. The selected option is described more fully in Section 2 of this SPD.
- 1.8 Comments received on other matters contained in the draft version of the SPD have been taken into account in finalising this document, and a number of changes to the draft have been made as a result.
- 1.9 This Mineral Consultation Areas, Supplementary Planning Document was formally adopted by the County Council in November 2007.

Policy background

- 1.10 Sand and gravel are important 'aggregate minerals' - that is, minerals used in construction. Like other commercial minerals, they are a valuable but finite resource that can only be worked where they occur.
- 1.11 However, some forms of development - for example built developments such as new housing or industry - can make these valuable mineral resources inaccessible for future extraction, thus 'sterilising' them from potential future use. This sterilisation can occur either directly - by building on top of the deposits - or indirectly - for example, by building new houses close to a mineral deposit, and thus preventing extraction because of the nuisance it would cause to the new houses.
- 1.12 Protecting mineral resources from sterilisation is an important part of national policy for minerals. It is also encouraged under Minerals Policy 5 of the Hertfordshire Minerals Local Plan 2002-2016. The supporting text to Minerals Policy 5 explains that, as an interim measure, the County Council will identify Mineral Consultation Areas in a Supplementary Planning Document, to be included in the county's minerals and waste development framework. The present document is that Supplementary Planning Document. In due course, its provisions will be included in the new-style Development Plan Document that will eventually replace the Minerals Local Plan. The timetable for work on the new style minerals documents is set out in the County's Minerals and Waste Development Scheme.
- 1.13 A fuller description of the policy background to the safeguarding of mineral resources can be found in Appendix 1.

2 THE DEFINITION OF MINERAL CONSULTATION AREAS IN HERTFORDSHIRE

- 2.1 The deposits of sand and gravel in Hertfordshire are mostly concentrated in a band across the southern part of the county, with a few more scattered deposits further north. The band of deposits across the south of the county is known as the 'sand and gravel belt'.
- 2.2 The extent of the sand and gravel belt has been defined based on work undertaken by the British Geological Survey (BGS).
- 2.3 However, the sand and gravel belt as thus defined includes two relatively small areas which past BGS surveys have suggested are barren, i.e. they do not contain sand and gravel resources. One of these two areas lies between Radlett, Bushey and Borehamwood, while the other lies just south of Hemel Hempstead.
- 2.4 Studies undertaken during the preparation of the Minerals Local Plan 2002-2016, identified the areas, both inside and outside the sand and gravel belt, which may be regarded as the most viable areas for future mineral extraction. These areas are referred to as 'resource blocks'.
- 2.5 Mineral Consultation Areas need to be defined to include the areas where viable mineral deposits are at the greatest risk of future sterilisation by built development. In defining the MCAs it is important to ensure that an appropriate balance is met between ensuring that consultation takes place in the areas where mineral deposits are at the greatest risk, and minimising the inclusion of areas that do not contain accessible mineral resources.
- 2.6 With that in mind, Hertfordshire County Council has chosen to identify the whole of the sand and gravel belt (excluding the barren areas), together with the identified resource blocks outside the sand and gravel belt, as Mineral Consultation Areas. Any planning application for development within these areas, other than applications for the 'excluded development' described in Section 3, will be subject to the consultation procedures described in Section 5.
- 2.7 The Mineral Consultation Areas are shown on **Maps 2 to 10**. On Maps 3 to 10, which show the resource blocks beyond the sand and gravel belt, the boundaries of the MCAs have been deliberately drawn a little wider than the known area of the mineral deposits, as the precise boundaries of the mineral deposit cannot be known with certainty without more detailed examination. To make them easier to operate, the MCA boundaries have generally been drawn to coincide with mapped features on the ground, rather than simply following the supposed alignment of the mineral deposit itself.

3 EXCLUDED DEVELOPMENT

- 3.1 There are some types of development that would not normally bring about the new sterilisation of an underlying mineral deposit - for example development within urban areas (where the mineral deposits are already sterilised by the built-up nature of the area), or developments involving only temporary uses (which by definition will not lead to the permanent or long-term sterilisation of mineral deposits). Similarly, the erection of a garage or extension within the curtilage of an existing building is unlikely to affect the possible future extraction of minerals.
- 3.2 In order to avoid an unnecessary number of consultations on applications that are unlikely to be objected to, some types of planning application will be exempt from the consultation procedures described in Section 5. The exempt categories, on which consultation will **not** be required, are as follows:
- (i) applications on land already built upon (except for major applications - that is, applications for residential development consisting of 10 or more dwellings, or if the number of dwellings is not known, where the site area is 0.5ha or more; and in the case of other development, where the floorspace to be created is 1000 sq metres or more, or if the site area is 1ha or more. Such applications **will** be subject to the consultation procedures);
 - (ii) applications for infilling development in towns and villages (subject to the same exception as above);
 - (iii) applications for domestic extensions or garages and similar structures within the curtilage of an existing dwellinghouse;
 - (iv) applications for development which is in accordance with the provisions of an adopted local plan or other development plan document and which relates to an allocation, or to an area action plan designation;
 - (v) 'reserved matter' submissions pursuant to an outline permission;
 - (vi) applications for temporary dwellings or other similar structures; and
 - (vii) advertisement applications.

4 SAFEGUARDING RAIL DEPOTS AND WHARVES

- 4.1 Government policy in Minerals Policy Statement 1 urges local authorities to “safeguard existing, planned and potential rail heads, wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, particularly coal and aggregates”¹. The accompanying Practice Guide notes that safeguarding these facilities can contribute to sustainable development, and that this is particularly so in London and other metropolitan areas that rely on the importation of significant quantities of aggregate materials².
- 4.2 Aggregates for onward transport to London can be delivered to rail depots or wharves in the surrounding counties, such as Hertfordshire. Depots and wharves in these counties can also receive material for more local use, thereby helping to keep down the amount of local extraction that is needed to meet local aggregates requirements.
- 4.3 In accordance with this national advice, Minerals Policy 10 in the Hertfordshire Minerals Local Plan 2002-2016 states that existing and disused railheads and wharves in the county will be safeguarded where they have the potential for the import and export of minerals and secondary/recycled aggregates. It goes on to say that the retention of these facilities - even if currently disused - will be expected unless the facility has been or can be satisfactorily relocated, or is demonstrated to be no longer viable for use as an aggregates depot or wharf.
- 4.4 There are no statutory provisions that allow for the safeguarding of depot and wharf sites, in the same way as for safeguarding mineral resources. However, in support of Policy 10, paragraph 3.10.2 of the Minerals Local Plan states that Mineral Consultation Areas will be identified around the existing and disused railheads and wharves in the county. The intention is that development proposals within these ‘Railhead MCAs’ will be subject to the same consultation arrangements as will apply in the other, ‘mineral sterilisation’, MCAs.
- 4.5 There are five such sites in Hertfordshire at present. All are railheads rather than wharves. They are located at Hitchin, Stevenage (Langley Sidings), Watford Yard (Orphanage Road), Radlett (Harper Lane), and Rye House, as shown on **Maps 11 to 15**. The ‘Railhead MCAs’ shown on these maps extend on to undeveloped land approximately 250m around the depot proper. This is to allow consideration of the impact on the depot use of development close to, but outside, those sites.
- 4.6 Any development proposals within the five ‘Railhead MCAs’ will be subject to the same consultation procedure as for proposals in the MCAs on Maps 2 to 10. However, proposals in ‘excluded’ categories (i) and (ii) in Section 3 of this SPD will still be subject to the consultation in these three MCAs. This is because such applications could have a direct bearing on the continuing potential for use of the safeguarded areas as locations for the import or export of aggregates.

¹ MPS1, paragraph 13

² MPS1 Practice Guide, paragraph 34

4.7 The categories of development on which consultation will **not** be required within the MCAs defined on Maps 11 to 15 are therefore these:

- (a) applications for extensions or garages and similar non-habitable structures within the curtilage of an existing dwellinghouse;
- (b) applications for development which is in accordance with the provisions of an adopted local plan or other development plan document;
- (c) 'reserved matter' submissions pursuant to an outline permission;
- (d) applications for a temporary dwelling or other similar installations; and
- (e) advertisement applications.

5 PROCEDURE

(a) 'Mineral sterilisation MCAs'

- 5.1 Following the adoption of this SPD, the County Council will formally notify the District/Borough Councils of the introduction of the formal consultation procedure³, and of the categories of development that are excluded from the consultation requirements (as in Section 3 above).
- 5.2 Thereafter, when a planning application is received by a District/Borough Planning Authority that falls within one of the MCAs shown on Maps 2 to 10, other than an application for development in the excluded categories, the District/Borough Council will be obliged to consult Hertfordshire County Council as Mineral Planning Authority. The District/Borough Council will be required to supply a copy of the application to the County Council for this purpose.
- 5.3 Within 21 days of receipt of the consultation (or a longer period if agreed between the two Councils), the County Council will respond to the District/Borough Planning Authority indicating whether or not the County Council is raising an objection to the proposal in accordance with the second part of Minerals Policy 5 of the Minerals Local Plan 2002-2016, and explaining the reason for their decision to object, or not to object, to the proposal.
- 5.4 Any comments received from the County Council will be considered by the District/Borough Council in determining the application, alongside all other material considerations.
- 5.5 Where the District/Borough Council is minded to approve an application which has been objected to by the County Council on mineral sterilisation grounds, they will inform the County Council of this intention and will not determine the application until either the County Council has confirmed that it does not wish to refer the application to the Secretary of State, or a period of 21 days has passed, whichever is the shorter. This period will allow the County Council to request the Secretary of State to call in the application where this is felt necessary. It is expected that such requests will only be made in exceptional cases. Wherever possible, in order to avoid delays in the process, the County Council's initial response to the District/Borough Council will include a statement indicating whether or not a request to the Secretary of State will be made in the event that the District/Borough is minded to approve the application.
- 5.6 Before the consultation arrangements come into full effect, the County Council will ensure that powers are available to relevant officers to respond to consultations from the District/Boroughs within the 21-day period.

³ As required by Schedule 1 paragraph 7(4) of the Town & Country Planning Act 1990 (see Appendix 2)

(b) 'Railhead MCAs'

5.7 When planning applications are received within the Railhead MCAs, the relevant District/Borough Councils, as listed in the table below, will be expected to consult the County Council on the same basis as for applications in the 'minerals sterilisation MCAs' (as in paragraph 5.2 above). Similarly, the County Council will respond on the same basis (paragraph 5.3).

Location of rail depot	District/Borough Councils affected
Hitchin	North Hertfordshire
Stevenage	Stevenage
Watford	Watford
Radlett	St Albans
Rye House	East Hertfordshire and Broxbourne ⁴

5.8 In accordance with Minerals Policy 10 of the Minerals Local Plan 2002-2016, the County Council will normally object to an application which directly affects the existing or potential operation of one of the safeguarded depot sites, unless one of the caveats in the policy (as summarised in paragraph 4.3 above) is met. In the area of the MCA outside the depot site proper, the County Council will normally not raise an objection to minor development which would have no bearing on the present or future viability of the depot site. However, they may be expected to object to a development which could threaten the depot site's longer term viability, for example by introducing an incompatible use close to the depot site.

⁴ The actual depot site at Rye House is wholly within East Hertfordshire District, but the MCA extends into Broxbourne to the west of the depot site.

6 THE PRACTICAL SIGNIFICANCE OF DEFINING MINERAL CONSULTATION AREAS

6.1 The significance of defining MCAs will vary depending on the various stakeholders and their interests in the land in the MCA. The summary below lists the key stakeholders and briefly defines how in practical terms MCAs may affect them.

(a) Developers and Landowners

6.2 Developers and landowners who wish to develop land that falls within an MCA (other than for the 'excluded' development categories in Section 3 above) will be required to demonstrate, in accordance with Mineral Policy 5 of the Minerals Local Plan 2002-2016, that:

- i) the land affected does not contain potentially workable mineral deposits; and/or
- ii) there is an overriding need for the development; and
- iii) the mineral cannot practically be extracted in advance.

6.3 Where development proposals are received which either do not address these requirements, or fail to demonstrate satisfactorily that the development is covered by one of the three 'exclusions' within the policy, the County Council will object to the development proposal.

6.4 The responsibility for demonstrating that mineral resources will not be sterilised by a proposed development rests with the prospective developer. It is therefore recommended that developers should consider the implications of MCAs at an early stage in the development process.

6.5 In appropriate cases, the County Council will encourage mineral extraction prior to other development taking place where any significant mineral resource would otherwise be sterilised, or where despoiled land would be improved following restoration.

(b) The District/Borough Councils

6.6 District/Borough Councils must not determine an application for planning permission in one of the 'Mineral Sterilisation MCAs' shown on Maps 2 to 10 without first consulting the County Council. The legal background to this is set out in Schedule 1 of the Town and Country Planning Act 1990 (see Appendix 2).

6.7 Within MCAs, consultation with the County Council is required for all development proposals except for those that fall under the excluded development categories set out in Section 3 above. Consultation will be carried out by the District/Borough Council as part of its normal consideration of the application.

6.8 The County Council's views on the sterilisation issue must then be taken into account by the District/Borough Council, along with all other relevant planning issues, when they make their decision on the application. An objection from the County Council will not necessarily override all other considerations. It will be for

the District/Borough Council to strike a balance between any competing arguments.

- 6.9 Similar consultation and response arrangement will also apply in respect of planning applications for development within the 'Railhead MCAs' shown on Maps 11 to 15.
- 6.10 If the District/Borough Council is minded to approve an application to which the County Council has raised an objection on mineral sterilisation grounds, it must afford the County Council a 21-day period to decide whether or not to refer the application should be referred to the Secretary of State, before finally determining the proposal.
- 6.11 It is a requirement of MPS1 that MCAs should be reflected in District/Borough Councils' Local Development Documents. This may most easily and helpfully be done by showing them on the proposals maps of relevant Development Plan Documents.

(c) The County Council

- 6.12 It is the responsibility of the County Council to ensure the future protection of valuable mineral resources. Accordingly the County Council, acting as the authority responsible for minerals planning, will - in appropriate cases - encourage mineral extraction to take place prior to other development taking place where any significant mineral resource would otherwise be sterilised.
- 6.13 In accordance with Mineral Policy 5 of the Minerals Local Plan 2002-2016, when the County Council is consulted on planning applications for development within an MCA, it will object to any development proposals within them which would prevent or prejudice future mineral extraction unless it is clearly demonstrated that:
- i) the land affected does not contain potentially workable mineral deposits; and/or
 - ii) there is an overriding need for the development; and
 - iii) and the mineral cannot practically be extracted in advance.
- 6.14 As the onus for demonstrating that a development will not sterilise resources rests with the prospective developer (paragraph 6.4), it would be expected that the County Council will object to any application in an MCA which is referred to them which does not address the mineral sterilisation issue satisfactorily, or at all.
- 6.15 The County Council will normally aim to respond to such a consultation within 21 days of its receipt from the District/Borough Council. This response will normally indicate whether or not the County Council will wish to refer the application to the Secretary of State, in the event that the District/Borough Council is minded to approve it.
- 6.16 Similar consultation and response arrangement will also apply in respect of planning applications for development within the 'Railhead MCAs' shown on Maps 11 to 15.

- 6.17 If the County Council is notified that the District/Borough Council is minded to approve an application to which the County Council has raised an objection on mineral sterilisation grounds, the County Council must then decide within 21 days whether or not to refer the application to the Secretary of State. If the County Council is of the view that the application should not be referred to the Secretary of State, it will notify the District/Borough Council accordingly, as early as possible within the 21-day period.
- 6.18 The Mineral Consultation Areas defined through this SPD will in due course (and subject to any amendments judged to be appropriate at the time) be incorporated into a statutory Development Plan Document within the County Council's Minerals and Waste Development Framework.

(d) Other Stakeholders

- 6.19 Other stakeholders, including householders or statutory bodies such as the Environment Agency, will not be directly affected by the designation of an area as an MCA, as this is purely a consultation arrangement between the County and District/Borough Councils.

(e) Mineral Operators

- 6.20 Where appropriate, mineral operators will be encouraged to extract any proven mineral resources prior to any development proposal taking place, subject to other environmental considerations and development plan policies.
- 6.21 However, the inclusion of a site within an MCA does not necessarily mean that there is a presumption in favour of mineral extraction at that site. Inclusion of a site in an MCA will not be regarded, of itself, as a relevant consideration in deciding future locations for mineral working, beyond the Preferred Areas identified in the Minerals Local Plan 2002-2016.
- 6.22 Mineral operators are requested to co-operate with prospective developers in supplying information which might assist them in meeting the terms of paragraphs 6.2 to 6.5 above.

APPENDIX 1: SUMMARY OF THE POLICY BACKGROUND

National policy

- A1.1 Government advice says that we should strive to promote sustainable means of development. The key national planning advice on minerals is set out in Mineral Policy Statements (MPSs). The MPSs reflect the Government's requirement to ensure continuity in the supply of minerals whilst applying the principles of sustainable development, as required by Section 39 of the Planning and Compulsory Purchase Act 2004.
- A1.2 General advice on making provision for a steady supply of minerals is contained in MPS1 ('Planning and Minerals').
- A1.3 One of the government's stated objectives for minerals planning is to safeguard mineral resources as far as possible⁵. MPS1 identifies that the planning system has an important role to play in safeguarding proven deposits of minerals, which are, or may become, of economic importance within the foreseeable future, from unnecessary sterilisation by surface development⁶. In two-tier planning areas (such as Hertfordshire), MPS1 identifies that safeguarding of mineral resources can be achieved only through the co-operation of county and district/borough councils. It recommends that in such areas the County Councils - who are responsible for planning for minerals - should define Mineral Consultation Areas to provide a means of safeguarding mineral resources through the development control process⁷.
- A1.4 It is important to note that there is no presumption that resources safeguarded through the identified MCAs will actually be worked for minerals⁸.
- A1.5 MPS1 also requires relevant local planning authorities to safeguard existing, planned and potential rail heads, wharfage, and associated facilities for the bulk transport of minerals by rail or water⁹.

Regional policy

- A1.6 At the time of preparing this SPD, the new Regional Spatial Strategy (RSS) for the East of England (which includes Hertfordshire) is in the final stages of preparation. Following a public examination of the Strategy in 2005-06, proposed changes to it were published by the government in December 2006. It is hoped that the Strategy will be formally adopted during 2008.
- A1.7 National policies are not repeated in regional planning strategies, and so there is no detailed policy on mineral safeguarding, or on safeguarding wharf and depot sites, in the latest version of the RSS. However, Policy M1 (as proposed in

⁵ MPS1 paragraph 9

⁶ MPS1 Practice Guide, paragraph 32

⁷ MPS1 Practice Guide, paragraph 33

⁸ MPS1 Practice Guide, paragraph 33

⁹ MPS1 paragraph 13, and MPS1 Practice Guide paragraphs 34-35.

December 2006) requires local development documents to “identify and safeguard mineral resources” to ensure that an appropriate level of supply can be maintained in the region over the period to 2016. There is no amplification in the text supporting this policy as to how this safeguarding might be achieved; that advice is seen as being provided by MPS1 (see above).

Hertfordshire Minerals Local Plan Policy

A1.8 In line with national policy the adopted Hertfordshire Minerals Local Plan seeks to resist development that may lead to the permanent loss of mineral resources that are essential to the wider community. Minerals Policy 5 seeks to ensure that appropriate weight is accorded to the prior extraction of minerals which would otherwise be sterilised, or which would enhance land use proposals by improving despoiled land. It also seeks to ensure that such areas are accorded priority ahead of extraction outside the identified areas in the Plan to ensure timely working of the mineral in co-ordination with other development.

A1.9 In full, Mineral Policy 5 (Mineral Sterilisation) states that:

Mineral extraction will be encouraged prior to other development taking place where any significant mineral resource would otherwise be sterilised, or where despoiled land would be improved following restoration.

The County Council will object to any development proposals within, or adjacent to areas of potential mineral resource, which would prevent, or prejudice future mineral extraction unless it is clearly demonstrated that:

- i) the land affected does not contain potentially workable mineral deposits; and/or**
- ii) there is an overriding need for the development; and**
- iii) the mineral cannot practically be extracted in advance.**

A1.10 Paragraph 3.6.2 of the new Local Plan also states that “to assist with the implementation of this policy, as an interim measure until such time as Development Plan Documents are prepared, the County Council will identify Mineral Consultation areas as a Supplementary Planning Document, for subsequent inclusion in the Minerals and Waste Development Framework”. The present draft document is a first step in this process.

A1.11 The safeguarding of railheads and wharves in Hertfordshire is provided for under Minerals Policy 10 of the new Local Plan, which in full reads as follows:

Existing and disused railheads and wharves will be safeguarded where they have potential for the exportation and importation of minerals and secondary/recycled aggregates.

The retention of existing and disused railheads and wharves will be expected unless

- (a) the existing or disused facility can be satisfactorily relocated within the development proposals in terms of operational requirements and environmental criteria; or**

- (b) it can be demonstrated that the site is no longer viable for use as a rail aggregates depot or wharf; or**
- (c) the facility has been or will be replaced in an appropriate alternative location.**

Proposals for new or replacement aggregate terminals for rail and water transport will be supported, subject to the suitability of the local road network for secondary collection and distribution and taking into account other environmental effects.

A1.12 Paragraph 3.10.2 of the Plan explains that “in order to promote more sustainable modes of transporting minerals Policy 10 seeks to protect existing and disused facilities to help maximise the opportunities for the use of rail or water where it is appropriate.” It continues in the same terms as paragraph 3.6.2, quoted in A1.10 above: “To assist with the implementation of this policy, as an interim measure until such time as Development Plan Documents are prepared, the County Council will identify Mineral Consultation areas around the existing and disused railheads and wharves in the county, as a Supplementary Planning Document, for subsequent inclusion in the Minerals and Waste Development Framework”. Once again, the present draft document is a first step in this process.

APPENDIX 2: THE LEGAL BACKGROUND TO THE CONSULTATION PROCESS

The Town and Country Planning Act 1990, Schedule 1, paragraph 7(1) - as amended by the Planning and Compulsory Purchase Act 2004 - provides the legal background to the consultation arrangements set out in this SPD.

The full content of the relevant parts of paragraph 7 of the Schedule is as follows:

- (1) A local planning authority must not determine an application for planning permission to which the consultation requirements apply unless it complies with sub-paragraph (7).
- (2) The consultation requirements are ... (b) consultation by a district/borough planning authority with the county planning authority for their area if the development is one to which sub-paragraph (4) applies. ...
- (4) This sub-paragraph applies to ... (b) a development in an area in relation to which the county planning authority have given notice in writing to the district/borough planning authority that development is likely to affect or be affected by the winning and working of minerals, other than coal.
- (5) The consultation requirements do not apply ... (b) in respect of a development to which sub-paragraph (4) applies if the county planning authority gives a direction authorising the determination of the application without compliance with the requirements.
- (6) A direction under sub-paragraph (5) may be given in respect of a particular application or a description of an application.
- (7) If the consultation requirements apply the local planning authority (a) must give notice to the ... county planning authority (the consulted body) that they propose to consider the application; (b) must send a copy of the application to the consulted body; (c) must not determine the application until the end of such period as is prescribed by development order.

In short, therefore, the requirement for the District/Borough Council to consult the County Council on applications within Mineral Consultation Areas arises once notification has been given under sub-paragraph 7(a); while the right to exclude certain types of application from the consultation process is given under sub-paragraphs 5 and 6.