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Safeguarding and conflicts in local minerals planning

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ABSTRACT

An important but under-researched aspect of the planning system is the supply of minerals to meet present and future needs. The National Planning Policy Framework requires local planning authorities to safeguard a number of specific mineral resources for the longer term. Although the use of coal is being phased out of the energy supply, it is one of the specific mineral resources that are required to be safeguarded. The national policy requirement is likely to be challenging given the pressures on the planning system to facilitate and enable the delivery of new development, particularly housing, to meet today's needs. Furthermore, a possible lack of interest in planning for coal at the local level.

This PhD examines the interpretation and implementation of the national planning policy requirement to safeguard coal in England. It explores how this requirement was interpreted and translated into local policy making in development plans and then used in practice to determine planning applications.

Empirically the PhD presents findings from an extensive study of the local policy approaches to safeguarding coal across the English coalfields. This extensive study consisted of constructing a framework to establish and analyse how each coalfield mineral planning authority had interpreted the national policy requirement. From this extensive study one mineral planning authority was selected to explore in more depth the policy and implementation of coal safeguarding policy.

The PhD provides a range of insights, including the finding that planning for coal is a marginal and specialist area of planning, but for those areas with coal resources it remains an important topic. Local policy approaches are shaped by the interests of key participants. It also demonstrates that the politics and policy of coal is place specific. More generally the PhD engages with the wider issues in planning theory and practice, including how planning policy is formulated and implemented; the role of participants in the planning system; and the need for flexibility within the overall planning system.

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CHAPTER 1 INTRODUCTION

“Local planning authorities should....define Mineral Safeguarding Areas and adopt appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development....”

(National Planning Policy Framework 2012, paragraph 143; this policy requirement was unchanged by the Revised Framework published in 2018 and updated in 2019)

This research is about the challenges of translating and implementing the National Planning Policy Framework (NPPF) requirement to safeguard minerals, with particular reference to coal as a mineral of national importance, into local planning policies in England.

The inspiration for this research came from part of my work in planning practice for The Coal Authority from 2008-2016. As their first Chartered Town Planner my objective was to devise a strategy and a process to be rolled out across England, Scotland and Wales which would re-engage the organisation with the planning system.

The Coal Authority was established in 1994 following the privatisation of the coal industry (Coal Industry Act 1994). It is a non-departmental public body (NDPB) and such bodies are defined as having “a role in the processes of national government, but is not a government department or part of one, and which accordingly operates to a greater or lesser extent at arm’s length from ministers.” (www.gov.uk/guidance/public-bodies-reform#classification).

The Coal Authority is sponsored by the government department with interests in energy policy. During the lifetime of this research, it was accountable to the Department of Energy and Climate Change (DECC) until DECC was

abolished in July 2016 and its functions were transferred into the much larger Department of Business, Energy and Industrial Strategy (BEIS) which has 41 agencies and public bodies. The Coal Authority operates across England, Scotland and Wales (www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy).

The Coal Authority was given statutory consultee status for planning applications in England and Wales under Article 10j, Town and Country Planning (General Development Procedure) Order 1995 (TCP(GDP)O, 1995). This meant that planning authorities were obliged to consult it on individual planning applications according to the criteria set out in the TCP(GDP)O 1995 before a decision was made. Similar provisions existed in Scotland under their respective legislation. However, despite this status and specific role in the planning system, The Coal Authority had chosen to issue standing advice in 2005 to all planning authorities meaning that it did not wish to participate in the planning process and any consultation requests would be returned to sender (The Coal Authority, 2005).

On behalf of Government, part of the established role of The Coal Authority was to manage subsidence claims arising from past coal mining activities. In 2007, following an observed increase in subsidence claims arising from recent developments within the coalfields coupled with the associated decreasing awareness of coal resources and the environmental legacy of past mining activities, a corporate decision was taken that the organisation needed to be more pro-active. It decided that it needed to re-engage with the planning system which was making decisions on new developments to ensure that planning authorities and applicants were aware of coal resources and ensure that new development would be safe and stable.

The new strategy would articulate The Coal Authority's corporate policy of overseeing the nation's coal resources and protecting the public and environment from the legacy of past mining activity (The Coal Authority, 2008). The strategy involved engaging with 179 coalfield local planning authorities across England, Scotland and Wales to influence their local plan

policy making processes and individual decision making on planning applications. As planning is a devolved function, this research focusses upon England; whereas Scotland and Wales have their own distinct policy and legislation.

The problem was, and still is, that coal mining has declined in importance and value for much of the UK. This can largely be attributed to the downscaling of the industry during the 1980s and 1990s and more recently the phasing out the use of coal for energy production in order to support international and national climate and environmental policies. In this context, it is particularly interesting that the NPPF in 2012 included a requirement that coal should be 'safeguarded' as a resource that might be needed in the future (DCLG NPPF, 2012).

Safeguarding means identifying areas of coal resource and formulating a local policy which enables enable planning decision makers to assess the implications of the proposed development on the coal resources. The assessment involves a judgement as to whether the coal should be removed before the development; or whether the proposed development outweighs the need to safeguard the coal for future generations.

As demonstrated in this thesis, safeguarding of coal was to come up against other pressing demands on land use planning, notably the pressure to increase housing delivery. As such safeguarding is an interesting and important policy tool used in the planning system. It helps to illustrate the complexities of the planning system that has to balance a number of competing issues, not least meeting today's needs without unnecessarily preventing future generations to meet their own needs.

My role at The Coal Authority gave me a unique position, both in terms of spatial oversight from within an organisation operating across England, Scotland and Wales, but also because of the nature of the organisation. As an NDPB, it had a direct link and access into central government departments in Whitehall, but also a degree of freedom as an arms-length-body to enable it to determine its own approach to issues within its legal remit.

This unique position enabled me to gain an insight into how a national planning policy requirement to safeguard minerals, in particular coal, was understood, translated and implemented at the local level. It was quickly apparent that there were a range of challenges and issues experienced by the planners operating in the local planning authorities. This research enabled an opportunity to analyse these challenges and issues, and also reflect on what it illustrates about the current approach to planning policy.

The thesis also reflects upon the wider issues raised by coal safeguarding, including issues about how future uncertainty is dealt with in forward planning and more generally issues of the factors that shape minerals planning. Minerals planning is an under-researched field and as such this is an opportunity to contribute some unique and interesting knowledge to the planning profession.

1.1 Why minerals and coal?

“Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.” (DCLG NPPF 2012, paragraph 142).

There are potential tensions between the needs of today and the as yet undefined future needs. The land use planning system provides the arena for bringing together economic, social and environmental needs and aspirations (Cullingworth, 1999); but competing needs and aspirations generate conflict (Healey, 1997).

Whilst there is some policy direction from national government, through the NPPF, it is at the local government level where national policy is to be implemented and where these conflicts manifest themselves. Through the development plan making process a strategy needs to be established which

aims to balance economic and social development with environmental protection and conservation. The strategy is implemented by the use of local planning policies contained within the development plan in decision making on planning applications for individual development proposals.

Minerals is a fascinating area of planning. Minerals can be essentially split into energy minerals, such as coal, oil, gas; and non-energy minerals, including those required for construction or industrial processes. It is fundamentally defined by geology and geography as you can only work minerals where they are found (DCLG NPPF 2012, paragraph 142). This presents some areas of the country with another dimension in the choices that can be made about future development at the local level. The significance of minerals planning in some areas depends upon the economic value and demand for the minerals within their area. For example, the Mineral Products Association, which is a trade body for a proportion of the mineral extraction industry, estimates that the mineral products industry directly contributed to the UK economy in 2016 by generating over £6.8bn in Gross Value Added (MPA, 2018).

National politics also plays a role in terms of which mineral resources are seen to be nationally or locally important. Coal is included on the list set out in the NPPF because it is recognised as necessary to meet society's needs. It is an energy mineral and as such it is inextricably linked to Government energy policy and the broader economic policy. There are considerable reserves of coal in England and other parts of the UK. However, it is a contentious mineral because it is a fossil fuel. This represents a balance between the need for security of energy supply but also the political and legal requirements surrounding climate change. Nevertheless, coal is still extensively mined in countries like Australia and widely used in countries like China. New technological innovations and developments in Carbon Capture and Storage could mean that coal might theoretically become more widely used in a low carbon future.

At the local level, minerals planning can be influenced by the historical, social and emotional role of minerals within communities. This is most clearly demonstrated with coal. Communities were specifically established for coal mining but as the coal industry declined there was a consequential decline to varying degrees of socio-economic and environmental conditions. The extent to which an area with mineral resources that have been extracted will influence local opinions, attitudes, knowledge and experience of minerals. This in turn will influence the extent to which local people will be likely to engage with the planning process.

Minerals planning is fundamentally about resource management. Balancing the needs of today for the mineral resources together with managing the impacts of the extraction processes; with the need to protect and safeguard resources for the future generations. This balancing process is therefore similar with other areas of the planning system. For example, the need for housing and the release of Green Belt, particularly in the south-east of England. However, unintended consequences and perverse outcomes often emerge from policies which aim to balance very difficult requirements.

This research will therefore illustrate the difficulties found in the practice of formulating a local mineral safeguarding policy and its subsequent implementation through decision making on individual planning applications.

The structure of government administration in England is principally divided into national government, predominantly within London; and local authorities covering different areas of the country. The local authorities, of which the planning authority is a statutory part, are constructed in different types depending upon the nature of their area. For this research it is important to understand at the outset that there are some local planning authorities which have specific responsibilities for preparing local minerals plans and policies and are known as 'mineral planning authorities' in order to distinguish them from 'local planning authorities.' Minerals are often regarded as a specialist area of planning; it does also represent a microcosm which contains many of the issues which are also found within the macrocosm of the planning system.

Previous UK and international research into minerals, and more specifically minerals planning, has tended to focus upon the aspects of calculating supply and the impacts and management of the extraction process. There is limited published material in the UK or internationally on the conservation and safeguarding of minerals.

Specifically, for practitioners in mineral planning, by drawing together the findings and providing some reflection, this research will enable practitioners to gain a broader understanding of the factors that influence safeguarding coal resources. It will enable the use of this insight to inform with future policy formulation into safeguarding policies. It will also enable practitioners to develop their understanding of some of the factors that influence policy formulation more generally. Finally, it will allow a reflection on the current style and approach of national planning policy.

1.2 Research aim

This research is seeking to examine the implications of the national planning policy requirement for English local planning authorities to safeguard coal resources meant for local planning policy in the period from 2011 to 2014.

The thesis has the following objectives:

1. To investigate the origins and implications for planning of the idea of mineral safeguarding, particularly as it relates to coal.
2. To examine and understand how mineral planning authorities responded to the national planning policy requirement to safeguard coal resources and the implications for local planning policy making and planning decisions.
3. To reflect upon the wider implications of the findings from the examination of the policy topic of mineral safeguarding thereby contributing to knowledge of this under-researched aspect of planning practice.

The thesis will address and answer the following questions:

1. What issues are raised for planning by minerals safeguarding?
2. How did the local policy for safeguarding coal vary between different mineral planning authorities and why?
3. Was the local policy on coal safeguarding contentious in the context of the development plan as a whole and/or within the suite of minerals policies?
4. What does this research tell us about minerals planning in general?
5. What does this research reveal about the context for decision making and priorities within the planning system?

1.3 Structure

Chapter 2 introduces the concept of mineral safeguarding in the UK planning system. It will explain what safeguarding is and outline the issues that this is likely to raise in practice. It will also introduce coal and identify the issues that safeguarding will raise.

Chapter 3 examines the planning system, in terms of the approaches to a planning system framework along with the political perspectives and influences on its construction and operation. It will describe the broad constituent parts before examining the changing role of national planning policy. Conflict and the role of power is another useful dimension to this research since coal is often regarded to be a controversial mineral. As such how conflict could arise and be managed through the planning system will help set the context for the empirical fieldwork.

There will be a reflection on the changing approaches to minerals planning and a specific section which will explore the emergence of the concept of mineral safeguarding through national minerals planning policy. There will

also be a discussion about the impact of the NPPF on minerals planning. This will include the change in approach to the expression of national planning policy, from detailed policy and guidance to a more streamlined principle-based policy with on-line practice guidance. A substantive section on the policy implementation literature including structuration theory and structure and agency will provide the most relevant theoretical framework for this research.

The methodology of the research will be explained in **Chapter 4**. This describes the process of the research, its choices and reasons for decisions made. It will also discuss my position in relation to the topic which has changed during the research programme.

Chapter 5 will set out the findings from the first part of the empirical research which explored the national picture of local planning policies in England on mineral and coal safeguarding. It will confirm the local mineral planning authority that has been chosen as an in-depth case study.

Chapters 6 and **7** will set out findings from the second part of the empirical research which centred on a local case study. **Chapter 6** will concentrate on the findings from the research into the policy formulation process within the chosen mineral planning authority. **Chapter 7** will then examine the implementation of the policy and how it is applied in the decision-making process of the determination of individual planning applications.

Chapter 8 will conclude the research by drawing the empirical findings together, reflecting upon the implications for minerals planning and the wider land use planning system. Further research opportunities arising from this topic will be identified.

CHAPTER 2 SAFEGUARDING COAL RESOURCES

2.1 Introduction

This chapter will begin by defining the term safeguarding and identifying how it is used in the national planning policy for England. It will be argued that safeguarding plays an important role of the planning system that seeks to manage land and resources in the public interest. The predominant application of the concept of safeguarding in the planning system is in relation to minerals. As such the chapter will then move on to define and classify minerals, and briefly outline their supply and distribution across UK.

As this research is focussing upon one particular mineral, namely coal, the next section of the chapter will introduce coal. It is important to appreciate the nature and spatial distribution of coal together with the general history of the industry and the trends of coal production and consumption.

For much of the twentieth century it was favoured as an energy source and consequently it provided an industry which mined, processed and transported the coal. The coal industry workforce was found in the creation of new and expanded settlements across Great Britain and often employed generations of the same families.

However, the role of coal today is considerably less than it once was. The consequences of economic and industrial change over the last 50 years, arising in part from the influence of politics and government policies but also the growing concern regarding the role of fossil fuels such as coal as a contributor to climate change would suggest a diminishing role for coal.

But what of its future, as this chapter will demonstrate there is still a vast coal resource available within Great Britain and it is currently defined within the National Planning Policy Framework (NPPF) as a mineral of 'local and national importance', which therefore requires it to be safeguarded. The publication of the revised NPPF in July 2018 (which was then updated in February 2019) did offer opportunities for the Government to change the

national planning policy position in relation to coal, but this opportunity was not taken. Accordingly, coal has retained its status as an important mineral, for the time being at least.

Despite this importance it will be argued that coal is an obviously controversial mineral, in part because of its nature as a fossil fuel, but also arising from its place in British economic, social and political history. These aspects are likely to have a bearing on the potential issues that could arise when seeking to safeguarding coal resources through the planning system. The final section of chapter two will therefore outline the potential issues that might arise for safeguarding coal resources through the planning system.

2.2 Defining safeguarding

The Oxford English Dictionary defines 'safeguard' as both a noun and a verb. The noun is "a measure taken to protect or prevent something" and the verb is to "protect against something undesirable" (Oxford English Dictionary 2008:908). To 'safeguard' is therefore is a term which both provides a name for something and also a means of describing an action. These dictionary definitions are useful and what can be drawn from them is that there is a central theme of protection.

The alternative words for 'safeguard' could include: protect; preserve; conserve; save or secure. Against the background of these alternative words, it is therefore reasonable to argue that 'safeguarding' can be used in many contexts. For example, it is most commonly known as being associated with the protection of children and adults, but it is used in the planning system as to provide a mechanism to plan for a particular development or use of land, or to prevent and protect development or use of land.

Safeguarding in the planning system

The NPPF sets out the planning policies for England and currently specifically refers to 'safeguarding' as a term in relation to Green Belt; flood management measures, communications and minerals (DCLG NPPF, 2012).

The planning system manages land in the public interest which is a fundamental principle. The general principle of managing land use and balancing issues is indicated in paragraph 117 which states that “planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (MHCLG NPPF 2018, paragraph 117).

Part of the land management process is the ability to protect land from development. This policy approach of protection can therefore assist in encouraging and directing development to other locations. The most well-known application of this policy approach is the long-standing designation of Green Belt.

The concept of protecting land can be traced back to the late 19th century and the Garden City movement led by Sir Ebenezer Howard who was a social reformer and a town planning pioneer. One of the features of the Garden City was for settlements to be surrounded by a ‘rural belt’ for residents (Britannica, 2018). The London Government in the 1920s considered that London needed an ‘agricultural belt’ which allowed farming but kept the land permanently open. The 1929 ‘green girdle for London’ presented by Raymond Unwin, another town planning pioneer, was to pave the way for the first piece of legislation for a Green Belt. Whilst the Green Belt (London and Home Counties) Act 1938 is still on the statute book, local planning authorities (LPAs) have the power under the Town and Country Planning Act 1990 to designate Green Belt and the use of designated Green Belt area is now managed through planning policy (Britannica, 2018; Cullingworth et al, 1995; Lainton, 2012).

Section 9 of the NPPF 2012 and indicates that “the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.” (DCLG NPPF, 2012, paragraph 79). One of the five purposes of Green Belts

is that they “assist in safeguarding the countryside from encroachment” (DCLG NPPF, 2012, paragraph 80).

The NPPF also refers to safeguarding in relation to reserving land for specific development purposes. In particular, one of the challenges of climate change is the potential for sea level rises and the consequential implications for flood risk in coastal and inland areas. Land is required for current and future flood management measures, either in the form of hard physical defences or land being set aside for flood water storage as part of a more natural approach. Paragraph 100 specifically indicates the need for the “safeguarding of land from development that is required, or likely to be required for current or future flood management.” (DCLG NPPF 2012, paragraph 100).

Land can also be safeguarded to protect a particular use or development from the potential impacts of a development being located within close proximity. Aerodromes, technical and military explosives storage areas have a statutory safeguarding zone designated under secondary legislation (Town and Country Planning (General Development Procedure) Order, 1995).

This means for new electronic communications equipment wishing to be located within the statutory safeguarding zone, the applicant is required to consult the operator within the safeguarding zone as part of their application for prior approval to the LPA (DCLG NPPF 2012, paragraph 45). This illustrates that there is a requirement to consider both an operational need and also a health and safety need.

Of the seven references to ‘safeguarding’ within the NPPF, three are used in relation to minerals. Paragraph 143 requires planning authorities to define mineral safeguarding areas for known locations of minerals of local and national importance to ensure that they are not sterilised by non-mineral development. The NPPF defines minerals of local and national importance within annex 2 (DCLG NPPF, 2012).

Whilst the NPPF is clear in paragraph 144 that non-mineral development should not normally be permitted within mineral safeguarding areas; the

NPPF does recognise that non-mineral development may need to take place within the mineral safeguarding areas. Where it is deemed necessary, paragraph 143 indicates that planning policies should encourage the opportunity for the prior extraction of minerals to take place (DCLG NPPF, 2012).

The role of prior extraction could be seen as both a pragmatic and a perverse outcome of the mineral safeguarding policy. If the future access to the mineral is likely to be prevented by other non-mineral development above or in close proximity, then the mineral should be considered for removal ahead of this other development taking place. This could be seen as a logical and pragmatic approach. However, it could also be seen as perverse as if the mineral was required then it would have already been removed. However, the requirement for its prior extraction therefore hastens its removal when it might not be needed and therefore speeds up the use of the finite mineral resource. This latter perspective seems to sit at odds with the statement in paragraph 142, which states the “best use needs to be made of them to secure their long-term conservation” (DCLG NPPF, 2012).

The Government’s current mineral planning policy is contained within section 17 of the 2019 NPPF and the opening paragraph sets out a succinct summary of the present government policy position. This has not fundamentally changed since the 2012 version which is the policy position that this research is based upon. It illustrates that the fundamental dichotomy facing minerals planning today is one of ensuring a sufficient supply but also securing their long-term conservation. The planning system is therefore responsible for ensuring that there are the necessary minerals available for infrastructure, buildings, especially housing, products and energy (MHCLG NPPF, 2019).

At the local level, there is one other form of safeguarding in the planning system which should not be overlooked and that is the individual development plans prepared by LPAs which can also safeguard land for locally specific proposals. These are typically for infrastructure projects, road schemes, flood management projects. However, the ability to allocate land and therefore

identify sites for a specific purpose, either development (for example housing, employment) or protection (such as nature conservation, open space) could also be regarded as a form of safeguarding.

Overall, it is clear that the concept of safeguarding is important in the planning system. The application of the concept of safeguarding also illustrates that it can be used for different purposes and therefore whilst that enables flexibility and creativity for the planning system, it could also lead to confusion. It is used in relation to protection (Green Belt) but also future development (flood management measures).

Mineral safeguarding encompasses both a protection and a development element. It enables minerals to be spatially identified to protect and conserve them as there is a general presumption against non-mineral development being permitted within the mineral safeguarding area because of the potential impact of not being able to use the mineral resource in the future. However, a mineral safeguarding area does not lead to a presumption in favour of extraction. Safeguarding is also used in relation to ensuring that the ancillary infrastructure for mineral processing and stockpiling is available for the extraction sites (DCLG NPPF 2012, paragraphs 143 and 146). For minerals it is very important to ensure the security of supply and the conservation of resources for the future.

Whilst the NPPF sets out the national requirement for the definition of mineral safeguarding areas, the actual definition is undertaken at the local level. The development plan making process involves the definition of the mineral safeguarding areas and the formulation of a local policy to accompany the locally defined mineral safeguarding area. The development plan therefore is the starting point upon which to assess individual planning applications and will therefore see the policies used in practice. The decision-making process of defining and using mineral safeguarding policies will be examined in the **chapter 3**.

2.3 Defining and classifying minerals; their spatial distribution; supply and consumption

There are a number of technical definitions of minerals, many of which include words such as 'naturally occurring', 'solid', 'defined chemical composition' and 'ordered internal structure'. However, for the purposes of this research, a more general definition of a substance found in the earth and "obtained by mining" is sufficient (Oxford English Dictionary: 2008:646).

The British Isles has a complex geological history which over millions of years has produced a rich and diverse composition of minerals in the ground at various depths (BGS, 2018). These indigenous minerals have throughout British history contributed to the economic wealth and development of society. For example, Cornish tin was a valuable trading commodity prior to the industrial revolution; and coal resources not only provided another valuable commodity for exporting around the world, but also provided power for the industrial revolution (Highley et al, 2004; BGS, 2008; Bloodworth et al, 2009).

Minerals are essentially raw materials for construction, manufacturing, chemical processes, agriculture, transportation or energy generation. Literature often refers to 'economic minerals' which refers to those minerals which can be marketed for productive use and are essential for processes and products. The British Geological Survey (BGS) is the leading research authority on the subject of minerals in the UK and is part of the Natural Environment Research Council.

The BGS classifies economic minerals into three key groups which are related to the sectors of the economy within which they are consumed. Economic minerals at the supra level are divided into energy, metals and non-metallic minerals (construction and industrial minerals) (Highley, et al, 2004).

Energy Minerals

This group includes coal, oil, gas and uranium which are used to generate electricity, produce power for transportation and process fuel and chemicals. This group is very important for meeting individual domestic energy needs through to providing the energy needs for the industrial and commercial sectors.

Metal Minerals

This group contains all those minerals and minerals derived substances that are used in manufacturing processes, electronics and also as stand-alone minerals for monetary purposes. Examples of this group includes iron, steel, aluminium, copper, zinc, gold, silver and platinum.

Non-Metallic Minerals (Construction Minerals and Industrial Minerals)

The Construction Minerals sub-group contains the aggregates sector which is the soil-based particles which cluster and behave as a mechanical unit. Aggregates can be defined as the “inert materials which form a substantial part of concrete or road metal; it can vary in size from broken stone or gravel to sand” (Whittow, 1984:19). As the name suggests these minerals are used for building, maintaining and enhancing our built environment and transportation infrastructure. These include: sand, gravel, crushed rock, brick clay, cement materials, building stone. The Industrial Minerals sub-group contain those substances which are used in the industrial and chemical processes. For example: salt, potash, silica sand, fluorspar which are the ingredients for producing chemicals, agricultural fertilisers, refractories, industrial filters (i.e. flue gas desulphurisation in power stations) (Bide et al, 2004).

Spatial distribution of minerals

Geologically the British Isles can be divided into two regions with the boundary between the two being known as the ‘Tees – Exe’ line. The line

runs from the River Tees in the North East of England in a south westerly direction towards Exeter in the South West of England.

The rocks to the north and west of this line have a long history of geological movements including compaction, compression, folding, heating and cementing resulting in minerals which are very hard and old (over 250 million years). There are some key non-metallic-construction minerals within the North West area, e.g. the pink and black Shap Granite and Carboniferous Limestone.

To the South and East of this notional line, the minerals are less than 250 million years old and therefore have a much shorter geological history of compaction, compression, folding, heating and cementing. This has produced moderately hard minerals. There are some key non-metallic construction minerals in this region, predominantly sand and gravel which was created from the deposition of the eroded upland materials as the ice sheets of the last ice age receded. This deposition was mainly delivered through the outwash of the ice sheets; these rivers provided an effective filtration and sieving mechanism to deliver the sediments into the river valleys. The majority of the sand and gravel deposits therefore naturally occur within the eastern river valleys, e.g. River Trent, River Thames (Woodcock, 1994).

The distribution of the metal and energy minerals is more widespread. Metal minerals such as gold, silver, iron, manganese, copper, lead, zinc and arsenic have been found and mined, predominantly in the western side of the UK from Cornwall, Devon, Somerset, Central and Northern Wales, Shropshire and the Pennines and the Lake District (BGS, 2015).

For the energy minerals, for coal there is a geological relationship with the ice age. Coal was formed from tropical forest basins relating to the ancient land masses, not the continental forms which are present today. These ancient land masses moved and periodically collapsed to be covered by sediments and then decomposition took place. When the land rose again the tropical trees grew and the cycle continued (Woodcock, 1994). There are on-shore oil and gas reserves, predominantly along the south coast of

England and within the East Midlands, but the majority of oil and gas is found under the North Sea (BGS, 2015).

Minerals supply and consumption

The UK has a post-industrial economy and therefore the role of the extractive industries in providing indigenously produced minerals is a minority part of the overall economy today. However, the UK remains a major consumer of minerals which are sourced from the global market place.

The United Kingdom Annual Minerals Yearbook (UKAMY) is collated and produced by the BGS and is generally regarded as the authoritative source of statistics on 83 specific minerals. The baseline for this research programme is 2010 and as such the relevant version of the UKAMY which was published in 2010 analyses figures up to 2009 (Bide et al, 2010).

In 2009, the BGS estimate there was approximately 423,740 thousand tonnes of minerals produced in the UK from both on-shore and off-shore sources. This production output can be divided into 38% Energy Minerals; 0.1% Metals; 62% Non-Metallic Minerals (58% construction and 4% industrial). The UK minerals production value rose by 24% in 2009 when compared to the figures for 2007 which was largely as a result of the energy minerals prices. This makes the Energy Minerals Group sector the most dynamic and sensitive to financial value (Bide et al, 2010).

In 2009, the overall minerals sector contributed £41.8 million to the UK economy, of which approximately 93% (£39 million) was generated by the Energy Minerals Group sector. This sector includes coal (3%); natural gas (27%); natural gas liquids (6%) and oil (64%). The remaining 7% (£2.7 million) is generated by the Non-Metallic Minerals Group (incorporating both the industrial and construction minerals). Less than 1% (£4.6 million) was generated by the Metals Group (Bide et al, 2010).

Minerals are an integral part of the UK economy and therefore there is a general correlation with the national economic cycle. Using the figures

published in the BGS Yearbook 2009 there was a 17% reduction in minerals production during 2009 following the economic crash in 2008. The majority of the impact, around 75%, was felt within the construction sector of the Non-Metallic Minerals Group.

In terms of UK production statistics 2003-2009, the overall production of indigenous minerals has been steadily declining since 2003. In 2009 production had fallen by 177,125 thousand tonnes; i.e. 527,172 thousand tonnes in 2003 to only 350,047 thousand tonnes. This represented a fall of approximately 32% over the six-year period. Since 2004 there has been an increase in the net imports of all Mineral Groups, most notably Energy Minerals. Although there has been a marginal increase in the export of crude minerals, fertilisers and inorganic chemicals (Non-Metallic Minerals-Industrial); non-monetary gold, iron and steel (Metal Minerals) (Bide et al, 2010).

Within the different mineral groups, the Energy Minerals Group production output has declined the most, approximately 92,760 thousand tonnes less in 2009 than in 2003, which is a decline of 39%. This is most likely to be attributed to a number of factors including the reduction in natural gas resources together, on-going structural changes in coal industry combined with an increase in imports (Bide et al, 2010).

Safeguarding minerals

The NPPF recognises that it is essential to safeguard minerals to ensure that there is a sufficient supply to provide the “infrastructure, buildings, energy and goods that the country needs” (DCLG NPPF, 2012: para 142). The mineral safeguarding process is therefore designed to ensure the ability to retain access to potentially exploit (extract) the mineral. If the access to the mineral is prevented in some way, typically by development above it or in close proximity to it, then the ability to exploit the mineral is potentially compromised and that mineral is therefore considered to be sterilised.

Geologists often refer to 'resources' and 'reserves' in relation to economically important minerals; there is an important distinction which is relevant to this research. Resources are unproven, i.e. no boreholes have been drilled to establish the presence, quality and quantity of the mineral. Reserves by comparison have been proven and thereby generally have planning permission for extraction (Woodcock, 1994; BGS, 2010b).

2.4 Coal and its safeguarding

Coal is an energy mineral which has been formed over millions of years from lithified plant remains together with a range of mineral impurities and water. The geological development of coal effectively produces a combustible rock and, along with oil and natural gas, it is one of the three most important fossil fuels (BGS, 2010a; Kendall et al., 2010; Speight, 2013).

The geological formation of coal is a continuous process, known as 'coalification' and as such coal can be classified according to its stage of maturity. The chemical composition, classification and specifications of coal is geologically fascinating. However, for the purposes of this research it is not necessary to discuss these details beyond a general outline of the three broad types of coal, illustrated in **Figure 2.1**.

The first stage which geologists generally recognise as being a coal is known as lignite. The lignite is an immature coal and only around 60 million years old (Doney et al, 2018). It has a yellow-brown appearance and as such it can be referred to as 'brown coal' since it retains visual reference to its previous composition of peat. Lignite has a rock like structure and sometimes plant remains are still visible (National Geographic, 2018).

As the buried lignite continues to geologically mature with the heat of the earth further chemical changes occur in its composition and after around 300 million years it becomes 'bituminous coal'. The bituminous coal has a black appearance and is therefore what is generally considered to be standard coal. It ignites easily and burns well with a long flame. If incorrectly co-fired it can produce excessive amounts of smoke and soot. Based on the physical

properties of bituminous coals, it is internationally recognised that bituminous coal can be further sub-divided into steam coal (or thermal coal) and coking coal (BGS 2010b).

If the coal remains in the ground it continues to geologically evolve and becomes anthracite. This is the most mature coal and has a very shiny black appearance. It has a higher calorific value than bituminous coal which means small amounts can provide a lot of heat. It burns slowly and therefore it can last longer than bituminous coal. Anthracite coal is difficult to ignite and burns with a blue, smokeless flame. It is considered to be the cleanest form of coal as it produces very little pollution and does not stain skin when touched, unlike most forms of coal (Tech-faq.com, 2018). It does however contain the highest amount of carbon, between 86 - 98% (Britannica, 2018). There is a further stage of the carbonisation process which is graphite, it is not considered to be a coal, but is almost pure carbon (National Geographic, 2018).

Figure 2.1 – Types of Coal



Lignite

Bituminous coal

Anthracite

(sources: Lignite (Doney et al, 2018a); Bituminous coal (Doney et al, 2018b); Anthracite coal (Britannica, 2018))

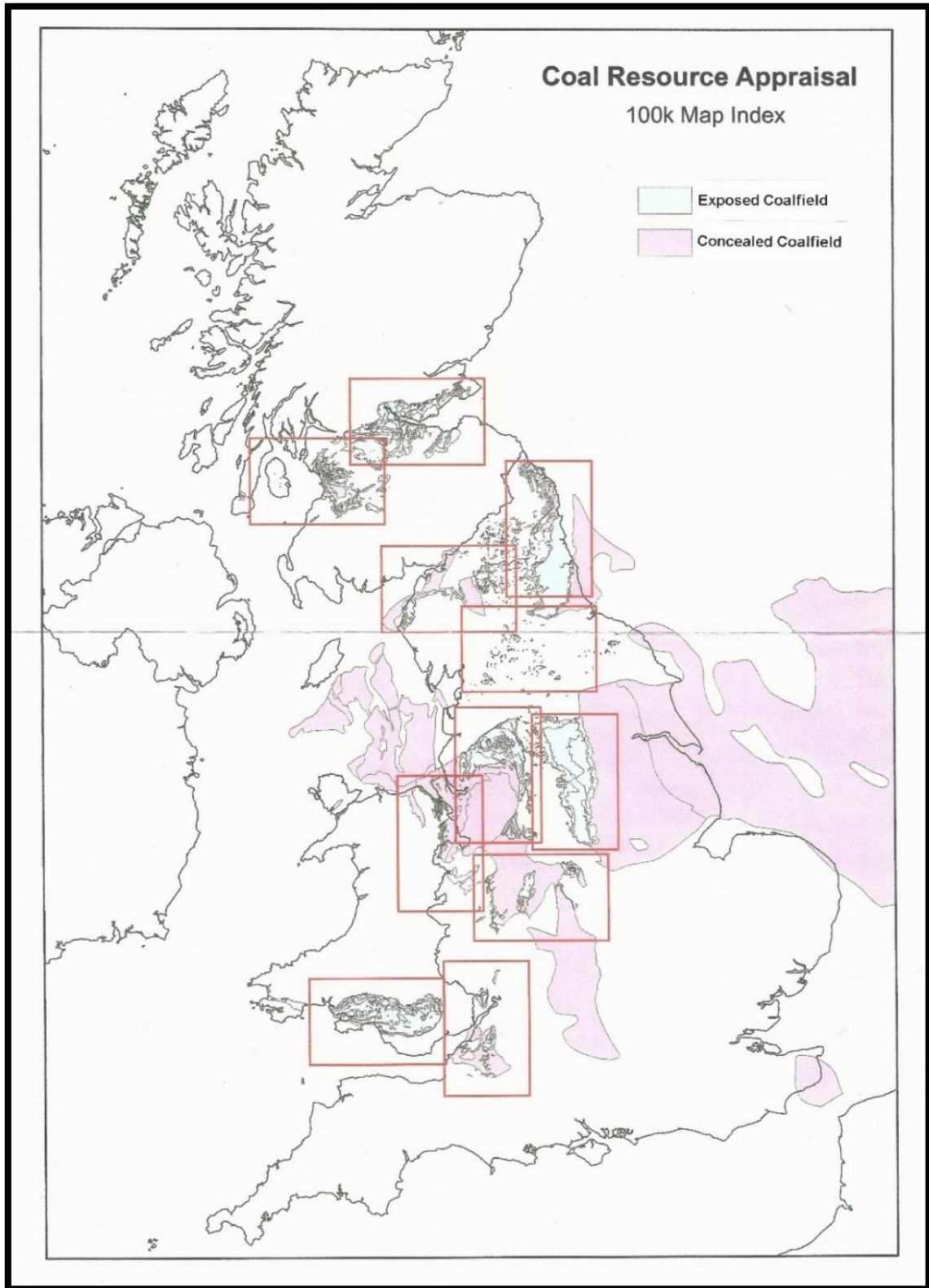
Where is coal found in Great Britain?

The geographical extent of the coalfield covers a significant area of England, Scotland and Wales. Coal resources exist within seven of the nine English administrative regions: North West; North East; Yorkshire & the Humber; West Midlands and East Midlands (extending into Lincolnshire); South West and South East (specifically Kent and including Oxfordshire). No coal has been found within the East of England or London. There are also coal resources underneath the Irish seabed, North Sea and English Channel.

The coal resources exist at different depths and therefore the coalfield can be sub-divided into the 'exposed coalfield' and 'concealed coalfield' as illustrated in **Figure 2.2**.

The 'exposed coalfield' is shown in blue and is where the coal at depth also rises up to the surface and can therefore be extracted by surface mining methods. The 'concealed coalfield' is where the coal is already at depths of 800-1000metres below the surface and continues to dip down into the earth to an estimated depth of around 1400m in Lincolnshire and Oxfordshire (Woodcock, 1994).

Figure 2.2 - Exposed and concealed coalfield areas in Great Britain



(source: The Coal Authority, 2006a)

How much coal is there in Great Britain?

The bituminous coal forms the majority of the coal resources within the Great Britain. The anthracite is predominantly found in South Wales, although pockets can be found elsewhere within the coalfields. There are fewer known reserves of anthracite in Great Britain when compared to the bituminous coal (BGS, 2010b). It is estimated that there are around 500 million tonnes of lignite resources, predominantly found in Northern Ireland, although none is mined or consumed at present (Eurocoal 2013a).

The coalfields of Great Britain are spatially extensive and therefore as a consequence of its geological abundance a precise calculation of the overall quantity of coal resources has not been definitively established. According to Eurocoal, the identified hard coal resources (bituminous and anthracite) of 3,560 million tonnes, although total resources could be as large as 187 billion tonnes (Eurocoal, 2013b). Although The Coal Authority estimated in 2005 that the proven recoverable coal resources was in the region of 171 million tonnes. For the rest of the coal, The Coal Authority considered that between a further 7-16 billion tonnes of coal could be utilised by other exploitation methods such as underground coal gasification. In their response to the 2006 Energy Review, The Coal Authority suggested that the indigenous coal resources, based on current consumption, could potentially last between 200 and 400 years (The Coal Authority, 2006b).

What is coal used for?

Coal has a wide range of uses, which can be broadly divided into electricity generation; industrial processes and domestic heating (not included within the electricity generation) (Bains and Robinson, 2016). The chemical and physical properties effectively determine the coal quality and in turn the quality is what determines whether and how a coal can be used commercially. The calorific value is the energy given off by a unit quantity of fuel.

The lignite has a low calorific value and as such it is economically less valuable to mine and therefore use in the UK.

The bituminous coals have a medium calorific value and such as they can be used in a variety of processes. Of the bituminous coals, steam coal used for burning in boilers (primarily for electricity generation) and the coking coal, is used for the metallurgical industries (predominantly steel production). Bituminous coal is also used for domestic heating systems. This variety of potential markets together with the abundance of resources therefore leads to an economic attractiveness for extraction.

The anthracite has the highest calorific value; however, it is a very high-quality coal which is difficult to ignite. It is more expensive than bituminous coal and therefore the cost prohibits power stations from buying the significant quantities which they require. The cost has also diminished the domestic heating market.

How is coal extracted?

There are two main methods of coal extraction, either underground (deep) mining or surface mining. The majority of coal resources are found deep underground.

Modern underground or deep coal mining operations involve miners using coal cutting machinery at depths of around 800-1000 metres from the surface. The most common modern method is known as 'longwall mining' whereby the coal shearing machine moves along the coal seam which can be up to 2 kilometres long and cuts the panels of coal, generally around 200 metres wide and 1 metre thick. This coal is immediately transported to the surface by a network of conveyors for onward transportation, typically by rail to the power station.

Surface mining is similar to a quarrying operation whereby the coal is extracted from the surface downwards into the earth. There are various methods used in surface mining; the oldest method and generally not used today, is known as 'opencast' and involves the use of draglines and buckets across the open void. This method can create a depth of void of up to 200 metres, although they are generally around 50-100 metres and can cover a

much larger surface area than the underground mining method (National Geographic, 2018). A typical size of surface mine could be around 900 acres and operate in phases over a period of 5-10 years. Surface mining is a useful technique for land reclamation of derelict, despoiled and unstable land. The largest such scheme in the UK is Ffos y Fran in South Wales. It has a total surface area of around 900 acres (around the same size as 400 international football pitches) and forms the third and final phase of a land reclamation programme which began in the 1980s. It has extracted 8 million tonnes of the anticipated 11 million tonnes of coal. (Merthyr South Wales Ltd, 2018).

A brief history of coal extraction and consumption in Great Britain

Coal has been used as an energy source for nearly 400 years. For example, coal was recorded as being widely used for home heating in early 17th century. However, the Industrial Revolution period dramatically increased the demand for coal. Specifically, James Watt's improvements to the steam engine made coal useful for industrial processes (Doney et al, 2018c). Consequently, coal production and consumption played a key role in the UK economy in the 19th and 20th centuries. As an energy mineral within a global economy, coal prices fluctuate and therefore this has an impact on investment decisions for indigenous production. This has therefore contributed to the decline in the coal industry of the UK.

Historically the coal industry was a privatised industry until the end of the Second World War when, like many industries, the Government established a programme of nationalisation. The Coal Industry Nationalisation Act 1946 established the National Coal Board in 1947 and which brought 980 collieries with 21,000 pit ponies and a total workforce of 718,000 into state control (BEIS, 2018a). The Miners Federation of Great Britain (MFGB) that formed in 1889 subsequently became the National Union of Mineworkers (NUM) in 1944. The industry remained a nationalised industry until 1987 when it was part-privatised and became the British Coal Corporation (or British Coal). However, in 1994 it was fully privatised.

The coal industry throughout its history has provided employment for many generations of men. In many parts of the coalfield, new collieries were sunk either near to existing settlements which were then expanded, or new settlements were built to provide the housing and social facilities for the miners and their families. For some areas the coal industry was the largest employer and largest land user and consequently has played a significant role in the local economic and social fabric of communities across England, Scotland and Wales.

From the coal production statistics for the period 1853 to 2017, the highest recorded amount of coal extracted was in 1913 when the equivalent of 292 million tonnes¹ was mined from a total of 3,024 deep mines using a workforce of 1,107,000. The first surface mine was opened in 1942 as until that point coal was only mined by underground methods. Upon nationalisation in 1947 coal production had reduced to 200 million tonnes from a total of 1,083 mines, which by then included 125 surface mines using a total workforce of 707,000 (BEIS, 2018a).

Deep mines had been gradually closing since 1913, whilst coal production was given a boost with the introduction of the surface mining approach from 1942, the general trend for the industry, despite nationalisation, indicated that the coal industry was in decline. The UK began importing coal from 1971, predominantly from Russia and Poland, initially 4 million tonnes per annum, but following the 1984/85 miner's strike the amount of imported coal had increased to around 13 million tonnes. The highest amount, 51 million tonnes per annum, of imported coal was recorded in both 2006 and 2013 (BEIS, 2018a).

The last deep coal mine, Kellingley in Yorkshire, closed on 18 December 2015. Whilst a number of small-scale independent deep mines may come and go, their coal production will be negligible and their workforce will be a handful of individuals. Coal produced from these types of mines is generally sold in

¹ The figures from 1913 to 1959 have been converted from million statute tons to million metric tonnes.

their local area as house coal. The latest statistics indicate that the indigenous coal produced by deep mines was only 4,000 tonnes (BEIS, 2018b).

By 2017 there were only 17 surface mines remaining which collectively produced only 3 million tonnes and employed around 1,000 people. Provisional figures for the second quarter of 2018 show that overall coal production fell to a new record low of 0.6 million tonnes. This was due to falling demand for its use in electricity generation; a number of mines are under 'care and maintenance' rather than active production; and cheaper imports which has further undermined the financial viability for indigenous coal production. The economic value of indigenous coal reached a new record low in October 2018 (BEIS, 2018c).

Prior to the nationalisation of the industry, the UK was once one of the largest exporters of coal to other parts of the world with the equivalent of 96 million tonnes being exported in 1923 (BEIS, 2018a). The export of coal significantly declined in the 1950s and whilst some coal continued to be exported it was less than 10 million tonnes (BEIS, 2018a). In the global context, the former Union of Soviet Socialist Republics (USSR) became a major coal producer between the 1950s and 1980s, whilst it remains a major source within the world, there has been a growth in coal production in other countries such as India and China (Brown, 2018). By 1991 the exports of indigenous coal had declined to only around 1 million tonnes per year and since 2011 it has been less than 1 million tonnes (BEIS, 2018c).

The first public coal-fired power station at Holborn Viaduct in London was opened in 1882 and coal was to remain a dominant part of the energy mix until over a century later. According to Timperley (2018) the latest energy statistics illustrate that the role of coal in the energy mix for the UK has been steadily declining for some time. The highest amount of coal was consumed in the UK in 1956 and was the equivalent of 221 million tonnes.

In the first quarter of 2018, 4.8 million tonnes were consumed, which was a reduction of around 11 percent when compared to the first quarter of 2017.

This reduction was a consequence of the transition to a lower carbon economy as set out in current government energy policy, with power generators converting to other forms of source fuel, such as biomass.

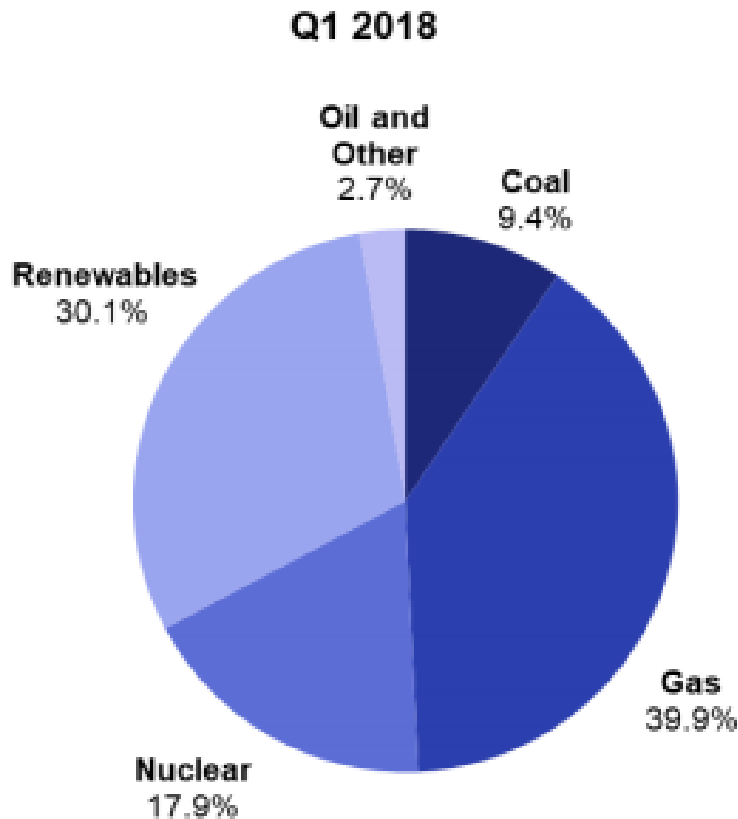
The European Union's Large-Scale Combustion Plant Directive came into effect in January 2008 and set emission limits for high carbon emitting industries and equipment (Directive 2001/80/EC). For the 21 coal fired power stations operating at the time this EU directive took effect the consequence was to limit the hours of operation to meet the emissions limits. Coal fired power stations had therefore to invest in technology to clean their emissions or close down.

By May 2019, only 4 coal fired power stations remain operating in England, they are Ratcliffe on Soar, Cottam and West Burton in Nottinghamshire and Fiddler's Ferry in Cheshire (www.powerstations.uk). Given the limited production of indigenous coal, imported coal in the second quarter of 2018 was 33 per cent higher than in the second quarter of 2017 at 2 million tonnes (BEIS, 2018b). The majority of the imports came from Russia and the United States of America (BEIS, 2018c).

In 2017 coal accounted for only a 5.3% share of the energy mix. This was a drop of 19% when compared to 2016, following a historic 51% drop in 2016. Coal supplied just 5% of UK energy in 2017, down from a 6% share in 2016, 20% share in 2012 and 47% share back in 1970 (Carbon Brief, 2018).

The first full day of power generation without any contribution from coal was 24 April 2017 and marked a significant milestone in the history of coal (BBC, 2017a). Interestingly, as a consequence of the colder winter in the first quarter of 2018, the use of coal increased to 9.4%. However, the general trend for its use in the UK is downwards.

The energy mix for the first quarter of 2018, published in June 2018, indicates that electricity was generated by the following proportions of sources as illustrated in **Figure 2.3** (BEIS, 2018b:18). It also demonstrates that approximately 52% of the energy mix was derived from fossil fuels.

Figure 2.3 – Energy mix in Quarter 1 of 2018-19

(source: BEIS, 2018b)

2.5 Potential issues for safeguarding coal resources

From the discussion in this chapter about coal, its nature and distribution together with a general overview of the history of the industry and the extraction and consumption of coal it is clear that coal is likely to generate a wide range of opinions, attitudes and potentially conflict.

Notwithstanding the national planning policy requirement for safeguarding coal resources the implementation of this policy requirement in local development plans has the potential to be challenging.

Why safeguard coal?

Given the fossil fuel nature of coal and the decline of the indigenous coal industry, there are still likely to be questions asked about why it is necessary to safeguard coal resources.

The 2012 NPPF introduced for the first time a list of nationally and locally important mineral resources, and coal was included. Accordingly, the national policy requirement to safeguard known locations of nationally and locally important mineral resources thereby removed the potential debate at the local level that might have occurred with regard to what mineral resources required safeguarding. Whilst this national requirement was relatively clear, what does this policy really mean for decision making at the local level? Is there any discretion for local decision makers for not safeguarding minerals of national and local importance?

As a fossil fuel it is not disputed that when coal is burnt it is a contributor to climate change. This presents an interesting political dimension and a cross departmental Government Policy dilemma which could create tensions. Why should coal be safeguarded when it is being phased out of the nation's energy mix? The coal fired power stations are gradually closing following the Government Policy announcement on 18 November 2017 that unabated coal generation in Great Britain will end by 2025 (BEIS, 2017).

The Government Policy context is inevitably influencing coal fired power station operators. They are unlikely to invest in new technologies, such as carbon capture and storage, which could potentially make the continued use of coal more environmentally acceptable and reduce its negative impact.

However, the role of safeguarding links into the concept of intergenerational equity. This concept is part of the definition of sustainable development contained within 'Our Common Future' Report of the World Commission on Environment and Development in 1987, more generally known as the Brundtland Report (WCED, 1987). Safeguarding minerals is therefore concerned with a longer view into the future, beyond development plan

periods. It should enable future generations to have the access into the resources and will give them the choice to use them with techniques and technology which have yet to be developed. By safeguarding coal today, it could be seen as keeping it safely in the ground for future generations to consider its role in economic and social development in years to come.

Alongside this question in principle is the fact that the evidence indicates that there is an abundance of coal. If it is not scarce or limited, then why is there is a need to safeguard coal? Furthermore, given its contribution to climate change, is there now an argument to say that coal should not be safeguarded for future use? However, it could also be argued that if coal is safeguarded and not used, it would give future generations an opportunity to consider how, and indeed if, they could use coal which has safely been protected in the ground.

Coal takes millions of years to develop, therefore it is considered to be a non-renewable or finite resource (National Geographic, 2018). The rate at which the world is consuming fossil fuels is faster than they can naturally be created (Doney et al, 2015). Whether or not they should be considered a sustainable energy source is a difficult question to answer. According to David MacKay, the Chief Scientific Advisor to the UK Department of Energy and Climate Change from 2009 to 2014, this answer is no if we follow the 'business as usual' fossil fuel consumption rates (MacKay, 2009).

Is there a future for coal in Great Britain?

Whilst the use of coal is declining, could there be a future for coal if it were to become a 'cleaner fuel'? Carbon Capture and Storage (CCS) is a technology that can capture up to 90% of the carbon dioxide emissions produced from the use of fossil fuels in electricity generation and industrial processes. The carbon dioxide would be stored underground and therefore not released into the atmosphere (CCS Association, 2017). This would suggest that CCS could be an important way of helping Britain to cut its emissions and meet its international climate change targets.

In 2012 the Government announced that £1 billion of funding would be made available for the first CCS demonstration project (www.gov.uk, 2018a). It was a competition and the government invited bids from representatives involved in CCS. In March 2013 the government selected two of the four bids to compete directly with each other. A project in Aberdeenshire involving retro-fitting the technology to an existing gas power station, known as 'Peterhead'; and the other being a new coal fired power station to be built by a consortium, including Drax Power Station, with CCS technology and located in Yorkshire, known as 'The White Rose' (www.gov.uk, 2018b). The remaining two bids were retained as reserves and the winning bid was due to be announced in later 2015/early 2016.

However, in November 2015, the Government, as part of the Autumn budget, announced that the previously ring-fenced £1 billion capital funding was no longer available (Mace, 2015a). The Chancellor of the Exchequer announced that the money was being withdrawn as part of the comprehensive spending review which was reducing the budget of the Department of Energy and Climate Change (DECC) by 22% (Mace, 2015b). Whilst this did not lead to the immediate cancellation of the project, it was a significant set-back. It followed on from the announcement in September 2015 by Drax, one of the three partners in the bid consortium, that it was to withdraw from the project following the changes in renewable energy subsidies (Sequestration.mit.edu, 2018).

In January 2016 the finance director of the White Rose Project said to the Energy and Climate Change Committee: "We are now in transition to closure mode" (Kilgannon, 2016).

A further set-back was in April 2016 when the White Rose project was refused development consent by the Planning Inspectorate. A decision letter issued on behalf of Secretary of State for Energy stated: "Given the problem of funding the construction and operation of the development, the Secretary of State concludes that Development Consent should not be granted for the

development on the grounds that there is no available funding and no prospect of funding being provided" (Sequestration.mit.edu).

The National Audit Office reviewed the project and in their report in January 2017 set out their findings which included that the Government had not achieved value for money for its £100 million spend on the second competition (NAO, 2017). The first competition was cancelled in 2011, with the Government having spent £68m on it, according to the BBC in January 2017 (BBC News, 2017b).

Notwithstanding the NPPF requirement, if coal was not safeguarded in the development plans across the coalfields, would there be any sanction?

What coal should we safeguard?

Given the widespread distribution of coal resources, should all coal be safeguarded and how do we decide what coal should be safeguarded? In order to safeguard coal resources their geographical location must first be defined. However, the spatial illustration of the geology depends upon the parameters used to interrogate a geological database. The output therefore can produce different spatial illustrations, from very little resource to a much greater area. This technical aspect could provide a source of ambiguity and lack of clarity for those wishing to understand where coal is located. Is there sufficient evidence available for the planning system to enable an appropriate level of understanding of coal resources and therefore establish a policy framework?

Given that coal exists at various depths across the coalfields, would the depth of coal have a bearing on the safeguarding process? The current methods of extracting coal either require it to be removed from the surface downwards or from underground mining. Would safeguarding therefore be protecting the surface resource, or it is necessary to safeguard all coal at all depths?

Where should we safeguard coal?

Many settlements within the coalfield expanded as a direct consequence of the coal industry and with the decline in the industry there is a need for economic, social and environmental regeneration. This means that coal underlies many urban areas which are likely to be the focus for future development. How do we therefore resolve conflicts and tensions between other planning policy requirements, for example the need to significantly boost housing supply, and also other government policy requirements and initiatives, for example High Speed 2 rail and the requirement to safeguard coal resources.

How can coal be safeguarded?

The NPPF indicates that local planning authorities should define mineral safeguarding areas in their development plans for minerals of local and national importance. Should there be a more strategic approach such as regional or national safeguarding maps?

Is a policy requirement the most appropriate approach or are there other mechanisms which might achieve the same objective? Would legislation be an alternative? If safeguarding was subject to specific legislation, then there would be a legal requirement to safeguard. What would be the sanctions for non-compliance of a legal requirement for safeguarding? However, would this be a proportionate response, particularly from a political perspective? What would be unintended consequences and counterfactuals that might arise. For example, to protect something implies that nothing else could happen thereby would it impact on growth and development which could lead to economic stagnation and potential decline.

2.6 Chapter summary

This chapter has introduced the concept of safeguarding and described its use within the planning system. It is a policy requirement for minerals of local

and national importance. Minerals are a fascinating subject and they have an evidenced role within the UK economy.

Coal has an undisputed place in UK history, having powered the industrial revolution and providing an energy source. The economic restructuring of the coal industry and for the communities which were established to serve the industry there is an interesting dimension of human emotion. For those communities where the coal industry played a dominant role in the local economy, predominantly providing employment for generations of families, coal as a mineral and an industry will generate a range of emotions and feelings. The general decline of the coal industry and the role of government policy intervention is likely to provoke different viewpoints, all of which serve as a backdrop to the perceptions of coal.

Chapter 3 will examine the planning system, in terms of the approaches to a planning system framework along with the political perspectives and influences on its construction and operation. It will describe the broad constituent parts before examining the changing role of national planning policy. Conflict and the role of power is another useful dimension to this research since coal is often regarded to be a controversial mineral. As such how conflict could arise and be managed through the planning system will help set the context for the empirical fieldwork. There will be a reflection on the changing approaches to minerals planning and a specific section which will explore the emergence of the concept of mineral safeguarding through national minerals planning policy. There will also be a discussion about the impact of the NPPF on minerals planning. This will include the change in approach to the expression of national planning policy, from detailed policy and guidance to a more streamlined principle-based policy with on-line practice guidance. The literature relating to policy implementation theory and also structuration theory including a discussion around structure and agency will provide the theoretical context and framework for this research.

CHAPTER 3 THE PLANNING SYSTEM, MINERALS and COAL

3.1 Introduction

The purpose of this chapter is to introduce the planning system and illustrate the context for minerals planning. There will be a reflection on the changing role of national planning policy and therefore leading onto consider how policy is implemented.

This chapter sets out the institutional, regulatory and legal frameworks for minerals planning, exploring how these have changed over time and also the evolution of the national planning policy requirement for safeguarding minerals. As the previous chapter illustrated, coal can be regarded as a controversial mineral, partly in environmental terms for its contribution, as a fossil fuel, to the process of climate change, but also arising from its role in the socio-economic history of Great Britain and its geographical concentration in some parts of the country. This provides a distinctive politics for coal safeguarding which are also explored within this chapter.

The central argument of this chapter is that the institutional structure of the planning system alone does not determine the outcomes. It is the role of actors in planning policy making which work within the structure and influence the direction of policy which determine the outcomes. Minerals planning is a distinct part of the planning system and therefore provides a discrete lens within which to reflect on the policy making and implementation process.

Minerals planning is a microcosm of the planning system as a whole in that it has a forward planning element, decision making on individual proposals and an enforcement of planning control regime. However, it is self-contained in that it is only concerned with minerals as a topic and generally undertaken by a specific department within the planning authority. It looks at managing mineral resources, their protection and planning for future extraction needs;

determining individual planning applications to extract minerals and therefore monitoring and enforcing the planning controls.

English minerals planning policy has evolved over time by moving away from the 'predict and provide' approach of focussing upon the supply of minerals and the extraction process together with the control of environmental effects; to a more balanced policy approach that considers the need to safeguard and protect resources for future generations. Minerals development, particularly coal, is a controversial form of development and as such requires the conflict to be managed within both the plan-making process and the determination of individual development proposals in planning applications.

This chapter will firstly examine the principles of the planning system, identifying that our system is founded upon flexibility and discretion within an overall legal, policy and institutional framework. It will explain how decisions are made, including the role of national policy and the institutional structure of national and local government. The opposition to development which generates conflict to be managed within the planning system and also a review of some of the key changes in the planning system that are relevant to this research.

The second half of the chapter will turn specifically to minerals planning. It will describe what it covers, where it sits within the overall land use planning system. It will introduce key organisations, the national planning policies and review the evolution of minerals planning and specifically the mineral safeguarding policy.

3.2 Defining an approach to a planning system framework – certainty or discretion?

In order to manage land use there has to be a framework within which a process can be operated in practice. The basic role of any planning system is to organise, manage, and control the use of land. How the system is designed and operated in practice depends upon the legislative culture, and political context.

Booth (1999) suggests that there are two broad types of planning system in the world, either a regulatory based system with zoning plans accompanied by specific rules. The alternative is a more discretionary system whereby decisions are made within a framework of laws and policies. Although this is generally accepted as a way of classifying the nature of planning systems; it would be naïve to suggest that a planning system is wholly one or the other. A more sophisticated analysis would look to classify based on whether overall the elements within the system and the nature of their operations is more or less leaning towards regulatory or discretionary (Wood et al, 2011). I find that our planning system has some flexibility, there are also wide range of regulatory controls and inflexible elements of the system, for example permitted development rights, which are established by government and applied nationally.

Sutcliffe (1981) suggested that Germany was the pioneer of the regulatory system in the 19th century. It is perhaps more well known as being the planning system of the United States of America, who according to Boyer (1983), used the approach to stabilise and manage land and property rights. Research by Booth (1999) indicates that the zoning approach to planning has been adopted by the majority of the developed countries in the world. This approach to planning seems on one hand to provide certainty and would enable people to understand what development will happen in an area. The regulations prescribe the framework of the planning system, what requires permission and under what conditions and within specific limits. However, it can be questioned as to how flexible the system is in being able to respond to change. The planning system, wherever in the world, is essentially concerned with some form of change or protection. The zoning approach would have some flexibility, but that is defined through local legislation, therefore potentially the degree of discretion would be constrained (Cullingworth et al, 2015; Sheppard et al, 2017).

The alternative approach using Booth's categories is one of discretion, which is generally sees the British planning system an example of this approach but also acknowledged as the oldest. The origins of why our system is different

can be traced back to the nature of the British legal system, including common law and statute law.

In contrast to the zoning approach which can be argued to provide certainty, it has been suggested that the alternative and discretionary approach does not have the same level of certainty (Cullingworth et al, 2015). However, it does enable the planning system to respond to changing circumstances, particularly economic ones (Brindley et al, 1996). Booth acknowledges that it would be wrong to argue one approach is completely the opposite of the other, since planning is a spatial process, there is an element in zoning (or allocation) in both approaches (Booth, 1989; Booth 1999).

What is therefore different is whether there is absolute certainty about an outcome. Does a zoning plan produced in a predominantly regulatory system deliver the expected development? Or as within the predominantly discretionary system that allocates rather than prescribes land for development, what is the outcome? Land may be allocated in a development plan but in the decision-making processes on individual development proposals also means that 'material considerations' can be taken into account. A 'departure' from the development plan can be pursued and there are processes in place to follow in that regard. It is possible for a successful argument with supporting evidence to be made for an alternative type of development to that which was allocated for a specific piece of land within the statutory development plan (Booth, 1996; Davies et al, 1989; Vogel, 1986; Jowell, 1973; Harlow and Rawlins, 1997).

The legal framework and constitution of a country has a bearing on their original choice of planning system and the role of government action (Newman and Thornley, 1996). For example, within the United States of America, the Bill of Rights refers to the rights of individuals to not be deprived of life, liberty or property. Therefore, as planning has a significant influence on property, it becomes a constitutional matter. However, as Cullingworth et al (2015) identifies, the American Constitution provides "limits on what can be done in the name of land use planning" (Cullingworth et al, 2015:6). This

element is very interesting when compared to the British system since there is no written constitution, as such there is therefore no equivalent mechanism to provide any restraint on government actions.

Furthermore, federal countries such as the United States of America or Germany tend to have minimal national planning frameworks since the role of a federal state is to enable the individual states to manage their own affairs. According to Cullingworth et al, in America the individual states themselves determine the degree of intervention that they wish to have within the land use planning system, although in recent years greater interest has been taken by the federal government in planning related matters. The most interesting aspect of this approach is that the individual states themselves could “choose whether to operate land use controls” and as such there was no requirement for a local level planning system (Cullingworth et al, 1994:162).

Accordingly, much of what the British would regard as land use planning is not really planning, but “zoning and sub-divisional control” according to Cullingworth and Caves (2009: 63). There are many arguments which are not strictly relevant here that try to suggest one type of approach to land use planning is better than another. However, what can be argued convincingly and with certainty is that the use of land will always generate some degree of conflict within whichever system is adopted.

3.3 Key elements of the planning system

The descriptive term of the planning system is often used in the literature to describe the overall framework of how we manage and regulate land as a resource and the uses of land.

This led to a frequently quoted phrase that “the broad objective of the UK [planning] system has been for many years to regulate the development and land use in the public interest” Cullingworth and Nadin (2006:2).

The UK is formed from the four nations of England, Wales, Scotland and Northern Ireland. These nations over recent decades have gradually created their own body of planning legislation and policy and as such have their own individual planning system. Nevertheless, the fundamental principles which are common to all the four nations can be traced back to the Town and Country Planning Act 1947 which is regarded as the foundation of the modern planning system (Cullingworth et al, 2015). Although we tend to refer to the UK or British planning system, given the focus of this chapter and the PhD is England, from this point forwards for the purposes of this research I shall refer to the English planning system.

The basic framework of the planning system is illustrated in **Figure 3.1**. There is a hierarchy created by the structure in that there is a national level and a local level, this structural dimension I will return to explore in more detail later in this chapter. At the national level there is both legislation and policy to establish rules and guidance for the direction, processes to enable the day-to-day operation of the planning system. The application and implementation of the rules and guidance at the local level includes the preparation of the statutory development plan to set out a land use strategy and vision for how an area will grow, change and be protected in the future. The rules and guidance are also there to enable decision making on individual development proposals presented in the individual planning applications (Cullingworth et al, 2015).

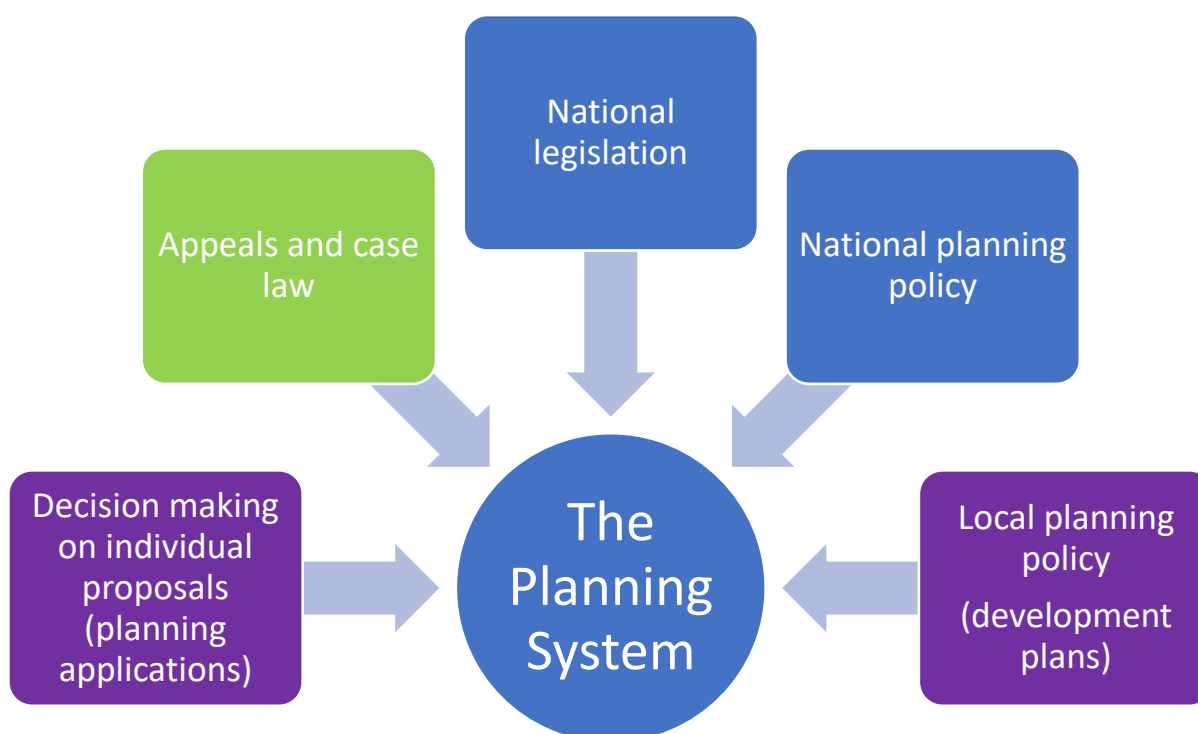


Figure 3.1 – Basic elements of the planning system framework

3.3.1 National legislation

The framework of primary and secondary legislation established by Parliament. The primary legislation, such as the Town and Country Planning Act 1990, sets out the basic legal principles for the whole system. It includes provisions which establish powers for the Secretary of State to make secondary legislation, such as regulations and orders which contain the detail of the processes. It is the role of secondary legislation to enable the legislative framework to be amended relatively easily to respond to changes. The combined approach of primary and secondary legislation provides the overall framework for the planning system. The planning process is therefore determined and influenced by the aims and objectives of the government in place at any given time (Moore and Purdue, 2014; Harwood, 2016).

3.3.2 National planning policy

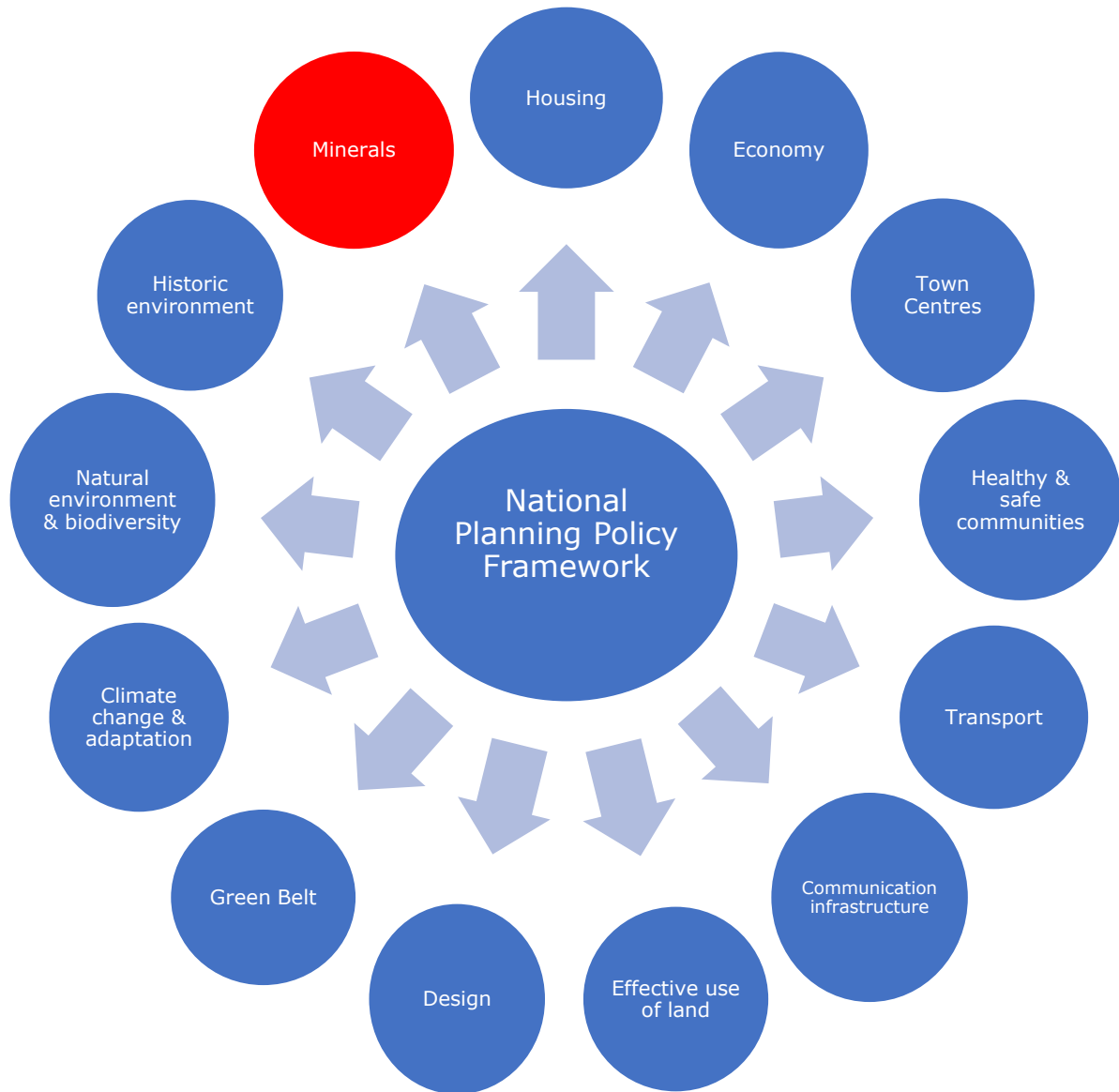
National planning policy is established by the relevant ministerial department of the elected government. For many years the ministerial responsibility for

planning matters fell within the remit of the Secretary of State for the Environment but since 2001 it has been accompanied by other matters. The Department for Communities and Local Government (DCLG) was established in May 2006 and most recently renamed to add Housing to its title and changed to a ministry in January 2018 to become the Ministry for Housing, Communities and Local Government (MHCLG).

For England, the National Planning Policy Framework (NPPF) sets out the Government's planning policies and gives strategic policy guidance to how they should be applied in practice.

There has always been some presence and form of national policy within the planning system. At times it has been more detailed and prescriptive and embedded within other supporting but equally detailed guidance. At other times it has been slimmed down to more focussed policy principles and direction with the supporting guidance being placed in other documents. The change in format of national policy therefore could suggest that the relative importance of national planning policy has changed over time. This will be explored in more detail later in this chapter.

The NPPF covers a wide range of topics which are illustrated in **Figure 3.2**.

Figure 3.2 – National planning policy topics

(Diagram based on the NPPF 2012 and the policy basis for this research)

The consistent purpose of national planning policy is to set out the priorities and approaches to a range of topics and influence decision making at the local level. It therefore has a structural role in that it is a key part of the overall planning system framework. It also has an influential role because it is designed to provide focus to a range of topics and therefore narrow the scope

of debate for how certain topics should be approached and considered. For example, flood risk has a sequential test and where relevant an exception test for developments in relation to potential flood risk. In the context of this research, it is national policy which sets out a requirement for the safeguarding of minerals. As such it is a material consideration in decision making for both the preparation of the statutory development plan containing the local planning policies; and also, the determination of individual planning applications (Cullingworth et al, 2015).

3.3.3 Local planning policy

Local planning policy is established within the development plan prepared by each individual local planning authority.

It is the starting point for all planning decisions; however, the discretionary nature of the planning system does allow for material considerations to lead the decision maker to make a decision that was not in accordance with the development plan. As such, the planning system is described as 'plan-led' and this is drawn from its statutory status first established under section 54A of the Town and Country Planning Act 1990 (TCPA 1990) (as amended) and carried forward by section 38(6) Planning and Compulsory Purchase Act 2004 (PCPA 2004).

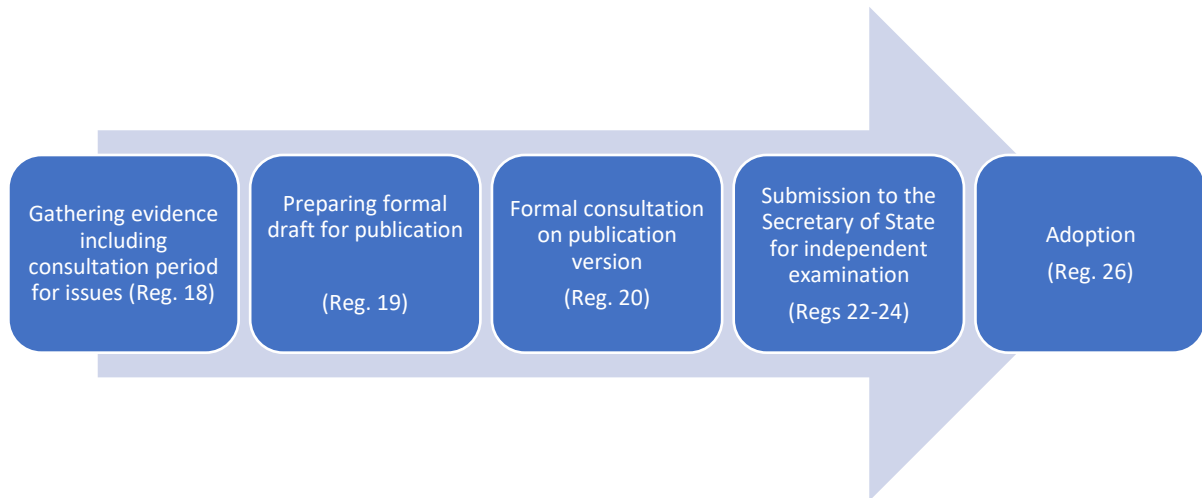
There are two key functions of the development plan. Firstly, it provides a strategic and forward-looking role, at least 15 years, to set out how an area would change, grow, be conserved or protected. This therefore suggests certainty for investment decisions for economic and social development projects as well as identifying areas and features which require specific protection. Secondly, but of equal importance to the first, is the fact that formulations of policies which will form the basis of decision making on individual development proposals (Davies, 1999). Consequently, the development plan is both an investment tool and a local framework for consistency in decision making.

The format of the development plan using its collective and legal name is less relevant here other than to say that the documents making up the development plan have been known as Local Plans which evolved into Local Development Frameworks and are now reverting back to Local Plans.

It has to take account of and comply with a wide range of legislation, including European and international. It also has to have regard to government policy together with guidance and advice from a wide range of source. All of which need to be interpreted by the planners employed within the local planning authority to produce a development plan which is locally distinctive to their administrative area.

There are therefore many influences on the preparation of the content of the development plan. You may be forgiven to think that the policy influences are restricted to those contained within the NPPF and associated guidance. However, there are other government policy initiatives which are more cross cutting and may form part of the agenda for initiatives within other government departments, beyond MHCLG with specific responsibility for planning. For example, energy policy; climate change; business development and construction; waste management. Given that the majority of development activity requires some form of planning permission; therefore, as many government policy initiatives will have a spatial dimension they will as such encounter the planning system at some point. As such there is considerable pressure and expectation on the planning system to deliver a wide range of policies and programmes.

The preparation of development plans follows a process which is established through planning legislation, the detail of which is in secondary legislation; currently the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). A generalised version is illustrated in **Figure 3.3** and identifies 5 key stages.

Figure 3.3 – The Local Plan making process – key stages

(Based upon Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended))

The process contains elements of evidence gathering and testing of policy options and site selection, periods of consultation and an independent examination by a Planning Inspector on behalf of the Secretary of State prior to adoption.

3.3.4 Decision making on individual projects

Another fundamental part of the planning system at the local level is the decision-making process for individual development projects – planning applications. Section 55 of the Town and Country Planning Act 1990 sets out the definition of development and as such establishes a cornerstone of the planning system. If a project involves some form of activity which falls within the definition of development, then section 57 of the Town Country Planning Act 1990 indicates planning permission is required from the local planning authority (Moore, 2010). Secondary legislation adds to the statutes in defining the planning system.

The process of determining an application for planning permission is currently set out in the Town and Country Planning (Development Management

Procedure) Order 2015 (as amended). A generalised illustration of the decision-making process is set out in **Figure 3.4**.

Figure 3.4 – Key stages in the determination of a planning application by the local planning authority



(Based upon the Town and Country Planning (Development Management Procedure) Order 2015 (as amended))

It incorporates a period of statutory consultation whereby interested parties can put their views forward. The decision is made having regard to the provisions of the development plan together with views of statutory consultees and other interested parties; and an assessment of relevant material considerations.

Typically, around 90% of all planning decisions are made by planning officers under delegated powers (Harwood, 2017). Under section 101 of the Local Government Act 1972 (as amended) each local authority established its own internal arrangements for discharging the statutory duties of a local planning authority. That is to say with reference to the contents of the constitution of each individual council which established the levels within the local planning authority that decisions are legally taken. The thresholds and circumstances are established to enable some applications to be determined by the planning committee or equivalent. Closely linked with the determination of applications is the role of enforcement which investigates breaches of planning control.

The local planning authority therefore comprises a local policy making function and a decision-making function, both of which are often supported by access to officers specialising in heritage, nature conservation, trees, highways, legal agreements and development taxation etc.

3.3.5 Appeals, Statutory Challenges and Judicial Review

A key feature of the discretionary nature of the UK planning system is that there is a right of appeal against a decision. Whilst there are different types of appeal, the appeal mechanism exists to “enable another decision maker to exercise their judgement in relation to a particular case.” (Sheppard et al, 2017:183). The right to challenge a decision is an important part of the planning framework where the government (either national or local) has a considerable amount of influence over land use and therefore can influence the value of land.

For decisions made by local planning authorities to refuse individual planning applications, (or the fact that a decision has not been made) under section 78 of the Town and Country Planning Act 1990 the applicant has a right of appeal to the Secretary of State within a prescribed period. The appeal is heard by an independent Planning Inspector appointed by the Secretary of State to look at the case, review the case as a whole and re-determine the case by addressing the aspect of dispute.

In common with other forms of public administration there is an ability to challenge planning decisions within the civil divisions of the Courts. The type of challenge depends upon who was the decision maker, i.e., local planning authority or Secretary of State (including his Planning Inspectors). Since the Town and Country Planning Act 1947 there has been a supervisory role for the Courts in relation to planning decisions including the adoption of statutory development plans, planning applications, lawful development certificates and enforcement proceedings (Lowe and Parker, 2015).

The decision by a local planning authority to adopt a Local Plan can also be challenged under section 113 of the Planning and Compulsory Purchase Act

2004 and this is heard by appointed judges in the Planning Court which is a specific court within the Administrative Division of the High Court.

In England a legal challenge is made in the first instance to the Administrative Division of the High Court of England and Wales. Since 2014 planning cases have been heard by specialist Judges in the Planning Court. A further challenge can be made to a more senior Court, the Court of Appeal. Planning cases can be heard by the Supreme Court as the highest court (formerly known as the House of Lords until 2009) (Lowe and Parker, 2014).

The level of scrutiny for planning decisions is therefore significant which arises from the complexity of the issues and technical nature of some of the processes and procedures involved in making a planning decision. However, the Courts have consistently trusted the decision maker in relation to planning judgements and therefore only intervene and act to quash decisions where a clear error of law has been made by the decision maker (Harwood, 2017).

Planning, through the decisions of the Courts has made a substantial contribution to the administration of public law and policy. Lowe and Parker (2015) attribute the establishment of the concept and definition of 'sufficient interest' upon which a claimant can make a legal challenge which was inserted into section 31(3) of the Senior Courts Act 1981 as a consequence of a series of planning cases.

The decisions of the Courts play an important role in the day-to-day operation of the planning system. As a consequence of the level of scrutiny in the Court of planning cases, the decisions made by Judges are valuable as they largely clarify terminology and tests. This therefore provides guidance to decision makers and helps to ensure fairness and increase consistency in the application of law and policy to decision making (Moore, 2010; Harwood, 2017; Sheppard et al, 2017).

There is no third-party right of appeal within the English planning system, as such third parties seeking to challenge a planning permission (either granted by a local planning authority or following an appeal) can only use the

administrative law judicial review process (if no statutory challenge provision applies) to seek redress through the High Court in the first instance. However, this can only be on legal grounds and is not a mechanism to re-open the planning merits of the case.

3.4 The political perspectives on the structure of the planning system

Without a written constitution the national government has significant ability to intervene in many areas of public administration. The planning system is one such area of public administration where history has illustrated there has been various degrees of intervention.

It is possible, by taking a political-economy viewpoint to examine the operation of the planning system and therefore identify characteristics which help to explain how the planning system is constructed, its institutions, its processes and procedures. However, context is important and as such characteristics will exist on a spectrum. As such, in common with the cautionary note regarding classifying and categorising the planning system into either regulatory or discretionary model; the same could be argued here. It would be unwise to suggest that there are two types of approach to the planning system based on the political ideas, values, ethics. To do so would suggest a national government would be either interventionalist, producing a more regulatory and prescriptive approach, such as with the left-wing, traditional Labour party; or take a more liberal approach which sees less of a regulatory framework and intervention to place a greater emphasis on free-market economics and allowing the market to determine investment, such a more right-wing, traditional Conservative party. Since the New Labour administration from 1997-2010 there is less of a clear left-right split, but more of a centre ground according to Giddens (1998). This therefore was also evident within the Conservative-Liberal Democrat Coalition government from 2010-2015.

In very broad terms, using the present context, the Conservative government regularly makes amendments to the planning legislation with the intention of

removing unnecessary regulation. For example, increasing the scope of permitted development rights and thereby removing the perceived bureaucracy of the system which requires applicants to specifically apply for planning permission.

By contrast, the past Labour governments, have traditionally, see a much stronger regulatory role for planning to set out rules for development and therefore this translates into a greater scale of public sector. For example, under the last Labour Government (1997-2010) the regional tier of the planning system was reinvigorated. The 'Regional Planning Guidance' which as the title suggests provided loose guidance on strategic planning topics within the English administrative regions became 'Regional Spatial Strategies' (referred to as 'Regional Strategies') and were placed on a statutory footing under the Planning and Compulsory Purchase Act 2004 to become part of the development plan. Gallent et al, (2013:564) describes a significant statutory (and interventionist) shift from a system where, "local development planning needed to 'have regard' to the content of regional plans, to a system of required compliance".

Under s79(6) of the Local Democracy Economic Development and Construction Act 2009, the Regional Spatial Strategies became Regional Strategies for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004 and therefore part of the statutory development plan. As such statutory regional planning was relatively short-lived since one of the changes initiated to the planning system by the Coalition government (2010-2015) was to abolish the regional planning tier.

A successful High Court challenge delayed the abolition process until the provisions of the EU Directive on Strategic Environmental Assessment had been complied with by the Coalition government. Section 109 of the Localism Act 2011 (LA, 2011) provided legislative clarification for the confirmation of their abolition as part of the package of reforms which included the introduction of the new tier of 'neighbourhood planning' which was introduced

at sub-local planning authority level. The final Regional Strategies were revoked in 2013 (LA, 2011).

For a more detailed analysis on the political influences on the planning system authors see work by Professor Mark Tewdwr-Jones or Dr Andrew Thornley to name just two. However, what is important to note in this research is that there is inevitable political influence on the planning system and that is part of the context within which planning and this research is set.

3.5 The changing role of national planning policy

Whilst the environmental policy and legislation of the European Union did exert some influence and direction on the planning system, the basic framework structure and national objectives for the planning system have always been within the control of the national government. As such the planning system is a creature of statute, born out of a legislative framework with policy aims and objectives. As such having regard to the political perspectives on the role of the planning system, the national government has the powers to significantly influence and shape the structure and operation of the planning system through changes to legislation and policy.

Reflecting upon national planning policy there has been considerable change in its form and scope since the establishment of what is still regarded as the modern planning system in the post war era.

Until the 1980s national planning policy was not clearly identifiable in a single source. It was contained through a variety of government published circulars, which was a written statement on a particular topic which set out information, guidance, and rules on legislative or procedural matters. They were frequently published by different government departments and as such there was no single source of planning policy.

The 1980s represented a watershed in the expression, co-ordination and visibility of national planning policy. The creation of a series of Planning Policy Guidance Notes (PPGs) and Minerals Planning Guidance Notes (MPGs)

enabled a collation of the Government's aims, objectives, processes and rules on planning matters and organised into a series of topics. The distinct benefit of a series of individual topic-based notes was that they could be updated as and when required. Some PPGs and MPGs were subsequently supplemented by Practice Guides or Circulars which often contained more detail on the topics. However, this compartmentalisation of topics led to a diminution in the overall understanding of the wider context. Planning has to resolve conflicting ideas and priorities. All planning policy topics are in play at different times, the country is diverse in its people, places, economies and as such the planning system needs to manage the diversity positively to plan for the future. The PPGs and MPGs, whilst helpful in providing knowledge on a particular topic, did not help practitioners resolve the policy conflicts in day-to-day decision-making.

Throughout the early 1990s the PPGs and MPGs series had been growing. However, the election of the New Labour government in 1997 initiated planning reforms for England which were first set out in the Green Paper in 2001. The PPG and MPG series were to undergo a programme of review and replacement with more streamlined and focused Planning Policy Statements (PPS) and Minerals Policy Statements (MPS). Like the PPGs and MPGs they were often accompanied by a Practice Guide, e.g., MPS1 (2006) and the MPS1 Minerals and Planning Practice Guide (2006). Some topics were more frequently revised to alter, amend or reinforce principles and aims. For example, the housing topic underwent several revisions since the original publication in 1992 with revisions in 1992; 2000; 2005 update and 2006.

By the late 2000s there was a growing concern about the volume of national planning policy and guidance. This was highlighted by a variety of commentators at the time, but identified in a couple of high-profile independent reviews, namely the Kate Barker Review in 2006 and Kilian Pretty Review in 2008 (although a review into the planning application system), which both urged reform of PPS and MPS. The Planning White Paper in 2007 confirmed the proposals for reform (Barker Review of Land Use Planning, 2006; HM Government, 2007; Killian Pretty Review, 2008).

By 2011 there were 25 PPGs/PPSs and 15 MPGs/MPSs supported by numerous circulars, other policy statements, good practice guidance, advice on procedures and other material, such as cross-references to other relevant policies within other government departments (HM Government, 2007). According to Cullingworth et al (2015:99) there was over 1,000 pages of policy and guidance.

The consultation draft version of the first new National Planning Policy Framework was published in July 2011. Davoudi (2011:93) suggests that it “propelled planning into the limelight the like of which it had not seen for decades”.

As a result of the discretionary nature of the planning system, national policy can be amended relatively easily. The process for altering or changing policy is largely within the national government’s gift subject to the debate and scrutiny undertaken by the relevant House of Common Select Committee before a consultation version is approved for publication. As such given the administrative nature of the process national planning policy can therefore be created, altered, amended, either in part or as a whole, as necessary to increase or decrease the importance of a topic in accordance with the discretion of the Secretary of State with responsibility for planning.

The first National Planning Policy Framework (NPPF) was published in March 2012 and whilst the second version was published in July 2018 which consolidated, updated and amended various aspects of policy from the first version there was an amendment made in February 2019 (DCLG NPPF, 2012; MHCLG NPPF, 2018, MHCLG NPPF, 2019).

Although the NPPF exists as a single document, it can also be quickly amended or supplemented by Written Ministerial Statements which carry the same weight in decision making as the Framework itself. For example, the first Written Ministerial Statement issued following the publication of the revised NPPF in 2018 was regarding housing land supply in Oxfordshire which was published 12 September 2018. The effect is that for decision-making and the use of paragraph 11 d) of the Framework and the assessment of

whether there is a demonstrable five-year housing land supply, within Oxfordshire the standard five years is temporarily reduced to three-years. This reinforces the flexibility and discretion to amend the operation of the planning system through national policy. It also perhaps illustrates an inherent sense of centralism and state influence to make changes.

3.5.1 The role and influence of national planning policy

“Planning is a balancing act, which requires consideration of the preservation, use and development of land for this and future generations, within the context of agreed social, environmental and economic needs. Inevitably, there is often disagreement among competing interests on the best use of the same land, and the planning system must resolve such conflicts. Hard decisions have to be made and the National Planning Policy Framework has to provide the framework to get the balance right” (House of Commons Communities and Local Government Select Committee, 2011).

The challenge for any national government is to be able to express their national planning policy briefly to enable the reader to identify the Government’s policy position on any given planning topic. The current approach to the presentation of national policy does therefore help, but the pursuit for succinctness and brevity should not be at the expense of clarity. Previously policy and guidance were combined and as such the policy itself was often lost within the supporting guidance when contained within the same document. For example, for the topic of unstable land, contained in Planning Policy Guidance Note 14 and two annexes, contained only three national policies but was located within 114 pages of useful, relevant and interesting guidance. However, the clarity of the policy was somewhat obscured because of the presence of the background material (DoE PPG14, 1990; ODPM Annex 1, 1996; DTLR Annex 2, 2002).

The consequence of potential ambiguity is differing interpretations could lead to unintended policy outcomes or inconsistencies across different parts of the country. Furthermore, it could lead to local planning authorities seeking to fill a perceived or actual policy void which in turn could cause delay in the

preparation of their development plans. There is a need to balance the need for direction and clarity on planning issues whilst retaining the flexibility and discretion which is a key hallmark of the planning system.

The 2012 NPPF stated that it “constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining planning applications” (DCLG NPPF 2012: paragraph 13). The wording had changed slightly and appears to be much more active in relation to development plans by the publication of the current 2019 NPPF in that it states that “it must be taken into account in preparing the development plan, and is a material consideration in planning decisions” (MHCLG NPPF 2019: paragraph 2). This subtle shift is an illustration of the Government’s intention to lead the planning system.

The NPPF sets out the Government’s planning policies for England and how these should be applied in practice. As **Figure 3.2** illustrated earlier, the 2012 NPPF contained 17 sections of which 13 are sector specific, such as delivering a sufficient supply of housing (section 5); ensuring the vitality of town centres (section 7) or facilitating the sustainable use of minerals (section 17) (DCLG NPPF, 2012).

National policy and development plans

The 2012 NPPF indicates that development plans should “set out an overall strategy for the pattern, scale and quality of development” and it carries on in paragraph 20 to indicate the sector specific topics (DCLG NPPF, 2012). Accordingly, this could be viewed as a form of checklist for local planning authorities in producing their development plan.

Planning officers preparing the development plan within a local planning authority therefore have to understand, interpret and translate the national issues into their own local area context. This therefore suggests that there is a balancing act between national and local government regarding land use topics. The impact of a change in national policy can affect the direction or

contents of an emerging development plan and that leads to potential conflict and delay in the completion of the production process.

However, it can be argued that the NPPF has a much more powerful role and influence on the development plan making process than just a list of topics for local planning authorities to choose from when writing their own locally distinctive planning policies. The development plan making process contains an Independent Examination stage. As part of the examination process, the examining Inspector will be assessing whether the plan has been prepared in accordance with legal and procedural requirements in order that it can be found to be 'sound'. To be 'sound' a plan must pass four tests: positively prepared; justified; effective; and consistent with national policy (DCLG NPPF 2012: paragraph 182).

The need to be consistent with national policy therefore enables national policy to influence the preparation of the development plan, i.e., by indicating topics and approaches to key planning issues. However, the potential power and influence of the national policy, by virtue of this test of soundness, is strengthened as it can bring about a pause to a development plan for further policy work in order to bring the local policies into conformity with national policy. In the most extreme cases it can ensure that the development plan has to be withdrawn as it is unable to pass the test of soundness, i.e., the plan in its present form cannot be adopted (even with potential modifications). Thereby meaning that the local planning authority has to simply start the development plan making process again.

Development plans should contain policies which are locally distinctive, serve a clear purpose; and which does not duplicate the policies contained within the NPPF. As such this is further reason as to why the NPPF can be argued to have a powerful influence on the development plan making process. In this regard the contents of the NPPF stands alone as part of the statutory framework of the planning system. For some topics, like flood risk there is a very clear policy approach to decision making, therefore individual development plans are unlikely to be able to add a local dimension. However,

if a flood risk policy was not included within a consultation version of a development plan it would be expected that the representations would be highlighting that it was a policy omission.

Another example would be Green Belt whereby the NPPF is highly prescriptive leaving only a limited potential role for the development plan policies to add a local dimension. The starting point is that development in the Green Belt is unlikely to be acceptable and therefore inappropriate, although the NPPF does have some exceptions. This policy approach therefore enables some nationally prescribed development to take place in the Green Belt. An interesting twist with Green Belt policy however is the role of local policy in helping to interpret concepts such as openness which is only explicitly covered within the exceptions relating to outdoor sport and the infilling or the partial or complete redevelopment of previously developed sites (DCLG NPPF 2012, paragraph 89). However, in many areas the concept of openness has been introduced to local policies. The assessment of openness according to case law can have a spatial and visual dimension (*Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466). It is subjective and therefore a matter of planning judgement for the decision maker as to the harm that would be generated by a proposal.

Other NPPF topics give a general principle, such as making the effective use of land which other than encouraging the use of previously developed land, the policy approach is not very detailed. Where the local dimension cannot be expressed by the compromise would be to include a policy in the development plan which simply refers straight to the national policy. This is often seen in relation to the topic of Green Belt policy.

National Policy in planning applications

The NPPF introduced the 'presumption in favour of sustainable development' which applies to both development plan making and decision-making on individual planning applications. This policy objective links with the statutory requirement in section 39, PCPA 2004 in contributing to the achievement of

sustainable development. For the decision-making on individual planning applications, it is sometimes colloquially referred to as 'the tilted balance.'

The role of national policy in decision-making on individual planning applications reveals an interesting twist. From a legal perspective, under sections 38(6) PCPA 2004 and 70(2) TCPA 1990, the development plan has primacy, whereby decisions are based on compliance with the development plan unless material considerations indicate otherwise.

The current version of the NPPF makes it clear that "the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making" (MHCLG NPPF, 2019: paragraph 12). As such a simple interpretation of this would suggest that a decision-maker must first consider whether the proposal is in accordance with the development plan and then consider whether any material considerations justify departing from policy, thereby treating each as "conceptually distinct". This has been settled in law arising from *Colman v Secretary of State for Communities and Local Government* [2013] EWHC 1138 (Admin) which stated that it is a "fundamental and long-established principle of planning law that something identified as a "material consideration" is conceptually distinct from considerations identified in the development plan".

Whilst not departing from the position in *Colman*, in *R (on the application of Hampton Bishop Parish Council) v Herefordshire Council & others* [2013] EWHC 3947 (Admin), the High Court concluded that other material considerations can be "inextricably interwoven" with considerations within the development plan, for example when the NPPF presumption of sustainable development becomes of direct application.

Decision-makers should have a wide discretion as to how they meet the requirements of s.38(6) PCPA 2004 and that this can include a one-stage process where appropriate. The Judge held that as long as development plan policies are properly understood and engaged with and proper regard is paid to the statutory priority of the development plan, decision-makers need not

expressly determine whether a development proposal is in accordance with the development plan. The weight given to material consideration, of which the NPPF is only one material consideration, is for the decision-maker to determine.

It can be argued that in the basket of material considerations, the NPPF is in fact able to set itself apart from others and therefore lead to a perception that there has in fact been a diminution of the primacy of the development plan. Even if a proposal is in conflict with the policies contained within the development plan; where the presumption in favour of sustainable development in the NPPF is engaged there is the potential that the decision maker may conclude that the various benefits presented within the proposal could overcome the in-principle harm with the development plan and therefore planning permission could be granted (DCLG NPPF 2012; paragraph 14). The concept of the presumption in favour of sustainable development has been carried forwards into the current 2019 version of the NPPF.

In *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government and Another* [2020] EWHC 518 (Admin), at [81] Mr Justice Holgate provided a salutary reminder drawn from a 2017² case “the policies in the NPPF do not have the force of statute. Under the statutory scheme a policy in the NPPF is relevant to a planning decision as ‘another material consideration’ to be weighed in the balance under s70(2) TCPA 1990.” He also went onto to restate, drawn from Hopkins³, that “the policies in that Framework have to be understood in the context of the development plan led system. Moreover, the NPPF cannot, and does not purport to, displace or distort the primacy given by the presumption in s38(6) PCPA 2004 to the development plan.”

The significance of this case to this research is that it provides a clear reminder that policy is subordinate to the law and as such presents a useful

² *BDW Trading Ltd v Secretary of State for Communities and Local Government* [2017] PTSR 1337 at [21]

³ *Hopkins Homes Limited v Secretary of State for Housing Communities and Local Government* [2017] 1 WLR 1865 at [21]

counterpoint to suggestions that the NPPF is the most important and determinative factor in the implementation part of the planning system. However, a more recent and potentially significant influence of the NPPF is in relation to the Housing Delivery Test. This now creates an even greater influence for the NPPF over local decision making. If the local planning authority cannot demonstrate sufficient housing delivery, then they can be required to take various actions. If delivery fails to meet the transitional threshold (which changes each year), then the presumption in favour of sustainable would automatically apply.

3.6 Conflict in the planning system

The noun 'conflict' can be defined as "a state of opposition, a fight or struggle, often followed by the clashing of principles" (Oxford English Dictionary, 1996:205). For the land use planning system, it can easily be argued that given that land is a finite resource the decisions about what to do with it and how to manage its use will always generate conflict (Cullingworth and Nadin, 2006).

Healey (1997) identifies that there is a growing anxiety within western societies, based on the knowledge of the principles and broad concept of sustainability. The anxiety is also fuelled according to Giddens (1990) and Beck (1992) by the need to accept that in a multi-dimensional global environment there are many aspects where citizens either individually or collectively have limited degrees of control. Conflict is the result of many people wondering how best to manage these multiple agendas.

Hall and Tewdwr-Jones (2011:1) amongst others, suggest that planning is "an extremely ambiguous and difficult word to define." Dictionaries help to demonstrate that various meanings, some define what planning does or how planning does it. The term 'planning' is used in so many contexts, educational planning, emergency planning, blue-prints for constructing and building things. It can be argued that the planning practitioners often search for a simple and concise description to articulate to others what exactly they do.

The verb 'to plan' is accompanied by the nouns, 'planning' and 'planner.' For example, the Oxford English Dictionary definition of 'planner' uses a very simplistic interpretation and refers to "a person who controls or plans the development of new towns; a person who makes plans or a list, table etc with information." A system, is equally difficult to define, according to the Oxford English Dictionary (1996:1051) as a noun it is defined as a "complex whole; a set of connected things or parts; an organised body of things."

The planning system therefore can be most simply defined as the multi-dimensional institutional machine which when operating smoothly organises and manages land and associated uses in the interests of society as a whole. Cullingworth and Nadin (2006:2) suggest that "if there were no conflicts, then there would be no need for planning.....[it is] the process by which government resolves disputes about land uses."

The planning system is the arena within which land use planning decisions in the public interest are made. At its heart this involves the balancing of social, economic and environmental issues, with the aim of securing sustainable development. The planning system therefore draws from elements of the disciplines of geography, geology, ecology, sociology, economics, law and politics. The planner therefore is tasked with either an immensely responsible task or an impossible one where blame is always attributed by those interests who do not agree with the outcome. Inevitably in almost every case or scenario there will be a party who does not like the outcome.

Healey (1997:3) argues therefore that "planners are attacked at different times for allowing something to happen or for stopping it; at the same time, they are loaded with responsibilities for safeguarding environmental qualities and protecting interests." Hall and Tewdwr-Jones (2011) suggest that the only person whose training and intellectual capacity can balance all of the competing issues is the planner. However, "the most a planner can do is to try to reach a decision within a clear and explicit framework" (ibid. p9). The modern planning system of today is complex and has multiple objectives

therefore producing a multidimensional outcome (Hall and Tewdwr-Jones, 2011).

The planning system has to balance competing interests and therefore conflict will be generated through all elements of the planning system. For the purposes of this research, it is necessary to consider the broad halves of the planning system, policy formulation and decision making on individual planning applications. These two sides of the planning system generate conflict in themselves which will be explored in the next few sections, but also the role and extent to which more specialist subjects feed into the planning system also bring a further source of conflict into the planning system. For example, conservation of the built and natural environment, energy policy, transport and other infrastructure, and there are many more aspects which cannot be covered in detail within this research (Cullingworth and Nadin, 2006).

3.6.1 Local planning policy – opportunities in the process for conflict

There are many influences on the preparation of the content of the development plan. The English policy influences can be generated from a wide variety of sources, not only the NPPF and associated guidance, but also from other Government policy initiatives which are more cross cutting and may form part of the agenda for initiatives within other government departments, beyond that which has the responsibility for planning. For example, energy policy; climate change; business development and construction; waste management; all of which will have some form of spatial dimension and encounter the planning system at some point.

There are many opportunities for conflict in plan making to arise, both internally within the LPA and externally during the periods of consultation and the Public Examination stage.

Firstly, internally on a professional level, those officers engaged in plan making need to scope the contents of the plan, having regard to the NPPF and guidance as well as other government policy, it has to be assumed that

relevant international and European policies and obligations have already fed into the domestic policy and legislation.

The planners therefore have to make **subjective judgements** about what is relevant to the plan area; this is the opportunity for internal conflict between officers. Having decided the relevant topics for the plan area; the plan making process will then move into the application of principles into the local context, this is the interpretation stage, again another source of potential conflict.

The NPPF is exactly what it says it is, a framework, it is not a definitive rule book and indeed as policy analysis literature reminds, there are many ways to analyse and interpret policy, this theme will be explored in forthcoming sub-sections. The **interpretation** of national policy will generate conflict, at one extreme through the debate over what the aim and intentions of the policy are, before the debate can move into relevance and what it will mean for the local area. There is potential conflict generated through the interpretation of consultation responses because of the need to demonstrate how consultation has influenced the plan strategy, policies and future development allocations.

Secondly, internally within the Local Planning Authority, the role of the elected members of the Council also have a role in plan making. Although professional officers prepare the plans with the visions, strategies, policies and proposals based upon extensive baseline evidence, the elected members have the responsibility of approving the emerging versions of the plan and considering the comments received through the consultation on the basis of the recommendations by professional officers. Elected members are generally, but not always in the case of independents, affiliated to political parties. Membership of political parties can therefore introduce **party politics** into local policy and decision making, but not exclusively, since elected members are individuals and have the duty to represent the views of local electorate and voters.

Thirdly, external conflict can be generated through the consultation periods. The comments received by local planning authorities on draft development plan policies and proposals represent views and opinions on the material presented in the consultation documents. In most cases, policies and proposals in the development plan are likely to be supported by some parties and objected by others.

Depending upon the terms of reference for the consultation document, i.e. aspects which are still open for debate, consultation responses can be made to different aspects, either strategy, policies, proposals or varying combinations of all aspects. This calls into question the role and purpose of the consultation, the contents of the documents, use of language, the consultation methods and ultimately the value which the Local Planning Authority/Council and its officers and elected members place on consultation.

If representations made do not generate the outcome or change that the respondent is seeking then further representations are made at future consultations and are then played out in the Public Examination stage in front of an Independent Planning Inspector appointed by the Secretary of State. The final recourse for parties and others who are aggrieved is to the High Court; but only on a point of law and not planning merits.

3.6.2 Local decision making on individual development projects – conflict opportunities

Proposals which fall within the definition of development and which are not deemed to be 'permitted development' require the submission of a planning application. The process of how a planning application is determined has been illustrated earlier, however what is relevant to this research is the point in the process where conflict can arise.

The first key opportunity for conflict to arise is where the applicant chooses to undertake some pre-application consultation. Currently within England and Wales, pre-application consultation is not mandatory (save for a few specific exceptions) with either the local planning authority or the community

within which the development is proposed. In Scotland however, for a wider range of certain types of development which is deemed by policy and legislators as being more controversial, pre-application consultation is mandatory (The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).

The concept of pre-application engagement is sound since it seeks to address concerns before the application is submitted. This would therefore potentially reduce delays in the determination of the planning application whereby concerns are raised and amendments or clarifications are required. This could be viewed as positive from the applicant's perspective, although it may also delay the submission of the application to the local planning authority. From the third-party perspective given that at the pre-application stage the proposal may not be fully established, this could either lead to the third parties being more concerned or alternatively they may be more positive about how they can influence the proposal. All of this is largely dependent upon the design and approach of the applicant to undertaking pre-application consultation exercises.

As this is also the opportunity for an early view of proposals it will give third parties additional time to form their opposition campaigns and galvanise them into action if they do not like the proposal for whatever reason.

The second key opportunity is during the statutory consultation period after the planning application has been submitted. This is the time when third parties have the ability to submit comments to the local planning authority to help inform the decision-making process.

The conflict could arise in terms of the proposal being contrary to and in conflict with the development plan, either as an adopted or emerging plan. Most obviously the conflict arises from representations from third parties which object to the proposed development for a variety of reasons; the reasons will be explored later. The local planning authority has to therefore negotiate with the applicant on those matters which can be debated and

balance all of the opinions set within the context of the Development Plan and determine the planning application.

The third and final broad opportunity is the recourse for Judicial Review for persons/parties aggrieved which would generate conflict with all parties, but principally putting the views of the person/parties aggrieved against the decision maker.

Overall, the planning system invites participation from interested parties, and by default it therefore invites conflict. Nash et al (2010) suggest that "conflicts over land use decisions are hardly new, but remain some of the most intractable issues affecting communities." The next sub-section will explore why conflict occurs.

3.6.3 Why does conflict occur?

It is important to this research to understand why conflict occurs in the planning system, since dissecting and understanding the reasons for conflict is the first step to a greater understanding of how best to approach the construction of a majority consensus position. Ellis et al (2009:524) suggest that it is the "participative and discursive opportunities in the planning system, often championed as its *raison d'être* can provide an arena for local interests to challenge specific development proposals." Cowell (2007) argues that by opening the process out and inviting comments this exposes any policy or proposal to debates with politics, policy, technical details and most often local opinions. Devine-Wright and Devine-Wright (2006) and Barry et al (2008) argue that the most productive line of enquiry into conflict is in the application of discourse analysis to understand how conflicts emerge in the decision-making process.

3.6.4 Who gets involved?

It is difficult to avoid the over generalisation of the individuals/groups and the characteristics of those who choose to participate in the planning process. The use of the term 'stakeholder' is common in policy work. Connelly and

Richardson (2004:9) draw a definition from Abbott (1996) who suggests that stakeholders are “those sharing risks, costs and benefits.” This approach assumes everyone therefore has a voice which can make managing interests problematic in the pursuit of building a consensual outcome. This does appear to be problematic however when to be truly participatory the views of future generations and non-humans need to be considered as well (O’Neill, 2008).

The term stakeholder appears to have become a collective noun to describe parties that have a common interest but can come from a variety of sources and backgrounds. It is more likely, as Hodgson and Irving (2007) argue that the usage is ubiquitous but its true definition is absent. Healey (2006:168) suggests that “stakeholders’ in local environmental issues proliferate before us.” In the planning context there are likely to be many different stakeholders depending upon the issue being discussed. There are many variables; depending upon the nature of the issue, for example more macro, strategic or policy matters will attract some people, whilst others engage at a more micro level, when a development proposal is geographically located within their area of interest. The topic and the location can be suggested as being the prime motivators for participation; for example, there are more controversial topics in planning which spark interest, typically wind farms, nuclear power stations, mineral extraction, housing (Barker, 2006).

Healey et al (1988) suggest that it is rarely easy to classify and define the groups and individuals which participate in the planning process since it depends upon the issue each time. Although perhaps over simplifying the situation and making generalisations, there are some usual suspects which Boden et al (1979) refers to as ‘elites’ in society, i.e. those who are always involved and then there are some ‘minor elites’ which are others that get involved if something directly affected them.

In practical terms not everyone can fully participate all of the time, therefore it is perhaps more appropriate to look at defining stakeholder groups (Plotke, 1997). Some groups assemble because of a particular issue, typically action

groups, others have a private interest (i.e., landowner), historical or legislative governance basis from which they become involved (i.e., decision maker, statutory consultee), and sometimes non-aligned individuals get involved in the planning process because they are simply taking an interest. The analysis of those stakeholder groups who choose to participate in the planning system could suggest that they are representative and legitimate. To gain this acknowledged status it assumes many things, implicitly and explicitly, for example, competence, knowledge of the topic/process, possessing the time, skills and confidence to participate (Barnes et al, 2007). Whoever is the spokesperson for any particular group needs to ensure that the views, rather than the social identities, of the wider group are articulated through the process (Martin, 2008).

For the purposes of this research, it is necessary to at least categorise the broad groups of participants who become engaged within the planning system:

- **Local planning authorities** and their neighbouring local planning authorities – responsible for formulating planning policy and decision making on individual planning proposals within their area. Planning professionals with appropriate technical and other support staff tend to be employed for this function.
- **Politicians**, usually democratically elected local ward councillors, occasionally a constituency MP may respond to planning consultations. Ward councillors sit on the decision-making committee/board of the local planning authority to approve policies on behalf of the Council as a whole, they also have the duty to determine some of the planning applications which are submitted, on average about 5-10% of the total depending upon the Standing Orders and Schemes of Delegation within the Council.
- **Parish councils** democratically elected local volunteers who have formed the official local group to review planning consultations and provide comments back to the local planning authority.

- **Central government** which operates and engages with the planning system through the various agencies, for example Natural England and the Environment Agency under Department of Food and Rural Affairs (Defra); The Coal Authority under DECC/BEIS or Historic England on behalf of the Department of Culture, Media and Sport (DCMS).
- **Land and property owners** either seek to promote or protect their own interests. The land and property owners are likely to engage with the planning system when it directly affects their interests.
- **Developers** who are seeking opportunities for new sites and investments; therefore, developers will be interested in the policy making process which is forward planning but also seeking planning permission for their own individual proposals and monitoring those of their own defined competitors.
- **Industry, trade and professional associations** tend to operate on a national basis for the benefit of their membership group as a whole, rather than advocating the business plans for individual members. They tend to be established on local planning authority consultation databases for planning policy and engage predominantly with development plan making rather than the development management process. For example, Confederation of British Industry (CBI); Home Builder's Federation; Confederation of UK Coal Producers (CoalPro); Mineral Products Association; Planning Officers Society.
- **National campaign groups** for example Friends of the Earth (FoE), Campaign for the Protection of Rural England (CPRE). The national campaign groups pursue a single-issue agenda and like the industry trade bodies tend to be established on local planning authority consultation databases, predominantly again for policy making rather than individual proposals unless it is seen as a particularly controversial development. You could also include single issue pressure groups, such as Climate Earth, whose objective is to legally challenge actions.
- **Voluntary groups** such as charities, local action groups, residents' associations etc. These groups will often become established in response to a particular local issue or need, a common one would be

an action group opposing a particular form of development, such as wind turbines. They are less likely to be involved in the local policy making process and more orientated towards local site-specific development proposals.

- **The public or non-aligned individuals** although a sweeping generalisation and impossible to define characteristics and motivations, the public will engage with the planning system when there is a locally specific issue which has a direct effect on their environment, property or typically their view. It can be argued that they are a 'hard to reach' group because they do not belong to an established group or association which can be targeted with consultation material for either draft development plans or site-specific development proposals.

3.6.5 Managing conflict through stakeholder expectations

The former Coalition Government agenda focussed upon a strategy of decentralisation and increased localism. Power was to be transferred away from central and local government to a certain degree, and handed back to the local people with the aim of getting society working together more cohesively, sometime referred to as 'the big society.'

For the planning system, there is an ongoing focus on getting more people involved in place shaping and decision making (Open source planning, 2010). The outcome being sought is that greater involvement in decision making will lead to better decisions, a sense of ownership and therefore a more cohesive society. Participants involved will then have a greater sense of power and influence over decision making.

The theoretical expression of this approach is collaborative planning, the work by Patsy Healey argues that the approach brings together the participants into an arena where they can work together in a structured approach, following from Giddens (1990) and employing a communicative rationality which is inspired by Habermas (1984). The communicative turn is referenced in planning theory which reminds that planning is essentially a social

construct therefore the way participants think, define value and act is a large part of the process. Healey (2006:57) argues that the outcome is a theory which "focuses attention on the relational webs or networks in which we live our lives." This structured approach therefore is the creation of an arena whereby stakeholders can share problems and create solutions themselves (Healey, 2006).

The collaborative approach is not without critics, for example Huxley and Yiftachel (2000) suggest that it privileges communication above social and economic factors. This suggests that it is the skill of communication which dominates and that this approach appears to be widely accepted but does not take into account the role of technical expertise.

However, Rydin (1999:196) warns that "collective decision making is not the same as decision making by the local community." This warning provides an effective reminder that there may not be full agreement on the final decision. The seminal Skeffington Report identified the liberalism and optimism for public participation in planning in 1969, however this can be contrasted by the radicalism and disappointment set out in Wates (1976) and the anger and disappointment of Dennis (1972). A critical success factor therefore is managing expectations of participants; otherwise, the consequences will be disenfranchisement, disillusionment, dissatisfaction and an unwillingness to participate in the future.

3.6.6 Understanding power and expertise

Thomas (1996) argues that who has influence is a direct reflection of who gets involved and why they get involved and how they get involved. Power is a difficult concept to explore, from the literature a frequent citation is Steven Lukes (2005). Power has previously been suggested to be a one- or two-dimensional matter until Lukes proposed that there is a three-dimensional view. The one-dimensional perspective is the outcome of a decision, but the process to achieve that outcome reveals overtly conflicting views. The second dimension is less obvious, it needs to be sought by analysing how decisions are made, for example the ability to dominate

discussions without generating conflict, it is more about the skill of persuasion and mediation. The third dimension which is articulated by Lukes involves "the socially structured and culturally patterned behaviour of groups, and practices of institutions, which may indeed be manifested by individual's inactions" (Lukes, 2005:26). This means that for the planning system, applying the three dimensions of power, power is used to make the decision (first), design the processes for participation and establish the issues for debate (second), and impose wider viewpoints on the topic through the management of the processes and outcomes (third) (Mayo and Taylor, 2001).

Lukes (2005:70) argues that "power is a capacity, and not the exercise or vehicle of that capacity" therefore Lukes appears to be suggesting that everyone can have access to power, this means that power can be held by stakeholders. It is however likely that power can move around from one stakeholder to another at different points in a process. Healey (2003) argues in contrast that "power is a relation, not a 'thing'" which would support the proposition that power moves around.

Understanding power is important to this research as it will help to analyse the findings of fieldwork. Lukes (2005:65) suggests that "we need to know our own powers and those of others in order to find our way around a world populated by human agents, individual and collective, of whose powers we need to be appraised if we are to have a chance of surviving and flourishing. And of course, our own powers will in part depend on harnessing and evading or diminishing the powers of others." This means that there needs to be an understanding of power and with that knowledge becomes a degree of expertise, i.e., "skill, knowledge or judgement" (Oxford English Dictionary, 1996: 343; Pestre, 2003).

Conflict can arise between 'experts' and 'non-experts.' The process of collaborative planning seeks to gather stakeholders together from all sources and place them on a neutral level and then formulate shared outcomes. Barnes et al (2007:193) challenge this polarisation of stakeholders in that often the lay experts have the time to become more knowledgeable and

“sometimes so called ‘lay’ publics may bring expertise that may be lacking in public bodies.”

3.6.7 Exploring knowledge and understanding

There are multiple ways of knowing things and that shapes perceptions of reality according to Rydin (2007) and Sandercock (1998). Nash et al (2010) propose that “the concept of place is central to land use conflict. In particular, it is the symbolic character of physical settings which warrant emphasis.” What is therefore argued is that the how people understand and perceive their environment, or place, is a key to exploring why conflict occurs in land use planning decisions. This was originally suggested by Tuan (1977) who makes the case that people’s opinions are based upon their mental connection with a place, this aspect tends to be explored further through the discipline of environmental psychology (Van Patten and Williams, 2008). The local knowledge which includes perceptions, values, feelings, character, attitudes and connected relationships that people have with their local environment does not fit easily into the quantitative, rational and objective approach of planning decision making (Williams, 2004; Henwood and Pigeon, 2001). This is a source of frustration for participants and therefore will affect whether they are motivated to participate in the future. Lake (1993) suggests that the reason for objections to proposed development or policy approach can be drawn back to the fact that it will produce some change in an otherwise settled and socially accepted environment.

There are various phrases which emerge from literature on conflict in planning, including: ‘LULU’ (locally unwanted land uses); ‘NIMBYs’ (not in my back yard); ‘NIABY’ (not in anyone’s backyard); ‘BANANAs’ (build absolutely nothing anywhere near anything/anyone); and ‘NOPEs’ (not on planet earth). Of these phrases, NIMBYism is perhaps acknowledged as the most common, having been acknowledged by the Oxford English Dictionary as being around in common usage since the 1980s. A NIMBYism has therefore been analysed by academics over recent years in its own right and in relation to specific types of developments, commonly wind farms, see for example Wolsink, 2000

and 2006. Haggett (2004) refers to survey research which illustrates that there is an 'attitude-behaviour' gap, the findings seem to validate the concept of NIMBY-ism, in the context of wind power at least, in that there is support for the principle of wind power, however this support appears to be reversed when a wind farm is proposed within the local area.

It could be argued that the greater knowledge and understanding will help generate more rational and collective decisions; however, this is not the single way of achieving a successful outcome. It may be the case that even with all of the facts, it is hard to put aside personal subjective views, this therefore leads the discussion back to NIMBYism and the fact that change is not naturally viewed by local people as an opportunity but a threat.

There is a political dimension; having identified that people place value of their local environment through their relationship with it, a sense of responsibility for its protection can be generated, coupled with reluctance for change. When people have established their relationship with a place, it takes on a sense of power, consequently what people feel is appropriate or not appropriate is assessed by their minds in accordance with their perceived values and opinions. The expression of these values and opinions through representations to development policies or proposals therefore generates conflict (Williams and Stewart, 1998; Henwood and Pigeon, 2001; Williams, 2004; Van Patten and Williams, 2008).

3.6.8 Misinterpretation and misunderstanding

The use of language and the communication methods play a significant role in the degree to which planning issues are interpreted and understood. Planning is a field of expertise and therefore has, over time, like many other specialisms and disciplines, created its own language. This language creates a boundary around planners which for non-planners, the ability to engage in meaningful discussions can seem daunting and potentially impenetrable. Becher and Trowler (2001:47) suggest that "even disciplines which take pride in not being jargon-ridden, communication none the less creates what linguists would call its own register – a particular set of favoured terms,

sentence structures and logical syntax – which is not easy for the outsider to imitate”

If planning material, consultation documents, letters, site notices, is not presented in ‘plain English’ then the degree to which non-planners can engage and understand will be directly affected.

3.7 Change in the English planning system 1990-2015

Over the last 30 years or so environmental protection and management has become a key issue which has generated a considerable body of treaties, conventions, laws and policy throughout the world (Bell, et al, 2017). Given that the UK planning system is where decisions are made about land use matters it therefore becomes the place where environmental matters are considered alongside economic and social matters in what has become regarded as the process of assessing sustainable development.

During the time of the UK membership of the European Union numerous European Union Directives have been agreed with an increasing emphasis on environmental protection in policy and decision making. Since the 1970s the European Union has had a strong environmental focus which was established within the first Environmental Action Programme in 1973 and has since generated a significant body of environmental protection. The transposition of this European legislation into domestic legislation has therefore added to the body of law at the domestic level (Bell et al, 2017).

Bell et al (2017) also suggests that “environmental disputes and legal challenges with an environmental dimension are becoming more frequent” (Bell et al, 2017: 4). This therefore illustrates that concerns about the environment are becoming part of mainstream conversations and not simply within certain interest groups. This rise in public consciousness could be attributed to the greater availability of information. This in part was a consequence of legislation such as the Aarhus Convention 2001 at the EU level which established the rights to environmental information, public participation and justice. This was therefore transposed into the UK domestic

legislation through The Environmental Information Regulations 2004 (as amended). However, the evolution of technology has provided easier access to greater amounts of information.

3.7.1 The 1990s

Following on from the economic difficulties of the 1980s with industrial decline whereby the role of the planning system was diminished to one which provided a basic mechanism upon which special planning mechanisms were used in an attempt to stimulate investment and regeneration. For example, simplified planning zones, enterprise zones, development corporations etc which each had specific land use rules. The overall approach during this time is often described as 'laissez-faire'. This French phrase translates to "let do". As such it is about leaving something alone, allowing freedom, such freedom from government intervention and regulation. It is part of the economic approach of free market capitalism which allows the market to determine the future direction with limited government intervention (Cullingworth et al, 2017).

From the 1990s the planning system began a new chapter in its history as a consequence of the consolidation of planning legislation. The Town and Country Planning Act 1990 along with 3 other Acts enacted at the same time enabled the principles and structure of the planning system to be re-established and clarified. Significantly, the plan-led system was established under section 54A (inserted by the Planning and Compensation Act 1991). This was an important milestone as it enabled the planning system to re-assert its role in determining the future for the country.

The publication of the UK's first Environment Strategy set out in the White Paper titled "This Common Inheritance" in 1990 (HM Government, 1990). It is considered by many to be a watershed in the integration of sustainability and sustainable development into the planning system (Gray, 1995).

Paragraph 1.14 stated that "we have a moral duty to look after our planet and to hand it on in good order to future generations. That is what experts

mean when they talk of 'sustainable development': not sacrificing tomorrow's prospects for a largely illusory gain today: we must put a proper value on the natural world." (HMG, 1990).

This White Paper enabled a degree of reinvigoration and re-energisation in the land use planning system. The White Paper aimed to give the environment a more equal role within decision making. To achieve this aim Planning Policy Guidance was to be reviewed; land was to be re-used, particularly for housebuilding and public land was to be brought back into use; aftercare conditions would be required for mineral workings; and there was the introduction of the contaminated land register and remediation mechanisms. New environmental bodies were established. For example, the Environment Agency which has a specific role in being the Government's expert in environmental matters and was at the time the largest of its kind in the world according to Bell et al (2017).

Government planning policy was more clearly organised and asserted through a series of Planning Policy Guidance (PPG) and Mineral Planning Guidance (MPG) documents, which initially began emerging from 1988 but rapidly gathered pace with the majority being produced during the early 1990s and then revised as necessary. The series of PPGs and MPGs therefore formed the basis of greater influence on emerging development plans.

3.7.2 The 2000s

In 2001 a Planning Green Paper was published by the then Secretary of State for Department of Transport, Local Government and the Regions (DTLR), which had the responsibility for planning at the time. It set out a number of reforms to the framework of the planning system, together with specific reforms to the plan-making process and the process of determining individual planning applications, known as 'development control' (DTLR, 2001).

The Government identified that the planning system was too complex with multiple layers of plans, lengthy and unfocused planning policy and guidance, the rules for different types of development being confusing, the system

overall was too slow and anti-development, and despite the numerous consultation periods available, there was still a lack of engagement with communities. There needed to be greater customer focus with clear guidance and advice to help people understand how to get involved. Finally, from the public perception, planning enforcement was not effective when it is demonstrated that people avoid planning control (DTLR, 2001).

Arising from the Green Paper came the Planning and Compulsory Purchase Act 2004. This primary legislation saw regional planning guidance replaced with more focussed Regional Spatial Strategies and elevated to statutory status thereby becoming part of the development plan for the first time. This provided a regional mechanism for strategic matters, such as housing requirements, which would then enable each local planning authority to have a housing figure to plan for.

The single document known as the Local Plan was to be replaced by a portfolio approach called the Local Development Framework (LDF) which would enable parts to be updated and revised on different timetables rather than having to undergo a complete review. This approach was therefore aiming to address the problem that despite the introduction of the plan-led system by the Planning and Compensation Act 1991, by 2001 there were still some 13% (47) local planning authorities without their first district-wide local plan in place and a further 214 LPAs had a Local Plan which had since become out-of-date with no programme for alteration or replacement (DTLR, 2001:6).

During the 2000s the government aimed to revise and reform the Planning Policy Guidance Notes (PPG) to become Planning Policy Statements (PPS). During this period the national level planning policy had grown to a total of 25 written documents on different land use topics, from Green Belts to Unstable Land, Enforcing Planning Control and Coastal Planning. The Green Paper acknowledged that "there is far too great a volume of national planning policy – PPGs on their own run to a total of 852 pages" (DTLR, 2001: paragraph 4.57). The reform would see more focussed policy issues expressed at the national level without surrounding the actual policy with

ancillary material and other guidance on implementation. Whilst some PPSs were produced, the last one in this single topic format was PPS5 in 2010 which was entitled Planning and the Historic Environment which was a combination of PPG15 and PPG16 (Archaeology). The streamlining was therefore not entirely successful.

Concerns over the lack of delivery of housing supply were the subject of the Barker Review of Housing Supply in March 2004 (ODPM, 2004). The Planning White Paper: Planning for a Sustainable Future published in 2007, set out further proposals for streamlining planning policy (CLG, 2007). This commitment was a response to the Barker Review of Land Use Planning, also by Kate Barker (Barker, 2006).

New targets were established for the determination of planning applications which followed on from wider local government requirements under the Local Government Act 1999 that introduced the Best Value government policy initiative and the need to secure continuous improvement (LGA 1999, section 3(1)). Performance was to be measured by national government against a series of national indicators. Alongside this was an examination of the role and number of consultees, both statutory and non-statutory, and how they contribute to performance of decision making. A specific duty was to be introduced for consultees to provide annual performance reports to the Secretary of State. This period of planning history was dominated by reforms and consideration of performance monitoring.

To improve the efficiency of the system the government introduced legislative provisions which reduced the standard time limit for the implementation of a planning permission from five years to three years with the expectation that it would lead to the quicker delivery of consented development and prevent the accumulation of permissions and consents (known as 'land banking').

Another major area of reform which led to a further piece of primary legislation was in relation to the decision-making process for major infrastructure. The often-cited example was the multi-year length of the Public Local Inquiry for Terminal 5 at London Heathrow Airport. The Planning

Act 2008 introduced the Nationally Significant Infrastructure Projects which established a new Development Consent Order regime. Through primary and secondary legislation and using a combination of development types and thresholds the Government removed a number of infrastructure related proposals from the remit of the town and country planning system and determination by local planning authorities. The decision was to be taken by the separate NDPB called the Infrastructure Planning Commission in a new and quicker process.

The Climate Change Act 2008 incorporated a duty on the Secretary of State to ensure that the net UK carbon account for all six Kyoto greenhouse gases for the year 2050 is at least 80% lower than the 1990 baseline. It contains statutory emissions targets; statutory five-year carbon budgets which sets a cap on the release of climate changing gases into the atmosphere; continuing adaptation measures; establishment of the Committee on Climate Change as an independent advisory body for government on the subject of climate change; and mandatory reporting of progress to government (Fankhauser et al, 2018).

3.7.3 The 2010s

The Conservative-Liberal Democrat Coalition Government outlined planning reforms which sought to enable greater influence for local people and communities to determine the future for their area (HM Government, 2010). A range of measures were therefore brought forward in the Localism Act 2011 which included the abolition of regional planning and the introduction of neighbourhood level planning. The legislative powers for local planning authorities to raise money for local infrastructure from developers, known as the Community Infrastructure Levy (CIL) were also brought forward (MHCLG Policy Paper, 2015a).

A major reform of national planning policy also took place at this time with the comprehensive review of all existing national planning policy statements and guidance alongside all minerals policy statements and minerals planning guidance. The production of the NPPF in 2012 as a single document reduced

over 1,000 pages of policy and guidance into a single document of approximately 50 pages. It was later accompanied by an on-line Planning Practice Guidance in 2014 which provided a good proportion of the previous guidance, but arranged and presented in a style to enable it to be more accessible. This resulted in a clear delineation between national policy and guidance.

As part of the Coalition Government's concern about accountability and effectiveness of the arm's length bodies which are funded by Government and the taxpayer but are not wholly run by Government; a wholesale review of bodies was undertaken. By 2010 there were around 900 arm's length bodies in total (BBC, 2012). For planning this meant that the Infrastructure Planning Commission established under the Planning Act 2008 was abolished in 2012 with the functions transferred into the Planning Inspectorate.

During the period of the Coalition Government there was an increased emphasis on house building. A policy paper indicated that insufficient housing was being delivered to meet the needs of the current and future population. It cited the statistic that from 2009 to 2010, only 115,000 new builds were completed in England – fewer than any year in peacetime since the 1920s (MHCLG, 2015b). Consequently, a range of policy initiatives and financial incentives, together with an expanded remit for the NDPB of the Homes and Communities Agency (HCA) (now Homes England), aimed to deliver more housing. This priority has remained and indeed gathered pace and priority (MHCLG Policy Paper, 2017).

3.8 Changing national approaches to minerals planning

The history of minerals planning can be traced back many decades prior to the modern planning system which exists today. For example, the Brine Pumping (Compensation for Subsidence) Act 1891 established the legislative framework to manage the extraction of brine from the salt mines in Cheshire. General mineral working activities first became subject to a form of structured land use control through the Town and Country Planning Act 1932. Until the post-war period the legislative framework for minerals planning was limited

(Senior, 1996). As such the post-war era is an effective point from which to begin and therefore review the changing national approaches to minerals planning.

3.8.1 The Post-War Era of 1945 to 1960s

The Town and Country Planning Act 1947, which established the principles of the modern planning system, brought minerals development into a more structured system and also within national control.

Mineral working during the wartime period was predominantly controlled through the use of Interim Development Orders (IDO) granted by the wartime government. The IDO was a legislative mechanism established under section 10 of the Town and Country Planning Act 1932 which allowed Ministers to grant a permission for development with, or without conditions, as they saw fit. IDOs were a very light touch approach to regulation and consequently were useful where immediate development needs had to be addressed, such as more coal for energy fuel or construction minerals for the post-war reconstruction needs.

The IDOs however, omitted many of the aspects of minerals planning which have become expected in more recent times, such as location, depth of working, size etc. Their use was at a time when the need to use raw materials was considered to be more important than their conservation or preservation.

The landmark Town and Country Planning Act 1947 introduced the principles of the land use control which still exist today. It included minerals and associated development thereby integrating it into the mainstream control and management of land use. Minerals were then subject to the same requirements of survey, land allocation, compulsory purchase with formal planning permissions and the imposition of conditions. Importantly for managing the impacts of mineral working, after July 1948 enforcement action could be taken against anyone carrying out mining operations without planning permission (Moore, 2010).

It is important to note that the post-war era was a watershed in British history of the twentieth century. Millward and Singleton (1995) identify that the Second World War triggered the need for a new start for Great Britain, the country needed to be rebuilt and society and the economy had to change. The Labour Government, elected in 1945 under the leadership of Clement Atlee, was to pave the way for a number of previously private sector industries to be nationalised and brought into public ownership and therefore state control. This was a bold move, with the previous last nationalisation being the British Broadcasting Corporation (BBC) in 1926.

From 1946 there were a series of public Acts which provided the legislative basis for a programme of nationalisations, beginning with the Bank of England Act 1946 to establish the Bank of England. The Coal Industry Nationalisation Act 1946 was to establish the National Coal Board in 1947, which brought 800 mines and land and other property assets into state control.

Nationalisation and the reorganisation of key industries perhaps reached its peak in 1948 as during this year proposals to nationalise electricity, gas and the railways were all agreed by Parliament. This was also the year that the National Health Service (NHS) was launched as part of the post-war welfare state. Town planning was also subject to a form of nationalisation in that the Town and Country Planning Act 1947 nationalised development rights and therefore established the requirement for planning permission for certain forms of development (legislation.gov.uk). Nationalisation was a long-held belief of the Labour Party and of socialism which aimed to put people before profit.

The imperative for post-war reconstruction brought an increasing need for raw materials, for both construction and energy. However, the light touch approach to the consenting of minerals development through the use of the IDO, was beginning to raise concerns within Central Government regarding the seeming lack of effective control over mineral working operations, particularly in respect of restoration, increased abandonment of sites which generated derelict and despoiled land.

In 1951 the Ministry of Housing and Local Government issued general guidance on 'The Control of Minerals,' which was updated in 1960. This is commonly referred to as 'the Green Book' because of the colour of the cover and remained in place for twenty years. The Green Book was focused upon controlling the impacts from mineral working. It was practical guidance rather than policy or legislation. However, this period did highlight that there was more guidance and advice available on other planning topics than minerals. The guidance in the post-war period was therefore only focussed upon the management of operational mineral sites (MHLG, 1950; MHLG, 1960).

3.8.2 The 1970s and 1980s

During the early 1970s Central Government acknowledged that mineral workings were more destructive than other forms of development. Consequently, two Government Inquiries were initiated. Firstly, Sir Roger Stevens was appointed to lead an Inquiry into the operation of the planning system in relation to minerals development. The Stevens Report, 'Planning Control over Mineral Workings' was published in 1976 (Stevens Committee Report, 1976). The other Inquiry was conducted by Ralph Verney in the same year, focussed more specifically on the position of construction aggregates and the mechanisms for the delivery of the supply of construction aggregates (Verney Report, 1976).

The Stevens and Verney reports were to have a significant influence on the future of the minerals planning system. One of the recommendations was for the introduction of a specific piece of mineral planning legislation. This led to the Town and Country Planning (Minerals) Act 1981 (Minerals Act 1981) which then set mineral development apart from other forms of development. It was applicable to all minerals with the exception of crown minerals (gold, silver) or state-owned minerals (coal, oil and gas) (Senior, 1996; Minerals Act 1981; Greed, 1996).

The Minerals Act 1981 represented a sea change in the approach to minerals planning. It gave minerals development its own separate piece of legislation,

something which was to be more visible and distinct. It made amendments relating to the general legal provisions for the winning and working of minerals in the Town and Country Planning Act 1971 which was the primary Planning Act at the time.

It enabled the determination of applications for the extraction of minerals to be undertaken by mineral planning authorities (by amending paragraph 32 of Schedule 16 of the Local Government Act 1972 regarding the functions for town planning) (Minerals Act 1981; Local Government Act, 1972). Under section 3 it introduced a new duty on mineral planning authorities for the need to undertake periodic reviews of old mining permissions. Various provisions were set out in relation to the need for appropriate conditions for mineral planning permissions following the commencement of the Act. Notwithstanding the sea change introduced by the Minerals Act 1981, for state owned minerals during this period the interaction with the planning system was limited.

Although mineral development was an act of 'development' under section 12(2) of the Town and Country Planning Act 1947, due to the nature of the planning legislation being a framework, much of the detail was found within secondary legislation. This allowed, and still allows today, the relevant Secretary of State to change the details of the operation of the planning system relatively quickly. This is perhaps most well understood in relation to the permitted development rights, which allows the Secretary of State to prescribe what types, together with any conditions (for example size or scale) of 'development' that can take place in principle without the developer needing to seek permission from either the LPA or the Secretary of State (Sheppard et al, 2017).

In the case of state-owned minerals, such as coal, there was continued reliance upon permitted development rights which were set out initially in the Town and Country Planning (General Development) Order 1948 that came into force in July 1948. These permitted development rights allowed the coal mining operations to continue within the area that was submitted by the coal

operator to the relevant mineral planning authority for information. Consequently, the decision-making process was still at the national level with local authorities having a limited role in state owned minerals development.

In 1988 the mineral permitted development rights were extended and the concept of prior approval was introduced (The Town and Country Planning General Development Order, 1988). This still allowed the mineral operator some freedom. In 1987 the National Coal Board had been part-privatised and was now a state-owned company in the form of British Coal Corporation (often shortened to British Coal), the permitted development rights therefore enabled coal operators use these rights, but they had to obtain confirmation (the prior approval) of the relevant mineral planning authority that the proposed development activity met with the prescribed permitted development rights. This illustrates an element of transfer of decision-making power from national to local government. Interestingly Part V of Planning and Housing Act 1986 also repealed the Secretary of State's role in determining opencast coal applications. This further demonstrates that Central Government was stepping back from the decision making on coal matters.

The Department of Environment Circular (DoE 1/88) was published on 20 January 1988 and announced that there was to be a change in how national policy and guidance was to be expressed for planning. Two new series of policy guidance notes were to be established. Minerals planning, for the first time, was to be given its own specific series to enable much greater clarity on the government's expectations and requirements for the mineral planning system. The Minerals Planning Guidance (MPG) would therefore incorporate the contents of the 'Green Book'. A sister series of Planning Policy Guidance notes (PPG) would provide more general planning guidance and specific aspects of planning policy (DoE 1/88; Greed, 1996).

The first MPGs to be published in January 1988 were MPG1 – General considerations and MPG2 – Applications, Permissions and Conditions. They were followed by MPG4 – Review of Mineral Working Sites in September 1988

and then MPG5 – Minerals Planning and the General Development Order in December 1988. The last one produced within this period set out the guidance for the Reclamation of Mineral Workings and was to be known as MPG 7 (Cullingworth and Nadin, 2006).

3.8.3 The 1990s and 2000s

The Minerals Act 1981 (MA 1981) was repealed and the provisions incorporated into the Town and Country Planning Act 1990. For minerals planning the permitted development rights remained but the majority of decisions were now taken at the local level, by the relevant MPA.

Furthermore section 105 of the Planning and Compulsory Purchase Act 1991 carried forward the requirement from section 3 of the MA 1981 for MPAs to undertake periodic reviews of the mineral activity within their area. As part of this review process, it enabled old mineral permissions (defined under section 22(1) of the Planning and Compensation Act 1991), the IDOs granted during the post-war period of 1943-1948 to be registered, which thereby preserved their legal status within the planning system. Holders of IDO permissions had to register them with the relevant MPA and also submit a scheme of operating and restoration conditions for the approval. Without registration and approval of 'modern' planning conditions, the IDO fell away and any further working would be deemed unauthorised for which enforcement action could be taken.

The concept of the review was extended through the Environment Act 1995 (EA, 1995). Section 96 and Schedules 13 and 14 of the EA 1995 introduced the requirements for an initial review and updating of old mineral planning permissions granted between 1948 and 1982 and then a periodic review of all mineral permissions. The purpose was therefore to complete a review of all existing mineral permissions from post-war to 1982.

For minerals policy, the MPG series began to emerge with a further 11 MPGs being published and taking the total to 15. This included further procedural guidance notes, such as MPG8 and MPG9 which set out guidance in relation

to dealing with the IDOs to accompany the new requirements set out in primary legislation regarding the IDO and also MPG 14 – The Environment Act 1995: Review of Mineral Planning Permissions. The last one was published in June 1996 and was to replace the one at the beginning of the series; MPG1 – General Considerations and the Development Plan System.

The majority of the MPG series were focussed on establishing a more comprehensive framework for addressing the environmental impacts of mineral working, which was following through on the criticisms raised during the 1970s and 1980s regarding the lack of guidance and concern about the environmental legacy of mining activity. Of the MPGs, 5 were mineral specific, including raw material for the cement industry (MPG10, November 1991); guidance for aggregate provision (MPG6, April 1994), alternatives for peat provision in England (MPG13, July 1995) and the provision for silica sand in England (MPG15, September 1996). Coal was also given specific guidance in MPG3, which also serves to illustrate that it was seen by the government as 'different' and it was also published during the year the coal industry was fully privatised (July 1994).

Some were also updated in response to a change in circumstances at the time or in response to concerns. These included: MPG7 in 1995; MPG4 in 1997; MPG2 in 1998; MPG3 in 1999. One of the MPGs, MPG12 regarding the treatment of disused mine openings and availability of information on mined ground, was removed from the MPG series and transferred into the Planning Policy Guidance series, into 'development on unstable ground' (PPG14, April 1990).

The Planning White Paper: Planning for a Sustainable Future published in 2007, set out proposals for streamlining planning policy (HM Government, 2007). This commitment was a response to the Kate Barker Review in 2006. Consequently, the MPG series, along with other planning policy and guidance was to be refreshed and transformed into 'Minerals Policy Statements'.

However, only two were completed before further reforms were initiated. MPS2 - Controlling and Mitigating the Environmental Effects of Minerals

Extraction in England incorporated and superseded MPG11. MPS1 – Planning and Minerals was an overarching statement and incorporated the policy content of MPG1 and MPG6 thereby cancelling these two documents. It was also accompanied by a separate companion guide, MPS1 Practice Guide. The format which separated policy from guidance was to become a change which would become more important within the following decade.

By the end of 2009 there were a total of 13 national mineral policy documents (MPSs/MPGs) which amounted to approximately 680 pages of policy and guidance. The Killian Pretty Review (2008) also reinforced the urgent need to review national planning policy and guidance, and recommended that the framework should be more user-friendly.

3.8.4 2010 to 2015

Whilst decision making on minerals planning applications remained largely unchanged together with the retention of the permitted development rights for minerals development, the policy context was about to experience further change. The Coalition Agreement set out the new Coalition Government's intention to publish a "simple and consolidated national planning framework" (HM Government, 2010:11). This later emerged as the National Planning Policy Framework in March 2012. It replaced all previous Planning Policy Statements and Guidance together with Minerals Planning Guidance and Minerals Policy Statement. Minerals planning was given a specific section within the National Planning Policy Framework.

3.9 The contemporary context for minerals planning

Minerals planning contains two main aspects: resource planning and environmental management. The resource planning involves assessing and ensuring future supply needs can be facilitated through the planning system. There are different dimensions and approaches depending upon the type of mineral. For example, for aggregates, the Managed Aggregate Supply System (MASS) enables a coordinated approach to facilitating a steady and adequate supply through the monitoring of landbanks.

MPAs should assess the local level demand and supply for aggregates and produce their own Local Aggregates Assessment (LAA) which is shared with Aggregate Working Parties (AWP). The AWP are technical advisory groups which cover defined geographical areas who collate and scrutinise the LAA. Their membership predominately includes representatives from each MPA and the aggregates industry operating in the defined geographical area. Their overall purpose is to take a strategic and coordinated approach to the need to maintain a steady supply of aggregates. At the national level, a National Aggregate Coordinating Group exists which essentially monitors aggregate supply and demand, providing advice where necessary to individual AWP and reporting to government (DCLG PPG, 2014).

Planning for future requirements of industrial minerals is more challenging as it depends upon the particular properties that are required by the market. However, through monitoring the levels of permitted reserves and the number of planning applications for extraction trends can be defined which could lead to the need to search for new sites to allocate for extraction. The NPPF indicates that there should be at least 10 years for silica sand; 15 years for cement and 25 years for brick clay.

For hydrocarbon and coal extraction as they are energy resources, they are subject to more significant changes in market forces than non-energy resource. Consequently, the planning system does not approach them by trying to calculate and predict future needs. The NPPF expects planning authorities to have a local policy context within which individual applications for hydrocarbon and coal extraction can take place (DCLG NPPF, 2012). Since MPG3 in 1999 there has been a presumption against coal extraction unless there are community and environmental benefits (DETR MPG3, 1999).

Safeguarding minerals is an important part of minerals planning and as such the need for defining specific mineral safeguarding areas is necessary. Whilst non mineral development within a mineral safeguarding area would not normally be permitted according to paragraph 144 (DCLG NPPF 2012), where it is deemed appropriate by the local planning authority, the NPPF encourages

the prior extraction of the mineral, “where practical and environmentally feasible”, which would avoid its unnecessary sterilisation (DCLG NPPF 2012: paragraph 143).

The NPPF expects development plans to set out criteria within local policies to enable the determination of individual planning applications for mineral extraction. This predominantly relates to socio-environmental impacts associated with mineral extraction and also the restoration and aftercare following the completion of the extraction.

3.9.1 Key organisations

In England, minerals planning is a strategic matter because legislation has defined it as a ‘county matter’ (Schedule 1, Town and Country Planning Act 1990 and The Town and Country Planning (Prescription of County Matters) (England) Regulations 2003)). As the name suggests it is the responsibility of the county councils in two-tier areas or a unitary council, normally within a dedicated team. Accordingly, it is referred to as a ‘mineral planning authority’ (MPA) because it is the body with specific responsibilities for all aspects of mineral planning: namely the local policy process through the development plan and also the determination of individual planning applications for mineral development (Sch 1, TCPA 1990).

As at 2015 there were 83 MPAs in England which are divided into 56 unitary authorities (including London Boroughs) and 27 shire counties (these cover 201 districts) (ONS, 2015). The non-mineral development planning proposals are determined by the district council or the equivalent part of the unitary council (DCLG PPG 2014: paragraph 010). Due to the ongoing reforms in Local Government the number of MPS continues to change.

The Ministry of Housing, Communities and Local Government (MHCLG) is currently responsible for all aspects of the planning system. It determines the policy direction, monitors progress on development plans and planning applications. It has the legislative power to intervene in development plan, either to prevent a plan being adopted or if sufficient and timely progress is

not being made by the planning authority. It can also 'call in' planning applications to determine directly where necessary and in accordance with its own 'call in' policy.

The British Geological Survey (BGS) is a source of geological information on minerals including some coal. The Coal Authority also holds information on coal resources and past coal mining activity across England, Scotland and Wales.

There are industry trade associations, such as the Mineral Products Association and the Confederation of UK Coal Producers, whom provide a constituted body for individual mineral companies to pay a membership fee to represent the industry as a collective group.

The environmental and charitable sector have an interest in minerals planning; either from a position of objecting to minerals policies and proposals, for example Campaign for the Protection of Rural England (CPRE), Friends of the Earth (FoE) or seeking to take advantage of the opportunities that former minerals sites can deliver, such as nature reserves for the Local Wildlife Trusts and Royal Society for the Protection of Birds (RSPB).

3.10 Mineral safeguarding policy

This sub-section traces and examines the history and evolution of mineral safeguarding policy which has its origins in the 1980s.

3.10.1 *The 1980s - Early indications of safeguarding*

As identified earlier the emergence of the first generation of MPGs led to the new style of policy and guidance for minerals. MPG1 on 'general considerations' was published in January 1988). The policy emphasis contained within MPG1 was centred around meeting demand for minerals and thereby ensuring continuity of supply. Paragraph 31 set out the objective "to prevent the unnecessary sterilisation of mineral resources." At this stage there was no further guidance on how this would be implemented in either

development plan making or within decision making on individual proposals. It therefore represents a 'seed' of an idea which was to evolve within the next version of MPG1.

MPG1 (1988) stated that "as mineral resources are finite; care must be taken to safeguard those deposits which are of economic importance against other types of development which would sterilise the deposits or be a serious hindrance to their extraction." The guidance suggested that a "generally applicable Structure Plan or UDP policy or preferably, by more specific policies for areas where protection is seen to be paramount." For plan making during this period, this wording would suggest that it would more than likely have been a general aim. Its effective use in practice would have been difficult in the absence of any clear basis in national guidance as to how the concept was supposed to be implemented.

Interestingly, MPG1 (1988) indicates that "in formulating safeguarding policies, clear distinction should be made between areas to be safeguarded for the future and areas within which there will be a presumption in favour of mineral working within the lifetime of the plan as the two types of area will not necessarily overlap." This could have suggested that plan makers were being asked to define areas where minerals would be protected for their own sake, chosen by criteria only known to the plan makers and not from this national guidance, and contrasted with what we understand today as being Areas of Search (DoE MPG1, 1988).

3.10.2 *The 1990s - Emergence of minerals safeguarding*

The second version of MPG1 was published in June 1996, some seven and half years later and had to therefore reflect the legislative changes in planning and the emerging sustainable development agenda which during this decade began to influence policy making (DoE MPG1, 1996).

The White Paper "This Common Inheritance" (HM Government, 1990) set out the government's approach to environmental matters which would cut across a range of government policy areas including planning and minerals. It

suggested that economic growth had to be combined with environmental protection to work towards 'sustainable' development. The concept of sustainable development has dominated the environmental agenda in the 1990s and has been embraced by governments at all levels, most notably since the 1992 Earth Summit in Rio. There are many interpretations of the term and as such it makes implementation more challenging. However, it is acknowledged it is a goal. The White Paper, "Sustainable Development: The UK Strategy" therefore aimed to set out some of the principles and it was clear that the government intended that 'sustainable development' should guide future policy making (HM Government, 1990).

MPG1 was divided into three sections and accompanied by six annexes. Following the introduction (section A) and the development plan and minerals section (section B), the third section was entitled 'policy considerations for minerals planning' and contained a range of matters. Section C contained a paragraph which presented six objectives for sustainable interpretation of sustainable development in a minerals context (DoE MPG 1 1996: paragraph 35).

The first objective stated "to conserve minerals as far as possible, whilst ensuring an adequate supply to meet needs" (DoE MPG1, 1996: paragraph 35(i)). This was a positive statement as it indicated that there was a dual purpose for minerals planning, one which recognised the need for managing resources whilst still ensuring a supply. It implies a more managed approach to supply the market demands. This was a noticeable shift to a more balanced approach from the previous version in MPG1 (1988).

Three of the objectives, (ii), (iii) and (iv), were related to mineral operations, including minimising environmental impacts, such as waste, encouraging sensitive working restoration and aftercare. The fifth objective sought the protection of designated landscapes and nature conservation.

The final objective, (vi) stated "to prevent the unnecessary sterilisation of mineral resources" (DoE MPG1, 1996: paragraph 35 (vi)). This was a clear statement that the government considered that where it could be avoided,

minerals should not be sterilised. The concept of mineral sterilisation became a key part of the safeguarding process.

Paragraphs 36-39 for the first time offered specific guidance on 'safeguarding'. This was the first time the term 'safeguarding' had been explicitly used. Paragraph 36 identified that "the planning system has an important role to play in safeguarding deposits which are, or may become, of economic importance from unnecessary sterilisation by surface development." (DoE MPG1, 1996: paragraph 36).

It was therefore clear that safeguarding at this time was to ensure future access to the minerals would not be prevented by non-mineral development.

An important point in the context of this research was that MPG1 envisaged mineral safeguarding to be used for non-energy minerals (paragraph 36). This is of significance to this research because given that MPG1 was the keynote policy guidance for minerals it would lead MPAs to exclude energy minerals from the concept of safeguarding.

There are two interesting issues with this guidance, firstly it excludes energy minerals. For oil, gas and coal the control mechanism was by Central Government as it largely remains today, rather than MPAs. In relation to coal, until around 1984 the Secretary of State for Energy, rather than the MPA granted consent for coal workings. The MPAs were therefore consultees to proposals rather than the decision makers. This approach led to the impression to plan makers that energy minerals were to be largely outside of the mainstream planning system.

The coal industry was nationalised in 1947 and the National Coal Board (NCB) was established. In 1987 the industry was part privatised and a new body, the British Coal Corporation (generally referred to as British Coal) was established. Until October 1984 the industry was regulated by Central Government and applications for coal working were submitted to the Secretary of State with responsibility for energy matters and therefore an equivalent of the modern Development Consent was given. From around

October 1984, British Coal had to submit planning applications to the MPA for coal working proposals (Senior, 1996).

As identified earlier, coal was one of the few minerals for which the government produced mineral specific policy guidance. The suggested exclusion of energy minerals from any safeguarding requirements is perhaps explained by paragraph 4 of MPG3 which indicated that it was not for the planning system to intervene in a market for energy supply and set any form of limit or supply requirements, "it is for individual operators to determine the level of output they wish to aim for in the light of market conditions, and for MPAs to determine the acceptability of individual projects in accordance with the principles of the land use planning system" (DETR MPG3, 1999: paragraph 4).

However, paragraph 12 of MPG3 did indicate that "development plan policies should ensure that provision for other development does not unnecessarily sterilise coal resources, nor allow development to encroach on existing mineral operations and thus increase the level of environmental impact to an unacceptable level" (DETR MPG3, 1999: paragraph 12). Therefore, for the principle of safeguarding of coal resources, the national policy position was not as clear as it could be and was effectively separated from the main considerations for mineral planning.

MPG1 did establish the mechanism of 'mineral consultation areas' (MCAs) which were to be defined by the mineral planning authorities and issued to their local planning authorities and incorporated into the Mineral Local Plans. The MCAs were clearly a specific consultation mechanism for the two-tier areas of counties and districts in respect of minerals. This was a practical approach whereby the local district planning authorities determining non-mineral development proposals within the defined MCAs would consult the relevant county MPA to obtain a response regarding the potential impact on the mineral resources underneath the proposed development (DoE MPG1, 1996: paragraphs 36-37).

The provision for County Councils, as the MPA within the shire areas, to designate MCAs was established by the Local Government, Planning and Land Act 1980, Section 86(2)(c)⁴ which considerably predated the MPG1 revision in 1996. In practice at the time this was done through the provision by the County Council to the District Council of A1 sized plotting sheets which illustrated the geological extent of mineral deposits. The MCA was designed as a development control tool rather than a policy tool. Where non-mineral development proposals were to be located within the MCAs formal consultation was required with the County Council on the planning application. However, this consultation rarely happened or was inconsistently applied in practice (LCC Minerals Planning Officer, 2014).

MPG1 1996, Annex A, Paragraph A1 indicates that there was an assumption that the Unitary Councils⁵, as a single tier body, should not need such a mechanism. In Annex A there was a reference to the concept of safeguarding within Unitary Council areas by "the issue of safeguarding mineral resources is nonetheless as important in the metropolitan areas as it is in the shire areas. Safeguarding may be particularly important where there is residential or other development pressure on mineral-bearing land at the edge of built-up areas." (DoE MPG1 1996: Annex A, paragraph A1).

Whilst the MCAs were not seen as necessary in Unitary Councils, it would have still been a useful internal consultation tool given the wide range of duties both within planning and other services within the Unitary Councils. This illustrates that whilst the single tier planning authority had advantages in administrative arrangements because they were a single organisation, there was no guarantee that the concept of conservation of mineral resources was consistently considered.

⁴ Section 86 Distribution of Planning Functions between Planning Authorities (2) power of the county planning authority to give directions as to the determination of the planning application where it appears to the authority that any proposals within the application would substantially and adversely affect their interests as local planning authority....(c) of any development of land in an area which the county planning authority have notified to the district planning authority, in writing, as an area in which development is likely to affect or be affected by the winning and working of minerals, other than coal.

⁵ The Local Government reorganisation of 1992 abolished the former Metropolitan County Councils and they were divided into Unitary Councils.

Where proposed development would be likely to sterilise the mineral, paragraph 38 “encouraged the extraction of minerals before other more permanent forms of development takes place.” (DoE MPG1, 1996: paragraph 38). This established the concept of ‘prior extraction.’

3.10.3 *The 2000s - Establishment of minerals safeguarding*

The third version of the keynote mineral policy guidance was published in November 2006 and was in the new format of a Mineral Policy Statement (MPS1) entitled ‘Planning and Minerals’ (DCLG MPS 1, 2006).

The presentation of planning policy

The publication of MPS1 in 2006 was part of the change from planning guidance to planning policy and was influenced by activity occurring within the wider planning arena. This included the 2001 Green Paper, Planning – Delivering a Fundamental Change, which illustrated a change in Government thinking (DTLR, 2001). In July 2002 in the Policy Statement ‘Sustainable Communities: Delivering through Planning’, the government confirm its intentions to proceed with the proposals for review and reform of all Planning Policy Guidance (PPGs) and Mineral Planning Guidance (MPGs) into new Planning Policy Statements (PPS) and Minerals Policy Statements (MPS). MPG1 was identified as the first for revision in the series of 15 MPG notes (ODPM, 2002).

Consultation on draft MPS1

In November 2004, the Office of the Deputy Prime Minister, which was the government department at the time with the responsibility for planning, published a consultation paper for the new style Mineral Policy Statement 1. This was designed to replace MPG1 (1996). There was limited interest in the consultation paper with only 142 responses submitted, the majority were from mineral planning authorities and the various industry representatives (DCLG, 2006a).

In relation to the topic of safeguarding, the Government's response to the consultation confirmed that "most respondents recognised the importance of safeguarding valuable resources from development, which could sterilise their future extraction, but a number thought the advice given was unclear or did not go far enough." (DCLG MPS1, 2006a: paragraph 13).

It is not surprising that the minerals industry wanted all mineral resources to be safeguarded and for mineral consultation areas to be included in all development plans. This would enable certainty for the minerals industry. This was also accompanied by suggestions that mineral planning authorities should have the power to direct refusal of planning permission for alternative non-mineral development, if this was considered necessary to safeguard minerals.

The only aspect which the Government was not intending to incorporate into the new MPS 1 was in relation to the power of direction for mineral planning authorities. The Government response stated that it was "not considered necessary....although the Department for Communities and Local Government (DCLG) will continue to monitor the situation" (DCLG, 2006a: paragraph 13).

Finalised MPS1

During this period of change in style and format for national policy the overall volume of material was incrementally expanding. This was the same for MPS1 which had expanded from 14 pages (excluding the information in the annexes) in MPG1 (1996) to 35 pages of policy, which was divided into 11 pages of general policy and then 4 annexes with additional sector specific policy. MPS1 was also accompanied by practice guidance providing a further 40 pages of material. The national objectives for minerals had also doubled from 6 in MPG1 (1996) to a total of 12 in MPS1 (2006).

The finalised Minerals Policy Statement 1 (2006) followed much of the same themes and objectives that were contained in MPG1 (1996) and illustrated the evolution of policy. Paragraph 5 clearly articulated that the minerals

policies were to be taken into account in both Development Plan making and as a material planning consideration to decisions on individual planning applications. This became a standard feature of all of the PPS and MPS series. MPS1 (2006) also saw the separation of the policy from the practice guidance and the MPS was accompanied by the publication of 'Planning and Minerals Practice Guide' (DCLG, 2006b).

Finalised MPS1 - Objectives

MPS1 (2006), paragraph 9 generally sets out the objectives in a more headline style with bullet points. It did enable a greater degree of clarity, for example it separates out the need to conserve minerals from the issue of supply. However, the increase in the number of objectives could also be argued to have illustrated the complexity of potentially competing and conflicting requirements which is a characteristic of minerals planning.

There were completely new policy objectives covering environmental impact; to maximise the benefits and minimise the impacts of mineral operations over their full life cycle; sustainable transport of minerals; and to secure close integration of minerals policy with sustainable construction and waste management. The need to ensure that high quality materials were retained for their explicit purpose was separated out from the objective in relation to minerals waste.

For mineral safeguarding the objective read "to safeguard mineral resources as far as possible" and therefore represented a retention but no change to that which was stated in the previous version of MPG1 (DoE MPG1, 1996: paragraph 35).

However, the order of objectives was interesting. Mineral safeguarding was previously the sixth and last objective in MPG1 (1996). However, despite not being changed, it had been moved up the list of objectives to be presented as the third objective, coming after the sustainable use of minerals and the conservation of mineral resources. Interestingly the objectives in relation to supply had moved further down the list. The most fundamental change took

place within the objective relating to mineral supply where this has had to be subject to the limits set by the environment. As such it suggested that the relationship with the environment was changing.

The objectives as a whole contained within MPS1 were clearer and easier to understand, they would be seen by many to achieve a greater balance between the economic, social and environmental strands of sustainable development. This was clearly intended to be case as paragraph 8 highlights that the precursor to the objectives arises from the Government's UK Strategy for Sustainable Development, 'Securing the Future' which was published in March 2005 (Defra, 2005).

The wider objectives for minerals planning remained broadly the same, but with a shift in each towards more sustainable resource management through the use of safeguarding areas. This was in line with the requirement established in the Planning and Compulsory Purchase Act 2004, section 39, that planning has a duty to deliver sustainable development (Planning and Compulsory Purchase Act, 2004).

Finalised MPS1 – Mineral Safeguarding

The concept of mineral safeguarding was described in more detail in paragraph 13 of MPS1 in 2006. This therefore for the first time provided the opportunity to effectively set out the overall policy framework for what safeguarding actually meant. It also set out more about how the process of mineral safeguarding would be undertaken in development plan making (DCLG MPS1, 2006).

This can be summarised as follows:

- Defining and illustrating Mineral Safeguarding Areas (MSA) in Development Plans in both unitary and two-tier areas;
- In two-tier areas, also defining and illustrating Mineral Consultation Areas (MCA) based on the MSAs in which the District Council should consult the County Councils on all applications for development;

- Set out policies to encourage the prior extraction of minerals where feasible ahead of non-mineral development within the MSA;
- Not allocate land for other non-mineral uses in the MSA without considering the impact this would have on safeguarding the mineral resource; and
- Safeguard mineral related infrastructure, such railheads and wharves from loss.

Greater visibility for mineral safeguarding areas?

The definition and illustration in development plans therefore represented a subtle change. All LPAs had a greater role in safeguarding minerals.

Whilst it is acknowledged that the county (and equivalent part of the unitary council) defined the MSA in their part of the development plan (Minerals Local Plan or equivalent) and that all decisions are taken in accordance with the development plan as a whole. This did not necessarily mean that all parts of the development plan were considered when determining a planning application which did not involve any proposals for mineral extraction.

This subtle, but important change, in the presentation of the MSA would potentially give greater visibility and awareness of the minerals. This meant that the district planning authority (and equivalent part of the unitary council) were now potentially more involved in the process of ensuring minerals were not unnecessarily sterilised.

Lines on a map?

As a broad concept, safeguarding has to be detached from decisions in relation to the likelihood or not of planning permission being granted for mineral extraction. In general terms users of plans would naturally tend to see lines on a map in a Development Plan as meaning one of two things; either as a proposal where something is intended to occur, or alternatively as a designation which aims to prevent development taking place. For example, a site allocated for housing is easily understood as being where new housing

will be built and conversely a site designated for its nature conservation value is easily understood as being seen as constraint to prevent new development taking place.

The designation of an MSA does not imply that mineral extraction will in fact ever take place, nor is it seeking to prevent development in the same way as other designations. National policy makes it clear that the designation of the MSA is to alert people to the existence of valuable mineral resources. Then in terms of looking to avoid the needless sterilisation of those resources, determining whether either the mineral can be extracted prior to the non-mineral development taking place or that the non-mineral development should be allowed to occur irrespective of the presence of the mineral resource and therefore allowing the sterilisation of the resource.

The designation therefore has the potential to cause some confusion. The designation of a Mineral Safeguarding Area does not definitively say 'yes' or 'no' to proposals in quite the same way as other designations and notations in the Development Plan do. Its operation as an alert mechanism which then requires further steps in implementation could easily lead to its misinterpretation.

For example, it could be easy to think that the Mineral Safeguarding Area is effectively meant to be the area in which mineral extraction will take place in the future. As a planning tool it is therefore somewhat unique in its theoretical concept.

What minerals should be safeguarded?

MPS1 (2006) limits the mineral resources that need to be within Mineral Safeguarding Areas to those that are "proven resources" (DCLG MPS1, 2006: paragraph 13). This presents a slightly different approach to that taken by MPG1 (1988) which indicated that "care must be taken to safeguard those deposits which are of economic importance against other types of development which would sterilise the deposits or be a serious hindrance to their extraction" (DoE MPG1, 1988: paragraph 31). This continued in revised

MPG1 (1996) which continued to focus on “safeguarding deposits which are, or may be come of economic importance from unnecessary sterilisation by surface development” (DoE MPG1, 1996: paragraph 36).

MPS1 (2006) has apparently therefore dropped any need for the resources to be of economic importance, instead it just requires them to be proven. In simple terms proven resources are generally taken to mean those that have been identified as likely to exist on the basis of geological mapping. It does not mean resources which are absolutely guaranteed to be present as a consequence of borehole drilling or similar intrusive investigations since economically that form of investigation can only be realistically be undertaken in small areas when commercial operators are considering submitting a planning application.

MPS1 (2006) was accompanied by a Minerals and Planning: Practice Guide, published separately as explained earlier as a consequence of the overall decision to split policy from practice advice (DCLG, 2006b).

Interestingly, paragraph 32 of the Practice Guide conflicts with the policy content in MPS1. The wording in the Practice Guide returns to focus on minerals of economic importance, it states “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 development.” (DCLG, 2006b). Whereas MPS1 (2006) therefore appears to only have one test to be met, i.e. that the resource is proven; the Practice Guide contains a second test, i.e. that the resource is of economic importance in addition to being proven.

This lack of clarity did not help the implementation of the concept of safeguarding. Decision makers can often see areas that lack clarity as being issues which perhaps are too difficult to address quickly and as such, they move on to other planning topics.

The second potential test of economic importance now or in the foreseeable future is also difficult to determine in practice in any event. Whilst some

minerals such as high purity limestone for industrial purposes is likely to be of continued economic importance, other minerals such as limestone or shale for cement use is more influenced by the normal economic cycles for construction. In terms of energy minerals making an economic assessment is even more complicated by the dynamic international nature of the energy market and the uncertainties associated with future energy requirements, for example the price of oil, gas and coal from five years ago let alone ten years ago bears no resemblance to the current price and the same volatility will apply throughout the foreseeable future.

In practical terms therefore although there was a discrepancy between MPS1 and its Practice Guide, MPAs might have found it difficult to account of potentially rapidly changing economic considerations. It could have also been viewed as intervening in the market processes. Consequently, it would have been easier to define the MSA based on proven resources.

The economic consideration has generally only been brought in to distinguish mineral resources where scarcity applies such that their value to the nation or international markets sets them apart from the more mainstream mineral resources. Until the publication of the NPPF in 2012, nowhere in any national document did the government set out any list of minerals which may be of national importance.

Indeed, when requested by MPA in the past to make a determination as to whether a mineral is of national importance the government declined to do so. For example, during the 2000s the Peak District National Park Authority has fought a succession of court cases relating to Fluorspar to both the House of Lords (as it was at the time) and the European Court levels.⁶ These have followed appeal cases where the National Park Authority has pressed the Secretary of State to recover the appeals for his own determination in order to make a ruling on whether a national need for Fluorspar does or does not exist. Whilst the appeals were recovered the Secretary of State was not

⁶ *R. (on the application of Bleaklow Industries Ltd) v Secretary of State for Communities and Local Government* [2008] EWHC 606 (Admin); to Court of Appeal and the House of Lords in 2009, before the European Court of Human Rights in 2011.

drawn to make such a conclusion on need (Peak District National Park Authority, 2011).

In theoretical terms it could be argued that the whole of the British Isles contains mineral resources which are proven in the terms envisaged in MPS1 (2006). On that basis it would be feasible to define a single MSA covering England, Scotland and Wales. It may be suggested that the need to define MSAs at a local level is unnecessary, if it is simply going to be based on the whole of the local authority administrative boundary. This implies that there may be envisaged a need for only some parts of the local authority area to be defined as an MSA. However, it is not normal practice for the Government to define planning notations as planning is a topic which is effectively delegated to the local authority level. Even if a national designation was devised it would still need to be implemented by the Local Authorities on a day-to-day basis through their development management function in any event. It could be said that there is nothing wrong with the entire British Isles being effectively covered by a series of MSAs.

As with many planning issues it is the role of national policy to set out broad concepts and it is then for the Local Authorities, as the LPA, to determine how these broad concepts should be applied having regard to the particular characteristics of their area.

In general terms the British Isles and England in particular is highly urbanised such that the cities, towns and villages already effectively sterilise a significant proportion of the overall mineral resource. For example, a study carried out by the British Geological Survey for The Coal Authority identified that in Wales some 50% of the surface coal resource is already sterilised by the urban areas (BGS 2009). The definition of urban areas in that study involved any settlement of 10 or more dwellings. The proportion of mineral resources which are currently sterilised will vary significantly between types, for example there was historically a close correlation between coal and the industrial revolution which means that many of the major conurbations of the British Isles sit firmly in the areas of coal resource.

By comparison most of the upland parts of the British Isles are comprised of hard rock such as limestone or sandstone which has not been sterilised to the same extent because in general terms the upland parts of the country are National Parks and Areas of Outstanding Natural Beauty where development is restricted. This potential availability of the different mineral types does in practice mean that LPAs often take a different view to the need to safeguarding between the mineral types.

For example, Derbyshire needs to consider whether it should safeguard the limestone resource when it already has a permitted supply (with planning permission) which will last almost 100 years (Derbyshire County Council, 2011). For Derbyshire County Council to safeguard all of the limestone resource that they have would probably equate to thousands of years potential supply. As such it may not be prudent for them to view the necessity for safeguarding limestone in the same way as they may wish to safeguard some vein minerals which are generally less widespread.

Further implementation guidance in 2007 and 2011

Arising from the consultation responses to the draft MPS1, the government had taken note that a number of responses “thought the advice given [on safeguarding] was unclear or did not go far enough” (DCLG, 2006a: paragraph 13). Accordingly, it commissioned the British Geological Survey (BGS) to prepare a specific practice guidance document on mineral safeguarding to assist practitioners.

‘The Guide to Mineral Safeguarding in England’ was published in October 2007 and was to be the first edition of specialist practice guidance (McEvoy, et al, 2007). A further commission for the BGS to write the second version to expand and replace the first version with work beginning in 2009, concluding in April 2010 (prior to the general election) and finally approved by DCLG for publication in 2011. Version 2 of The Guide to Mineral Safeguarding in England prepared by Wrighton, McEvoy, and Bust in 2010 was published September 2011 and currently remains the only source of practice guidance on mineral safeguarding.

It is also important to note that the second and still current version of the 'Mineral Safeguarding in England: Good Practice Advice' produced by the British Geological Survey and The Coal Authority in September 2011 takes around forty-six pages to explain in detail how the theoretical concept of mineral safeguarding needs to be applied in practice through the Development Plan system and then implemented through the development management process (Wrighton, McEvoy and Bust, 2011).

Whilst a commissioned practice guide is not government policy, it does provide the only source of specific and technical advice on how to implement government policy on minerals safeguarding. It therefore presented further detail on how to take a single national objective and incorporate it into local plan making and how to implement the principle of safeguarding in day-to-day decision making on planning applications.

This helps to illustrate the complexity of the concept and the need for even more detailed advice to have been produced only five years since MPS1 came into effect and four years since the first Practice Guide was published.

The minerals policy context during this research period of 2010-2015

As part of the planning reforms being sought by the Coalition Government following their election in May 2010, the Green Paper, Open Source Planning, set out planning changes which included the move from an overall series of national planning policy statements and mineral policy statements to a single unified National Planning Policy Framework (Conservative Party, 2010).

This was intended to see over 1,000 pages of policy content to be abolished and be replaced by a more succinct 50-page document providing only policy and no practice guidance in a more headline objective led approach. Consultation on the Draft NPPF took place during 2011 and was widely criticised in particular by the environmental lobby and it was vehemently objected to by influential groups including the Campaign for the Protection of Rural England and the National Trust (Planning Magazine, 2011).

The NPPF was published on 27 March 2012 and replaced all of the policy content from the MPG and MPS series. However, where some of the MPGs contained technical guidance as opposed to policy, these were initially retained in the Technical Guidance document which accompanied the NPPF. However, it was subsequently absorbed into the on-line Planning Practice Guidance in 2014.

In relation to the issue of mineral safeguarding, MPS1 (2006) has been replaced in its entirety with the NPPF (2012). Minerals policy within the NPPF paragraph 142 makes it clear that minerals are a finite natural resource and “it is important to make best use of them to secure their long-term conservation.” (DCLG NPPF, 2012: paragraph 142).

The NPPF then went on to set out what mineral policy topics Local Plans should address; it does this by identifying eight issues that Local Plans need to cover. In general terms these are iterations of the objectives that were previously set out in MPS1 (2006). No new objectives or issues are defined; however, the NPPF presents them in a more thematic style.

In relation to mineral safeguarding, it made it clear that Local Plans (a subtle shift back to Local Plans and away from their former format of Local Development Frameworks) should define Mineral Safeguarding Areas and include policies to ensure that minerals are not needlessly sterilised by non-mineral development.

It further required that Mineral Consultation Areas also need to be defined based on these MSAs. This now appeared to be necessary, not just in the two-tier areas, but also in the Unitary Authority areas. This introduced a partial change which could lead to the potential duplication of designations.

The NPPF made it clear that safeguarding should apply to “mineral resources of local and national importance” (DCLG NPPF, 2012: paragraph 143). The NPPF then defined minerals of local and national importance as “minerals which are necessary to meet society’s needs, including aggregates, brick clay (especially Etruria mill and fireclay), silica sand (including high grade silica

sands), cement raw materials, gypsum, salt, fluorspar, shallow and deep mined coal, oil and gas (including hydrocarbons, tungsten, kaolin, ball clay, potash, and local minerals of important to heritage assets and local distinctiveness" (DCLG NPPF 2012: Annex 2).

A second bullet point requiring Local Plans to include policies to encourage the prior extraction of minerals where practicable if non-mineral development occurs. Therefore, a quarter of the headline mineral policy areas for Local Plans within the NPPF became focussed on mineral safeguarding. This could demonstrate a greater emphasis on the need for safeguarding minerals.

There were nine further points for both MPAs and LPAs to take into account when determining planning applications. This included a requirement to "not normally permit other development proposals in Mineral Safeguarding Areas where they might constrain potential future use for these purposes." This aims to complement mineral safeguarding as a policy aim by clearly requiring it to be specifically considered within implementation as well (DCLG NPPF 2012: paragraph 144).

The NPPF introduced two mineral specific changes which altered the thrust of policy that had been in place for several decades. Firstly, in the spirit of localism, it introduced a requirement for MPAs to prepare an Annual Local Aggregate Assessment which is lieu of the historic Managed Aggregates Supply system which set out aggregate apportionment from a national level downwards (DCLG NPPF 2012, paragraph 145). The second long-standing policy area that disappeared was the headline presumption against new coal proposals; and as such it left new coal proposals to be determined in the same manner as other forms of mineral related development, i.e. against policy criteria (DCLG NPPF 2012: paragraph 149).

Transitional arrangements were set out which indicated that Development Plans should be reviewed to see whether they are consistent with the policies contained in the NPPF and that, if necessary, plans should be revised. If conflict was found, there was only a twelve-month period during which decision makers could still give full weight to the Development Plan policy

(DCLG NPPF 2012: annex 1). After this twelve-month period the weight that can be attached to the policies in the Development Plan was based on their degree of consistency with the NPPF, i.e. “the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given” (DCLG NPPF 2012: paragraph 215).

It could be argued that there is a lack of strong central support for minerals planning beyond the policy stated in the NPPF because of the outcomes of individual decisions made on planning applications for non-mineral development. It has been suggested that there are some planning decisions, particularly those determined by Planning Inspectors on appeal, which seem to be ruling that housing delivery takes priority over mineral-safeguarding concerns particularly where there is an absence of a five-year housing-land supply, even though, in the case of construction minerals, it is leading to the sterilisation of the very material required to build houses. These decisions serve to marginalise minerals planning (Dash and Harris, 2017).

3.11 Structure, agency and policy implementation

The purpose of this chapter so far has been to introduce the planning system and illustrate the context for minerals planning. It has set out the institutional, regulatory and legal frameworks for the planning system together with a specific focus on the minerals planning sector. There has also been a reflection upon how these frameworks have changed over time together. The central topic in this research is the national policy requirement of the safeguarding of coal resources. As such the evolution of the national planning policy requirement for safeguarding minerals, including coal has been explored. It was established in chapter two that coal can be regarded as a controversial mineral, partly in environmental terms for its contribution, as a fossil fuel, to the process of climate change, but also arising from its role in the socio-economic history of Great Britain and its geographical concentration in some parts of the country. As such there are some distinctive politics for coal safeguarding. Different opinions and perspectives often generate conflict and for the land use planning system which has to manage

land in the public interest, there will always be opportunities for conflict (Cullingworth and Nadin, 2006).

This sub-section considers the literature relating to policy implementation. That literature is important because the thesis examines how a national policy requirement set by central government to safeguard coal is interpreted and the roles of different actors in shaping how the policy is implemented. The research includes multi-level and multi-agency interactions in relation to a particular planning policy topic. The theoretical framework will therefore enable the research to effectively explore the role, meaning and effectiveness of safeguarding policy.

The policy process

Richards and Smith (2015) define the word 'policy' as a 'general term used to describe a formal decision or plan of action adopted by an actor, be it an individual, organisation, business, government, etc., in order to achieve a particular goal'. It can also be used in a more general sense, "to cover value commitments, strategic objectives and operational instruments, and structures at national, regional, local and institutional levels" (Finlay et al., 2007: 139). Public policy is a more specific term applied to a formal decision or a plan of action that has been taken by, or has involved, a state organisation (Richards and Smith, 2015). As such it can be defined as "a system of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives" (Kilpatrick, 2000:2). In the simplest form it is "a choice made by government to undertake some course of action" (Howlett and Ramesh, 1995:5).

The classic example of government policy making is presented in a White Paper or similar document which sets out the government's intended approach to an issue or topic. For example, the Modernising Government White Paper of 1999 explained that the civil service's own definition and work in policy making is the process by which governments translate their political vision into programmes and actions to deliver outcomes, desired changes in

the real world (Cabinet Office, 1999). These definitions of 'policy' and 'making policy' are useful in the context of this research.

Public policy is therefore how we describe the framework for governments and their agencies to operate which can control and regulate but also facilitate and manage the interests for the public good and society as a whole. The study of public policy wide ranging and complicated, and set within an equally complicated landscape (Schlager, 1997). Hill and Hupe (2006) consider that the contemporary policy process should be reframed beyond what has previously been described as 'the stages model' which has been commonly used to study the policy process. It should be re-defined according to its characteristics as to divide the process into linear stages can over simplify subsequent analysis and it will fail to recognise the richness that an evaluation of how the characteristics interact and influence the outcome. Sabatier (1999) suggests that the policy process involves multiple actors, each of whom will have different interests, values, perceptions and policy preferences. The policy process takes time to evolve and become established, Sabatier suggests that it should be at least a decade. This time span is perhaps interesting because there is political influence in the direction of policies and given that the short-term length of a parliamentary term, it can often mean that some policies might not be in place for sufficient time to yield results and the changes envisaged. The policy process overall normally involves multiple layers of government. These characteristics of multiple actors and multiple layers of government, with a technical debate, a political dimension whereby political power can influence the direction of policies over a long period of time, are all highly relevant to this research.

For the planning system, which seeks to manage land use in the public interest, is an example of public policy and is set out in the National Planning Policy Framework (DCLG NPPF, 2012). In effect it is a 'rule setting' process (Calvert, McCubbins and Weingast, 1989) which is based upon the principle that the rules will be followed. The control exercised by the policy makers depends upon the topic and the ideologies of the political party forming the government at the time. Whilst there will always be a perception that there

is total control exercised through policy, this is naïve, notwithstanding a wide range of management tools which can be used to justify and monitor a policy in practice according to Rivlin, 1971; Self, 1975; Stokey and Zeckhauser, 1978. This centralised approach does not always lead to the expected results as Galanter (1974) notes, just because some rule features in a statute book there needs to be someone to enforce and implement, otherwise it will lead to disappointment. This point may be particularly relevant in this topic of research whereby coal resources and minerals planning are viewed as a specialism of planning. Policies need to be implemented and brought to life through practice and this is where this research is situated.

Theorising policy implementation

The literature on policy implementation contains a range of definitions of implementation. Pressman and Wildavsky (1973:xiii-xv) refer to policies becoming programmes and the implementation is the causal chain which leads to outcomes. This was refined by Van Meter and Van Horn (1975: 447-8) to a definition which suggested that "policy implementation encompasses those actions by public or private individuals (or groups) that are directed at the achievement of objectives set forth in prior policy decisions."

Policy implementation was mostly clearly defined by Mazmanian and Sabatier (1983:20-21) by stating that "Implementation is the carrying out of a basic policy decision, usually incorporated in a statute but which can take the form of executive orders or court decisions. Ideally, that decision identified the problems(s) to be addressed, stipulates the objectives(s) to be pursued and in a variety of ways, 'structures' the implementation process." Perhaps the most succinct definition was presented by Rein and Rabinovitz (1978: 308) who suggest that implementation is "the point at which intent gets translated into action." More recently, it has been recognised that implementation is more of a "*process*, a series of decisions and actions directed toward putting an already decided...mandate into effect" (Goggin, Bowman, Lester and O'Toole, 1990:34). Collectively what we can draw from these variations on a theme is that there is a need to take some action to bring a policy alive and

therefore deliver change and/or protection. As such policy implementation research explores the relationship between the expression of an intention and the actual outcome (O'Toole, 2000).

For this research, the national planning policy requirement to safeguard coal resources which affects a significant geographical area of England and encompasses a considerable number of individual planning authorities. The seemingly obvious need for policy makers to understand whether their policies achieve the outcomes they envisaged has not always been the case according to the literature on policy implementation.

Since the 1970s there has been a wide range of literature produced on policy implementation. However, even to this day there remains an absence of a universally agreed policy implementation theory (Hargrove, 1975; Palumbo and Harder, 1981; Mazmanian and Sabatier, 1981; Alexander, 1982; O'Toole, 1986; Lester et al, 1987; Goggin et al, 1990). Moreover, O'Toole (1986:185) undertook a review of approximately 300 published studies of policy implementation and found that "researchers do not agree on the outlines of a theory of implementation not even on the variables crucial to implementation success." This would suggest that this is a discipline which is still searching for the boundaries; particularly in terms of determining when precisely policy implementation begins and ends but also in relation to the factors which can influence the success or not in practice.

The literature on policy implementation over the last 40 years or so does reveal that there are a wide variety of theoretical perspectives which, over time, have helped to formulate a large body of scholarly work under the umbrella of policy implementation. Research into policy implementation has been undertaken from a variety of perspectives, using different methodologies across numerous subject areas (Smith, 1973; Van Meter and Van Horn, 1975; Berman, 1978; Elmore, 1978; Rein and Rabinovitz, 1978; Edwards, 1980; Hjern and Porter, 1981; Hanf, 1982; Hjern and Hull, 1982; Ripley and Franklin, 1982; Mazmanian and Sabatier, 1983; Alexander, 1985; Sabatier, 1986; Linder and Peters, 1987; Goggin et al, 1990; Winter, 2006).

The sheer volume of scholarly work on this topic area does appear to be somewhat overwhelming and “long on description and short on prescription” according to Elmore (1979:601), and as such in practice it is lacking clarity, particularly when it is described by O’Toole (1986:200) as being “riddled with proverbs.” Furthermore, as Lee (2011) and Linton (2002) have identified, although it is now generally accepted that it is necessary to understand the processes of implementation to ensure that the desired and/or expected outcomes are achieved, this still has not led to a clear body of generalised theories which can explain the factors for success. It is therefore clear that there is no single agreed theory for policy implementation because it is complicated by the fact that researchers need to work from different perspectives to provide explanations of their findings (O’Toole and Montjoy, 1984; Winter, 2011). Although scholarly interest in this area has grown, from the literature it would seem that interest ebbs and flows, but it remains on the margins (Robichau and Lynn, 2009; Sabatier, 2007). As such, much greater understanding is required about the nature of the policy implementation processes and the influences upon it; further work in this area would therefore assist policymakers in achieving their intended objectives when formulating future policies and initiatives (Kapsali, 2011).

Although as it has been established there is a large body of scholarly work in the field of policy implementation, it is still possible to identify some of the main contributions and these can also be loosely grouped into three generations (Goggin, 1986). The common theme is that all implementation studies are interested in understanding “what happens between policy expectations and (perceived) policy results” (Ferman 1990: 39).

The first generation of research into policy implementation began in the 1970s whereby despite numerous suggestions that there was already a large body of literature surrounding implementation in social science, Pressman and Wildavsky were “unable to find any significant analytical work dealing with implementation” (Pressman and Wildavsky, 1973:166). This heralded the beginning of policy implementation research which would go on to produce a considerable amount of literature. Prior to this point policy

implementation was not visible as a discipline in its own right but rather it was seen as simply part of the administration system and “assumed to be a series of mundane decisions and interactions unworthy of the attention of scholars” (Meter and Van Horn, 1975:450). As such the first generation of implementation research was effectively exploratory and inductive which led to generalised theories.

In many ways Pressman and Wildavsky can be seen as the pioneers as they set the stage for future interest and research in policy implementation. Their seminal work was based upon a case study in America which examined ‘how great expectations in Washington are dashed in Oakland; or why it’s amazing that federal programs work at all’ (Pressman and Wildavsky, 1973). This case study looked at the failure of economic development policy which was designed to create 3,000 new jobs in inner city Oakland, California which required involvement of numerous actors. Although this case study involved actors who were focussed upon essentially the same goal it could be suggested that there might not be much evidence of conflict between the actors. As such the single focus on a goal should have led to successful implementation of the economic development policy, however, as Pressman and Wildavsky found, it did not lead to success. Pressman and Wildavsky did recognise this in that they acknowledged that slightly different perspectives and priorities between actors could diminish the potential success for the policy.

Another key contributor at this time was Eugene Bardach in 1977 who looked at how conflict between actors, including political actors, would affect policy implementation. His work suggested that there would be ‘games’ played by actors as a means of the individual actors seeking to pursue their own agendas but from beneath the overarching policy topic (Bardach, 1977). The role of conflicting opinions is an important theme in this research as coal can divide opinions and generate conflict when formulating policy.

From the research in the 1970s the literature demonstrates that there were a number of case studies which were producing very similar conclusions,

namely that government policies were being criticised for not delivering the intended or expected outcomes. The second-generation of research into policy implementation theory emerged in the 1980s whereby the focus shifted towards constructing theoretical models which would help frame further empirical research into policy implementation into trying to understand why “the best laid plans...go astray..” (Berman, 1978:158). (Derthick, 1972; Pressman and Wildavsky, 1973; Murphy, 1973; Bardach, 1977; Yin, 1980; Barrett and Fudge, 1981; Alexander, 1982; and Sabatier and Mazmanian, 1983).

Two dominant models emerged within this second-generation period of research into policy implementation theory, known as the ‘top-down’ and ‘bottom up’ models. These models were constructed to enable further research into policy implementation but from two different and opposing starting points. The context remained the need to understand why policies did not deliver the expected or anticipated results. Winter (2006) suggests that the second generation of implementation researchers were more positive and therefore contrasted with the more pessimistic perspective of those within the first generation.

The principal advocates for a top-down approach were Mazmanian and Sabatier (1981) who argued that to examine policy implementation involves a focus upon what the policy set out to achieve and then examining what happened in practice to evaluate the performance and effectiveness of the policy. Whilst they did acknowledge that some policy topics were easier than others to achieve relative success in their outcome it was because an easy causal link can be observed with a relatively obvious response which addresses a small population and geographical area. All of these elements help to increase the chance of success for the originally intended aim of the policy.

In the top-down approach Mazmanian and Sabatier (1981) identified that there were a number of variables which could be organised into three groups: legislation; socio-political context; and the ability of legislation to create a

structure and framework for the implementation process. The top-down approach therefore assumes that in effect the problems in policy implementation can be explored and designed out by reference to these variables.

There are some assumptions made with this approach in that policies are underpinned by or within some form of legislative context and they have clear goals which are capable of implementation (Birkland, 2015). To examine the policy implementation process using the top-down approach involves what Birkland (2015) describes as an 'implementation chain' that begins with the government policy and it is followed through to the achievement of the outcome at the local level. As such the top-down model is based upon administrative hierarchy in that it begins with a government policy, often underpinned by a legislative requirement, and then the government seeks to control the process of implementation by designing and altering structures through which the policy will be delivered and placing the responsibility for implementation within the control of sympathetic or trusted actors (Signe, 2017).

What is interesting about the top-down approach to policy implementation analysis is the actors setting the agenda at central government level, acknowledging their position of privilege and power, assume that the local level actors will simply implement the agenda presented. However, this fails to recognise there are a wide range of actors that may have an interest in the topic and their views could influence, alter, manipulate or perhaps circumvent the central government policy as it is interpreted and implemented at the local level. Furthermore, there may be different actors/organisations involved at different stages of the local policy making process and then also when the local policy is used in the decision-making processes. The relationships between actors will be explored further in the discussion about structure and agency later in this sub-section (Weatherley and Lipsky, 1977; Elmore, 1978; Berman, 1978). Evaluating the success of a policy by reference to the top-down model would therefore focus upon how closely the goal of the government policy would be achieved at the local level

and how the behaviour and actions of the local level actors involved assisted the process. This model emphasises a formal structure and assumes that implementation is a separate stage and process from the policy formulation.

The critics of the top-down model suggested that it is too simplistic, particularly in the democratic western world. It over emphasised the ability of governments to guarantee policy success even when policies are clearly defined, the structures for implementation have been designed and constructed because there will always be a dependency upon local level government bodies according to Hill (2005). Although central government policies could have clear goals and objectives, the top-down approach assumes that there is a consensus and universal agreement about these goals and objectives. As such another criticism of this top-down approach is that it does not allow opponents to alter the structures for implementation (Moe, 1990). Taking this a little further, another criticism is that it ignores the role of politics (Winter, 2006; May, 2003).

The alternative, "bottom up" approach is more focussed upon the local actors in the first instance setting the agenda, formulating objectives, strategies and policies. The bottom-up approach suggests autonomy and freedom for local actors. There is no doubt that those at the local level implementing government policies are key actors or "street level bureaucrats" (Michael Lipsky, 1980).

However, whilst this bottom-up approach might be appropriate for a policy topic which is a response to a localised matter; it would be likely to have limited value for a policy topic that has a strategic or national dimension which requires some degree of consistency across a 'larger than local' geographical area. It could also be argued that the bottom-up approach could lead to some topics not being addressed simply because it was not considered by the 'street level bureaucrats.' Whilst Lipsky (1980) emphasises the discretionary opportunities for the street level bureaucrats in implementing public policies, this discretion is clearly influenced and constrained by the institutional structures and processes which are created by the central government.

Identifying key local actors, typically by using a snowball method of sampling, to examine the relationships between them was originally suggested by Hjern and Hull (1986). It appears to have continued into more recent literature which has focussed upon networks of actors working together around a particular policy problem (Holman, 2008; Linton, 2000; Meek, 2005). Exploring the behaviours and interdependencies of local actors could lead to best practice (Calia et al, 2007); however, it is this further work which has yet to produce some precise results (Kapsali, 2011).

The top-down and bottom-up models have value in approaches to policy implementation research. However, the reality cannot be wholly explained and understood by reference to just either one of these models. It is fair to say that some policy topics, such as those which need to have a national and strategic geographical approach, or are within a relatively constrained legislative framework would be better suited to a top-down approach. By contrast a localised problem could lead to the opportunities for a variety of potential solutions (Sabatier, 1986).

There have been some attempts to synthesise elements of these two diametrically opposed models and this has helped to continue to develop the literature in this field. A middle ground was attempted by Goggin (1990), an 'inductive approach' was proposed by Hjern and Hull (1987) and Sabatier (1986) also set out an 'advocacy coalition framework'.

Elmore (1985) argued that elements of both the top-down and bottom-up approaches have value for policy makers, such that there is 'forward mapping' and 'backward mapping' in that policy makers need to consider all of the tools and options available but also what incentives are there for the street-level bureaucrats. The value in both approaches depends upon the clarity of the goal and the degree of conflict within the topic according to Richard Matland (1995). As such where there is clarity on the goal and there is limited conflict Matland argues that the top-down approach is an appropriate approach for implementation analysis. Similarly, if the policy is ambiguous but there is

limited conflict, the bottom-up approach would be equally appropriate (Matland, 1995).

By the late 1990s the 'integrated implementation model' was presented by Winter (1990; 2003). This moved away from previous attempts to synthesise the top-down and bottom-up models, but more towards a model which would help to evaluate the implementation process as a whole. Although it is referred to as a model, it might be more accurately described as an analysis framework which sets out key factors and mechanisms which can affect the outcomes. Winter (1990) presented a set of factors which looked at the outcome in relation to the original policy objective and therefore evaluated its performance. Firstly, clarity of goals in the policy formulation process, given that there is a political dimension, the motives and objectives of the politicians is therefore an additional factor in the policy making process (Moe, 1990). Secondly, understanding how key actors are involved in the formulation and implementation, this includes understanding of their roles and responsibilities as well as the decision points which can help expose the points at which a policy can be vetoed. Thirdly, understanding and appreciating the role of individual citizens who can influence the street level bureaucrats (Hill and Hupe, 2002) and finally, the socio-economic context, whereby Winter (2006) suggests that employment policies can attract different levels of attention depending upon the position in relation to the economic cycle. I would also add to this the environmental context, in this research it is examining the policies to safeguard a fossil fuel based mineral which is already well established as a being a contributor to climate change.

Barrett (2004:20) suggested that implementation should be more of an integral part of the process. It is not an "administrative follow on" but more of a "policy action-dialectic which involving negotiation and bargaining between those seeking to put policy into effect and those upon whom action depends." Barrett's argument is that policy is not simply formed at central government and then handed over to local government to 'implement'. This is useful in the context of this research since the overarching National Planning Policy Framework provides central government planning policy

direction, however the real details regarding how to implement the national policy direction will be found at the local level as it therefore allows a degree of flexibility. The 'policy-action relationship' model emerged whereby policy implementation is influenced by external factors to those actors tasked with implementing the policy. As such it suggests that there is an emphasis on power and control, particularly to seeing to pursue certain interests, but also there is a dependence upon the relationship. This can also be viewed as an 'implementer-centred approach' but it is based upon two key assumptions, firstly that policy is created at the top of the government structure and that the implementers are the agents and therefore have a relationship with the policy makers in government (Barrett and Fudge, 1981). However, the process of implementation is not necessarily smooth or will guarantee the intended outcomes and this is because it is contained within a macro political context which involves 'negotiation, bargaining and compromise' according to Barrett and Hill (1984: 238, after Bruton, 1980). Other key writers who explored the policy-action relationship included Sabatier (1988); Goggin et al (1990) and Palumbo and Calista (1990).

From the body of literature there are two key concepts which are relevant to this research; firstly, 'the policy implementation gap', and secondly, how governments seek to govern at a distance. These concepts are relevant to planning policy and practice because there is both flexibility and tension in the English planning system as a consequence of the multi-level governance structures and the relationship between multiple actors. Understanding why there can sometimes be an implementation gap in the translation of policy guidance into action on the ground is important for policy analysis because it helps us to understand the various processes which might shape policy outcomes. There may be many factors which could include the impact of different sub-national geographical, biophysical or political contexts; or the scope for flexibility in interpretations of national policy.

This research has an inherently top-down model approach because the National Planning Policy Framework is formulated by central government and sets out the policies to be used in the planning system across England. It

influences the formulation of local planning policies through the day-to-day operation of the planning system. The National Planning Policy Framework therefore can provide direction but also some degree of flexibility to the local level actors. It is also a material consideration in decision making on individual development proposals. As such it can support and add weight to the local policies. However, it can be used to effectively override the local plan policies in individual decision making. For example, if the local policy is more restrictive than national policy then this lack of conformity could diminish the weight attributed to the local plan policy in decision making on individual proposals and this is even when the development plan has primacy under s38(6) Planning and Compulsory Purchase Act 2004.

In more recent literature on policy implementation there is some discussion about what factors are involved which lead to policy failure, albeit the use of the word 'failure' suggests an extreme resultant position which is perhaps less likely since there is usually some positive outcome which can be observed (Volker, 2014; McConnell, 2015). Hudson et al (2019) have most recently suggested that there are four key factors which contribute to policy failure and therefore leads to the implementation gap: overly optimistic expectations; implementation in dispersed governance; inadequate collaboration for policy making; and the vagaries of the political cycle.

Overly optimistic expectations relate to how policies have been designed, such that they are too ambitious in what they are aiming to achieve and perhaps complicated in that they span government departments where there are inevitably different priorities. Policies can also be politically contentious which can affect their implementation. As politicians at local and national levels are democratically elected, they are therefore held accountable for the outcomes of their policies and initiatives during their time in office. The effect of this is that the political cycle influences the policies and initiatives with the result being an emphasis on short-termism. The long-term perspective which should transcend political cycles is diminished and can be viewed as something which will be dealt with (or not) by successors if the politician

and/or their political party does not maintain power through successive election cycles (Norris and McCrae, 2013; Weaver, 2010).

The inadequate collaboration in policy making and implementation in dispersed governance are perhaps the two most interesting and relevant factors for this research. Policy making needs to start somewhere in the administrative system, typically a government department, such as the Ministry of Housing, Communities and Local Government. Whilst government departments aim to have a broad remit, they inevitably focus upon what is within their current portfolio which is influenced by the political administration at the time. Government policies can cut across different government departments. For example, whilst national planning policy is the responsibility of the Ministry of Housing, Communities and Local Government the land use policies themselves cover a variety of other topics. In this research safeguarding minerals should be of interest to the government department which is focussed upon business, industry and energy matters; but it would also influence the government department in respect of the environment. Despite academic interest in collaborative working and partnering, in practice it is often limited according to Gazley (2017). One of the most challenging aspects of collaborative working is that there is no clearly defined structure for where it begins and ends. There are a range of stakeholders at multiple levels so it requires a complex process for effective collaboration to take place, with an emphasis which 'connects actors vertically and horizontally in a process of collaboration and joint deliberation' according to Ansell et al (2017). This process does not assume consensus or agreement, but more simply, it should be on the basis of an established common ground. This collaborative process therefore requires policy makers to possess a range of skills and competencies (Williams, 2012).

Turning to policy implementation in a dispersed governance, Hudson et al (2019) refer to the scenario where policies formulated at the national level require local level interpretation and actions to implement the policies in practice. This is where policy implementation analysis becomes really interesting because although there needs to be some 'local universality'

according to Sausman et al (2016), implementation is reliant upon local actors, or what Lipsky in 1980 called the 'street level bureaucrat.' It is well established, according to Braithwaite et al (2018) and Allcock et al (2015) that policy implementation will yield different results as a consequence of who is involved and the structures that they operate within. To explore this aspect further we need to look into the literature on structures and agents to help our understanding of policy implementation.

Structures and agents

The institutional structure of the planning system alone does not determine the outcomes. It is the role of actors which work within the structure and influence the direction of the local policy which determine the outcomes. Minerals planning is a distinct part of the planning system and therefore provides a discrete lens within which to reflect on the policy making and implementation process. As such structuration theory helps us to understand how decisions that are taken by individuals are within contexts that may or may not constrain their individual actions.

Moreover, structure and agency are particularly relevant to this research topic because of the discretionary nature of the UK planning system and the role and influence of the national planning policy which is underpinned by a legislative framework which enables and constrains individuals. The multi-level government framework provides structures within structures and there are also multi-level actor networks that interact with the planning system. This section will therefore set out the theoretical framework for understanding how planning operates in the UK.

This research explores the implementation of a central government planning policy of safeguarding coal resources. This is an interesting topic because when this research began in 2010/2011, coal resources were still a major contributor to UK energy supply, but as time has moved on, the role of coal as part of the UK energy supply mix has continued to diminish. Although energy policy has shifted away from the use of coal resources, the national planning policy requirement to safeguard coal resources has remained the

same. When national planning policy is viewed in relation to energy policy there is an uneasy relationship. This therefore makes it even more interesting to explore how the national planning policy requirement to safeguard coal resources is understood and acted on across the coalfields in England.

The conceptual framework which might be particularly helpful in this research is the idea of structuration. The British social theorist Anthony Giddens developed a theoretical structure that explains human agency (action) in the context of social structure and integrate action and structure. Giddens argues that just as an individual's autonomy is influenced by structure, structures are maintained and adapted through the exercise of agency. As such structuration theory attempts to understand human social behaviour by resolving the competing views of structure-agency and macro-micro perspectives. Giddens defines structuration as "the structuring of social relations across time and space, in virtue of the duality of structure" (Giddens, 1984:376).

According to Giddens, structure is a sum of "rules and resources, organized as properties of social systems" that exists only as structural properties (1984:25). There is a duality of structures in society – on one side there are individuals as actors in particular situations, who enter into knowledgeable activities and participate in social action and interaction in these situations. At the same time, the social world is composed of social systems and structures – these are the rules, resources, and social relationships that actors produce and reproduce through social interaction (Giddens, 1984).

Structuration theory is useful in policy analysis because it helps to provide a framework within which we can see how policies are influenced by the individuals within an administrative structure. It helps us to understand how decisions are taken by individuals within contexts but the structures themselves may enable or constrain actions. Structure and agency can be a wholly deterministic approach, whereby the actors have no independent influence as their actions can only take place within clearly defined processes, procedures and rules (Chandler and Munday, 2016). By contrast, Hay

(2002), takes the opposing viewpoint by proposing that individual actors are free to follow their own will voluntarily, being independent and able to fully influence outcomes albeit within structure.

In this research, by drawing on the work of Hay (2002:94) the structure could be defined as “the setting within which social, political and economic events occur and acquire meaning” and the agency is “the ability or capacity of an actor to act consciously and, in doing so, to attempt to realise his or her intentions.” This therefore can lead us to use, and ground, the structure as the external context of rules within which the actors conduct themselves and operate within the system (Hay, 2011).

Giddens (1979) proposed the theory of structuration which posits a viewpoint that human behaviour can be understood as a product of the structure within which the engagement occurs. This dialectic enables the structures to shape human actions and that human actions also go on to shape the structures. Moreover, how actors interpret, understand and therefore respond to their structural context informs their further actions and responses (Meyer, 2008; Varelas et al, 2015). For example, an initial consultation response on a draft development plan policy may not achieve the desired outcome of a specific change. Consequently, a further consultation response may seek to express the same point using different language or presenting evidence in a different format to support the point. This would demonstrate that the actors are working within the structure, in this case the preparation process of a development plan, to pursue their agenda and realise specific intentions and outcomes.

Structuration theory is useful in policy analysis as it helps to create frameworks within which we can understand how policy is developed in the planning system and through the local level development plans. There are various structures and actors involved in the development of planning policy and how they interact with each other will influence the outcome of the local policy. The structures would include the central government policy on a given topic, such as mineral safeguarding, which is set out in the National Planning

Policy Framework. The preparation process of development plans by local planning authorities is prescribed in legislation which therefore creates another structure within which actors who are interested in a specific topic in the development plan will need to engage with. There is also an institutional context which would involve the interaction between the central and local government. Actors engage in the plan preparation processes to influence local policy for a variety of reasons, some will be seeking to ensure compliance (for example government agencies); others competitive and business advantage (for example developers); others may be seeking to object to a proposed policy or strategy.

3.12 Chapter summary

This chapter has introduced the planning system and explored the two broad approaches that exist, concluding that our domestic planning system is based upon flexibility and discretion within a broad regulatory framework. Although there is a decision-making framework there is flexibility to help respond to changing circumstances. This is a distinctive feature of our discretionary planning system when compared to other more regulatory or zoning approaches elsewhere in the world.

The chapter moved on to explained the elements which make up its overall framework. It remains a cornerstone of the system that its purpose is to manage and regulate land in the public interest. Legislation and policy are formulated and established at the national level which therefore is intended to frame and guide local policy and decision making in the local planning authorities across England. This does introduce a political dimension to the planning system, since it is the democratically elected government that promotes national planning policy and drafts the legislation for parliamentary approval. Current national planning policy for England is contained within the National Planning Policy Framework first published in March 2012 and recently revised in 2018 with further minor updates in 2019 (DCLG NPPF, 2012; MHCLG NPPF, 2018; MHCLG NPPF, 2019).

There was a specific reflection on the changing role of national planning policy which illustrated that the Government has continuously altered the presentation of the policy, including amending through Written Ministerial Statements as and when a need arises. This shows that the system is flexible, but also that there is a greater sense of centralism and national government influence today. The influence of national planning was also an important area to explore since the planning system is a balancing act of competing factors. This chapter examined the degree of influence of national planning policy in local plan making and individual decision taking by local planning authorities.

At the local level a statutory development plan is prepared for each area which sets out the land use strategy and policies for how each local authority area will grow, change and be protected for the future. It contains a range of land use planning topics, including minerals. The process of preparing a development plan is set out in secondary legislation. Planning permission is required where a building or other use of land meets the legal definition of development as set out in statute. LPAs turning first to their statutory development plan determine planning applications which incorporates professional judgements on the application of planning policies and the weight to be attached to benefits of the individual proposal. The planning system also has an established national mechanism for appeals and legal challenges which is important for fairness.

Planning interferes with a person's individual rights to do what they want with their land and property; however, at the same time, it also gives a certain degree of rights to others that might be adversely affected by development proposals. As such there is conflict in land use planning. This can be through the development plan making process in terms of definition of policies or the choice of sites allocated for future development. It can also arise when individual development proposals are seeking planning permission.

Seeking people's views on planning matters is an important part of the public role of the planning system. Whilst there can always be a desire to build

consensus and address conflicting points, complete resolution of the conflicting opinions may not always be possible. However, through managing expectations, trying to ensure all forms of communication are clear and coherent, understanding the forms of power and how it can manifest itself in the decision-making process, appreciating the different levels of knowledge and understanding of participants, the aim is to reach an appropriate outcome.

This chapter has also explored some of the changes in the planning system since the 1990s which has seen a rise in environmental concerns with minerals planning being a distinct part of the planning system. This chapter has demonstrated the evolution of both minerals planning as an overall system, its legislation and policy approaches since the post-war era. It has specifically examined the emergence and establishment of the need for mineral safeguarding through national planning policy. The topic of mineral safeguarding therefore illustrates an environmental dimension because it is seeking to protect and conserve resources for future generations. As such it has mirrored the changes in the planning system regarding the rise of environmental concerns as a whole. It confirms also that whilst minerals planning is generally regarded as a specialist area within planning, it is still very much a part of the overall land use planning system.

This research is examining the implementation of government policy and as such this chapter has also explored the policy implementation literature and also structuration theory. The literature demonstrated a growing interest in the changing dynamics of policy implementation, it also illustrated the challenges in practice and in theory to the normative and established idea of top-down implementation. But more than that it also exposed the realities of the relationship between different levels of government. The literature has revealed that there are several ways in which policy analysis can be explored to explain how and why there is an implementation gap. The factors influencing a policy implementation gap in this research can be summarised as including the expectations of policy makers and clarity of the goals, the socio-economic and political context; the roles, relationships and conflict

between actors in the process, including individual citizens and how they relate to the structures within which the policy process operates. The institutional structure of the planning system alone does not determine the outcomes. It is the role of actors which work within the structure and influence the direction of the local policy which determine the outcomes. Minerals planning is a distinct part of the planning system and therefore provides a discrete lens within which to reflect on the policy making and implementation process. As such structuration theory helps us to understand how decisions that are taken by individuals are within contexts that may or may not constrain their individual actions. Moreover, structure and agency are particularly relevant to this research topic because of the discretionary nature of the UK planning system and the role and influence of the national planning policy which is underpinned by a legislative framework which enables and constrains individuals. The multi-level government framework provides structures within structures and there are also multi-level actor networks that interact with the planning system. This section will therefore set out the theoretical framework for understanding how planning operates in the UK.

Chapter 4 will set out the methodology that has been used to explore the research aim, objectives and questions which were set out in **chapter 1**.

CHAPTER 4 RESEARCH METHODOLOGY

4.1 Introduction

This chapter sets out the methodology which has been used to explore the research aim, objectives and questions for the PhD (outlined in **chapter 1**). This chapter will explain the methodological choices in the PhD drawing on relevant literature that has helped to inform the research approach. Following the re-confirmation of the PhD aim, objectives and questions this chapter will go on to present the research approach and methods that have been used to answer the research questions. As such, the purpose of this chapter is to describe the research process and justify the choice of the research techniques. The chapter outlines the practicalities and potential limitations of the chosen approach and how the research will address the ethical issues which arise from the chosen methodological approach and throughout the research.

4.2 Summary of issues arising from the literature review

The principle of a national requirement to safeguard minerals has been in place since the publication of Minerals Planning Guidance 1 in 2006 (DCLG MPG1, 2006). The publication of the new style National Planning Policy Framework in 2012, subsequently revised in 2018 and updated in 2019, served to continue this principle (DCLG NPPF, 2012; MHCLG NPPF, 2018; MHCLG NPPF, 2019).

However, progress on implementing this national requirement at a local level has been slower than anticipated and expected. The progress on development plans is documented elsewhere, such as the article by Collins (2013) in the *Journal of Planning and Environmental Law*. The apparent delays in the plan making process cannot be attributed to a single reason. Development plans involve compliance with legal and national policy requirements, some of which experience regular changes and amendments. This is counterbalanced with the need to respond to local issues and concerns, some of which will have been raised through consultation stages. Mineral

safeguarding is one aspect of minerals planning and minerals planning is one aspect of the planning system as whole. Consequently, mineral safeguarding is one issue within a wide variety of planning topics that need to be addressed in local planning policy and decision making.

The simple expression of the national requirement to safeguard minerals will be likely to lead to different interpretations at the local level. This research will be examining how mineral planning authorities have, in principle, responded to this requirement. From the findings at a national level this will enable the selection of a case study to explore the interpretation at a greater depth.

Minerals planning is viewed as a technical and contentious element of the planning system. Consequently, the introduction of a requirement to safeguard resources is set against this background. This therefore provides a starting point which cannot be seen as neutral. The review of literature demonstrated that the actors and players in the mineral safeguarding debate have a range of views which generates the conflict which needs to be worked through in practice in the evolution of a local level mineral safeguarding policy. Coal is also a contentious mineral, arising from its history, and even today with its status as a fossil fuel set within the climate change debates. As such, safeguarding coal resources can also be regarded as a contentious but really interesting area for research.

There is an absence of empirical research into minerals safeguarding in England. This research will therefore provide an opportunity to examine this subject and offer a reflective but practical insight which will make a positive contribution to knowledge.

Minerals planning is a microcosm of the wider planning system in that it has to resolve tensions regarding the need for forward planning but also enable day-to-day decision making. The forward planning element and specifically mineral safeguarding, has to take a much longer look into the future, such as 50 – 100 – 200 years+, which is significantly longer than any other planning policy topics, even one such as housing. Minerals planning therefore has to

engage with the other land use planning topics such as housing, economic development, protection of built and natural environments and living conditions for people. The use of minerals as a specific type of land use development for this research will serve to illustrate and provide a reflection on the broader local land-use conflicts that occurs between different interests.

Chapter three also explored the literature on policy implementation and structuration theory. Despite implementation being a key phase in policy making, initially there was limited general interest from scholars. However, over the last forty years or so the body of literature on policy implementation has grown. Three main phases or generations and characteristics can be identified: first generation, notably work of Pressman and Wildavsky (1973) and Bardach (1977) whereby policy implementation was seen as a linear process that policy makers could exercise their control. The second generation was more refined whereby implementation was seen as a trade-off between policy makers, implementer and local actors in a bargaining style approach; this generation was largely led by Berman (1978); Elmore (1979); Lipsky (1980) and Mazmanian and Sabatier (1983) and it also presented two models to assist with policy analysis, namely 'top-down' and 'bottom-up'. Finally, the third generation, offered a more implementer centred approach, suggested by Barrett and Fudge (1981) but developed by Linder and Peters (1990); Howlett (1991) and Winter (2006).

The literature review identified that more recently the interest has centred upon the changing dynamics of policy implementation, illustrating the challenges in practice and in theory to the normative and established idea of top-down implementation. But more than that it also exposed the realities of the relationship between different levels of government. The literature has revealed that there are several ways in which policy analysis can be explored to explain how and why there is an implementation gap. The factors influencing a policy implementation gap can be summarised as including the expectations of policy makers and clarity of the goals, the socio-economic and political context; the roles, relationships and conflict between actors in

the process, including individual citizens and how they relate to the structures within which the policy process operates.

4.3 Research aim, objectives and questions

This research is seeking to examine the interpretation and implementation of the national planning policy requirement for English mineral planning authorities to safeguard coal resources in the period of 2011 to 2014.

The thesis has the following objectives:

1. To investigate the origins of mineral safeguarding, particularly as it relates to coal.
2. To examine and understand how mineral planning authorities responded to the national planning policy requirement to safeguard coal resources and the implications for local planning policy making and planning decisions.
3. To reflect upon the wider implications of the findings from the examination of the policy topic of mineral safeguarding, thereby contributing to knowledge of this under-researched aspect of planning practice.

The thesis will address and answer the following questions:

1. How did the mineral planning authorities respond to the mineral safeguarding policy requirement?
2. How did the local policy for safeguarding coal vary between different mineral planning authorities and why?
3. Was the local policy on coal safeguarding contentious in the context of the development plan as a whole and/or within the suite of policies, and if so, why was it contentious?

4. What does this research tell us about the politics of minerals planning in general?
5. What does this research reveal about the context for decision making and priorities within the planning system?

4.4 Research design

There are many handbooks, guides and other literature which aim to assist with defining the research process. Many have an opening chapter which tries to define research and explore the motivations for doing it. O'Leary (2010) suggests that there is a basic need for research; it fulfils the requirement for an academic degree course. In this context it is to present research which will meet the standard for the award of a PhD.

O'Leary (2010) goes on to argue that the prime motivator should be about taking the opportunity to make an original contribution to knowledge. The need for originality is important and will therefore influence the research purpose. Dunleavy (2003:40) offers a definition of originality which is that it "involves encountering an established idea....and then taking that idea for a walk and putting it down somewhere else." In this context it is about contributing to policy and academic debates by focussing upon national policy on mineral safeguarding and asking what are the conflicts that arise from the implementation of a national planning policy requirement in the local context.

The research will generate findings from practice on the ground to emphasise the complexities, intricacies and implications of national policy formulated by central government when it is implemented at the local level through individual local planning authorities. These perspectives are often neglected in research when looking to examine a situation from above or in abstract. It is expected that my research findings will assist practitioners, for those policy makers and those practitioners involved in implementing mineral safeguarding policy. However, the findings will be of wider interest because of how they illustrate aspects of the planning system.

Within social science there are five broad strategies for research according to Yin (2003) and these are: experiment, survey, archival analysis, history and case study.

To examine the interpretation of the national planning policy requirement for mineral safeguarding needed primary research at two levels. Firstly, at a national level including key actors and an overview of policy making progress across the coalfield mineral planning authorities in England. The second level involved an exploration in greater depth at the local level through a case study.

The fieldwork was conducted over a 12-month period from January 2014 to December 2014.

4.4.1 Primary research part 1 – a national review

The national review was designed to gather findings on the understanding and opinions of mineral safeguarding, particularly for coal, in principle and as a policy topic across the English coalfields. As such it would provide a collective body of findings at a national level before looking into a more locally specific context and details. It would also help to establish the criteria to be used to select the case study.

This part of the primary research answers the first three research questions. The national review incorporates an element of survey and archival analysis according to Yin's classification of research in social science.

The national review was undertaken in 2014. It contained three elements, firstly, document analysis of past and present national planning policy documents and guidance in relation to minerals, with particular regard to safeguarding policy and coal. Secondly, gaining an understanding of the perspectives of a number of key actors operating at the national level; and then thirdly examining and establishing the implementation stage and perspectives of mineral safeguarding for coal within each coalfield mineral planning authority in England. Although the document analysis was

completed first, in order to establish an informed position of what national policy past and present was in relation to mineral safeguarding for coal, the second and third elements of the national review were undertaken simultaneously in order to remain flexible, dynamic and respond to issues as they arose.

Past and present national planning policy documents and guidance in relation to minerals, with particular regard to safeguarding policy and coal.

This document analysis involved extensive searching through the national archives website for past documents which have since been cancelled, together with a relevant selection of my own personal practitioner's archive of hard copies of national planning policy documents. The present national planning policy documents were available on the gov.uk website. The subsequent examination of the material was categorised in terms of policy approach, use of language, to enable a degree of comparison and therefore a timeline to demonstrate how the policy approach to mineral safeguarding for coal had evolved.

Key national actors

As minerals planning is a distinct specialism the literature review indicated that there are regular participants at the national level. Furthermore, the document analysis of representations made to emerging coalfield plans demonstrates that these regular participants at the national level which engage in the plan making process are, for example, mineral trade associations (such as the Mineral Products Association; Confederation of UK Coal Producers); mineral planning consultancies representing individual mineral operators; neighbouring mineral planning authorities; government agencies as statutory consultees on behalf of central government (such as The Coal Authority, Natural England, Environment Agency). Finally, the Planning Inspectorate is involved and provides the independent scrutiny and examination of development plans on behalf of the central government.

Semi-structured interviews were arranged and held with 15 key representatives of the following 9 organisations:

- The Department for Communities and Local Government (DCLG);
- The Planning Inspectorate;
- The Coal Authority;
- The Department for Energy and Climate Change (DECC);
- Trade associations: Mineral Products Association and the Confederation of UK Coal Producers (Coal Pro);
- The Confederation of British Industry (CBI) Minerals Group;
- The Planning Officers Society (senior planning professionals association); and
- The British Geological Survey (BGS), as part of the Natural Environment Research Council, the UK's leading public funder of environmental science, under the Department for Environment, Food and Rural Affairs (Defra).

A number of themes were explored with each representative. However, it was recognised that all representatives might not be able to answer some questions because of their position and role. Furthermore, the extent of their experience could potentially limit their responses. Consequently, the nature of the semi-structured interviews allowed the flexibility and the scope to explore other sub-themes which arose during the interview.

The themes that were explored included:

- The concept and value of mineral safeguarding within the planning system;
- The evolution of mineral safeguarding as national planning policy;
- The observations on the implementation of national policy over time, including conflicts with other policy topics, people's views/opinions, the position and balance of power in the policy making process, the extent of the influence of national and local politics;
- The role and degrees of influence of national key actors;
- The future for mineral safeguarding policy; and

- The future for coal as an energy mineral.

For some actors, namely, The Coal Authority, DCLG, Coal Pro, Mineral Products Association, CBI Minerals Group and the POS, a second follow-up interview was undertaken in the autumn of 2014 to further explore issues raised in other interviews. The purpose and outcome of the follow-up interviews therefore helped to validate findings but also deepen the extent of the primary research. These semi-structured interviews are described by Weiss (1994) as qualitative interviews because they “sacrifice uniformity of questioning to achieve fuller development of information.” This approach helped me to gather the necessary data and insight in order to explain the process of defining mineral safeguarding areas; identify the multiple, and conflicting, perspectives to summarise how the mineral safeguarding policy was developing at a particular point in time.

Progress and perspectives within each coalfield mineral planning authority in England

The third element of the national review involved a systematic review of the plan making stage and approach of mineral planning policies published by each of the coalfield local planning authorities in England. This document analysis was then followed by a telephone survey.

The document analysis enabled the establishment of key facts for each coalfield mineral planning authority including: what plan preparation stage it had reached; whether there was a mineral safeguarding area defined, what method of implementation was being used which would then enable categorisation for analysis. The categories were spatial/geographical area exclusions; development size threshold; types of development exclusions; or combination of categories.

The telephone survey interview was designed to supplement the document analysis. It was undertaken with a planning officer involved with the policy formulation process within each of the coalfield mineral planning authorities. The purpose was two-fold, firstly to confirm my understanding of the facts

from my document analysis by checking the facts which I had drawn from the published documents and then secondly it enabled the opportunity to help me to understand the reasons for their chosen policy approach through a number of questions, including whether the topic of coal was particularly contested and raised in a number of representations; and what was the general level of local political feeling towards coal as a mineral. Consequently, some of the telephone surveys were in quite in-depth and therefore generated a body of material similar in nature to the semi-structured interviews.

Weiss (1994) suggests that there are two types of qualitative interview: survey interview and qualitative interview. This research incorporated both. The telephone survey interview is a useful method because it enables both a standardised fact checking element through closed questions and also a limited number of more open questions. The value to this research is therefore consistency of questions across all participants, but not to the extent that it limits the potential richness of the data which would then assist in the selection of a specific case study for the second part of the empirical research. The ability to ask a limited number of questions enabled the exploration of the given facts a little more, but not to the extent which would be used for an in-depth case study (Weiss, 1994).

The analysis of the data arising from the national review established some key findings. It also enabled the formulation of a set of criteria to then be applied to select a case study for the second part of the primary research.

4.4.2 Primary research part 2 – case study

A case study is appropriate when “a “how” or “why” question is being asked about a contemporary set of events, over which the investigator has little or no control” (Yin, 2003:9). Whilst it is acknowledged that a survey or just archival or historical analysis could perhaps answer some of the “how” and “why” types of research question, they may not reveal a sufficient depth of information.

Since this research is seeking to examine and understand how and why the coal safeguarding policy in a specific mineral planning authority evolved as it did, the case study method was the most appropriate. Although a case study provides evidence at a specific point in time it is useful for examining how national planning policy translates into a local context and is then used in making individual decisions.

The research methods chosen for the case study included document analysis (of plans, reports and minutes of meetings, consultation responses, Planning Inspectorate reports) together with semi-structured qualitative interviews with those key participants involved.

The aim of the interviews was to examine the motivations of the gatekeepers in the decision-making process and find out more about the negotiations and areas of conflict as they related to minerals planning. Mason (2002:7-8) suggests that the "active reflexivity" approach to qualitative research helps to examine a topic in more depth because of the need to ask questions through the research, thereby making the design more fluid and responsive.

Yin (2003) warns that, depending upon the nature of the research, a case study approach can lack rigour and the ability to generalise and therefore make meaningful use of findings. In this research the case study area was used to elicit evidence from practice as to how the national mineral safeguarding policy requirement was interpreted and implemented at the local level. As the local policy making process is expected to be iterative, it was anticipated that the local policy would evolve, which would enable an analysis of what influenced the direction of local policy.

To explore the research questions the case study area needed to identify and establish the main points of conflict within local minerals planning. This allowed the planning policy making process to be opened up and explored. It was important however to ensure that there were sufficient aspects chosen to avoid criticism of 'too few cases, too many variables' as suggested by Goggin (1986).

Case study selection

The case study was chosen using the following criteria, some of which were quantitative and others were qualitative and therefore more subjective:

- Spatial area - At least 50% of the administrative area should contain coal;
- Development plan progress - the development plan will need to have been adopted, or will be likely to be adopted by December 2014;
- Type of MPA - single tier Unitary Council or upper tier County Council in the two-tier areas;
- The chosen policy approach to safeguarding;
- The likely potential for conflict between mineral safeguarding and other aspects of the development plan;
- The anticipated potential for conflicting views towards coal; and
- Key actors willing to participate in the research.

As the research is focussing upon the safeguarding of one particular mineral, coal, this is the only energy mineral which requires safeguarding. Oil and gas are not safeguarded within development plans because they are a liquid and a gas and as such can be extracted in situ relatively easily even when underneath built development through pipelines.

Coal which can be accessed from the surface is at risk of sterilisation by non-mineral development, therefore surface coal resources are in need of safeguarding. The parts of the coalfield which contain deeper coal resources are not at the same risk from sterilisation as the shallower resources and as such, the deeper coal does not require safeguarding in the same way.

Coal resources are present within seven of the eight English regions: North-West; North-East; Yorkshire and the Humber; West Midlands; East Midlands; South West and South-East. Six of these regions contain surface coal with the exception of the South East, the Kent coalfield is a deep coalfield with no shallow deposits.

These regions collectively contain 75 mineral planning authorities, 57 of which have surface coal resources, and therefore it enabled a good sample from which a case study area could be chosen. The above areas have a history of coal mining, green belts, and urban areas with the accompanying regeneration needs; therefore, there was a likely prospect of finding conflicting views and opinions that could be explored within the fieldwork.

The next criterion was that the plan making process needed to have concluded and the plan containing the MSA for coal needed to have been adopted. This allowed the critical review and exploration of the full evolution of the mineral safeguarding policy. Any findings which could be drawn from early plan making stages would be unlikely to be representative because the strategy, content and participants would be likely to change as the plan making process advanced. It was important to be able to reflect on the whole plan making process within the chosen case study area to be able to understand how conflicts in mineral safeguarding have arisen and been managed.

By using an adopted policy, it enabled me to explore the implementation of the mineral safeguarding area policies through development management decision making. This allowed me to assess the relative success of the policy. These findings are therefore of wider interest to planning practitioners because carefully crafted policies can still lead to unintended consequences.

The structure and remit of the local level administration of planning is divided into single tier (Unitary Authority) or two-tier (County and District). This meant that the type of MPA was also a criterion. Within a Unitary Authority, the policy topic of minerals is one of several planning topics. As such there was greater potential for tensions and conflicts in policy making, where minerals are being considered alongside other topics such as housing, employment, open space. By contrast, within the two-tier areas, the County Authority has a more limited planning remit, and focus is upon planning for minerals, waste, education and roads. As such, the limited remit of the

County Authority would be potentially likely to lead to less internal conflict between policy topics.

The extent to which there was potential for conflict was, in part, a subjective assessment based on those administrative areas within England where social-economic history reveals more turbulent times of conflict. The potential for conflict was also identified and explored through the telephone survey with each coalfield mineral planning authority.

The final criterion was the extent to which it would be possible to find willing participants. Several mineral planning authorities expressed some reservation about undertaking interviews because of lack of resources, the implications of being referred to within any future publication, together with concerns surrounding the general data protection regulations.

The approach of enquiry by case study in itself is not a research method. Within the case study there can be a variety of research techniques. A positive feature of a case study approach is its compatibility with a range of data collection types including documents, observations, interviews, artefacts, archives and audio-visual materials (Creswell, 2013; Yin, 2016). Data was collected through the review of documents, archives and also more directly through interviews. Interviews in particular are a commonly used method in qualitative research (Mason, 2002; Yin, 2016).

Document analysis

Following the selection of the case study area document analysis was used to identify and examine the development plan documents containing the mineral policies through each stage of the plan making process and the supporting evidence base. The minutes of meetings and the consultation responses received helped to identify some of the key issues and also give an indication of potential interviewees.

Qualitative in-depth interviews

As minerals planning is a distinct specialism there are regular participants in the plan making process which was apparent from the document analysis. As such, qualitative in-depth individual interviews with approximately 15-20 key participants was considered to be a reasonable sample.

The purpose of the interviews was to explore the issues and through interviewing people there was also an opportunity to uncover the hidden dynamics and examine the attitudes, feelings, motivations of key participants.

Within the case study area, interviews were conducted with a number of planning officers for both the planning policy formulation process and development management for the chosen planning applications. From this a snowball approach was used by which other participants and opportunities for other interviews were identified. The document analysis revealed other interviewees, such as elected representatives and members of a community group. Although the Council officers did urge caution in my intention to approach elected members and representatives of the community as the topic of coal was sensitive. Telephone calls were made to elected members and other representatives of a community group. However, there was a reluctance to be formally interviewed for this research topic. As such only generalised comments, similar to those identified in the document analysis were gained. Whilst it could be argued that other participants could have been sought, given the closed nature of the topic and the practical constraints of arranging and undertaking interviews, I decided that there would be limited value in seeking out further participants.

Whilst Yin (2003) amongst others, argue that interviewing is a weak method because it depends upon the choice of interviewees, their knowledge, potentially poor communication skills with which to articulate their views and that face-to-face interviewing, where possible, does present an opportunity which will build a rapport and also allow some observation of the participant.

Yin (2013:288) explains that interviews “resemble guided conversations rather than structured queries”. Furthermore, in a contest, then case study interviews would be “fluid rather than rigid” (Yin, 2013:288). They can also be beneficial because interviewees can provide historical background information (Creswell, 2013:190). Whilst acknowledging it is not always possible or practical, there is the potential for participants to be interviewed on more than one occasion (Yin, 2016:393). In some research projects, this may be a more pragmatic method, especially when published data which helps answer the researchers’ questions is limited or not accessible (Mason, 2002).

It must be acknowledged that there are limitations to interviews which includes the fact that some interviewees may not be as articulate and perceptive as others. This is why I used the document review to help to corroborate and/or contradict the responses (Creswell, 2013). During the interviews, I was mindful that interviewees could provide third-hand evidence about an issue. Although this had some value, it was important to be able to identify this in order that I could appropriately treat the data in the analysis stage (Creswell, 2013). I also used supplementary questions during the interviews where these views were offered in order to establish the validity of this information. Ultimately this technique did produce rich data in order to analyse and present through this thesis.

4.5 Reflective discussion: positionality, reflexivity, ethics, confidentiality

This research focuses upon policy implementation in England; therefore, the participation by stakeholders is an important part of the empirical data collection stage. My role at The Coal Authority during the fieldwork period was useful in gaining access to key stakeholders. However, it did inevitably present a challenge for demonstrating impartiality and integrity for the research findings.

Crang and Cook (1995) highlight the difficulties associated with positionality. Whilst my position at The Coal Authority and experience within the energy

minerals sector provided access to key stakeholders. However, I was very mindful that both my position as Chief Planner and the nature of the business of The Coal Authority provided a context that could have influenced participant's behaviours, their responses and their willingness to provide access to documentary materials. As such positionality could be both beneficial or detrimental to the research.

Willis (2006) refers to the need to be careful of the risk that participants are 'cherry picked.' This risk was managed through the careful explanation of the nature and purpose of the research, both orally and by using a participant information sheet. By managing the participant's expectations, it tempered the risk that some information was withheld or sanitised during interviews (Robinson, 1994; McDowell, 1992; Smith, 2003).

Furthermore, positionality can be viewed both ways, the researcher by the participants and the participants by the researcher (Baxter and Eyles, 1997; Desmond, 2004). No research can be considered to be value neutral (Wade cited in Crang and Cook, 1995:27; Davies, 1999). The research participants will have formed an opinion about me, based upon their own position; generally, it is a covert and unspoken issue. Participants may have judged me by many factors, maybe my gender, my perceived age, my perceived social class, my use of the English language including my accent; the fact that this is research for a PhD qualification; and the nature of the research which is seeking to analyse public policy in practice. All of these factors may affect their behaviour and responses to the posed questions. It is difficult to have absolute confidence that some or all of these factors were in play at any given time, because simply how would I know what I don't know (Rose, 1997).

The response to this positionality issue is to be reflexive. A greater awareness of my language and behaviour during engagement with participants will help to positively manage this issue, consequently the research findings must be tempered by this context. However, whilst I need to engage with and gain the trust of the participants to garner important empirical data which is the

advice given by Cassell (1998) (cited in Crang and Cook, 1995:25); I did not deliberately compromise my own values and behaviours. It is important to manage this issue in a neutral and impartial stance, neither offering personal opinions nor expressing opinions about participant's responses. I note that this approach has been dismissed by writers such Crang and Cook (1995) who identify that Wade (1984) dismissed this approach because of its significant potential for engendering the wrong impression in the participant's mind of the researcher, who could be perceived as being disinterested, gullible and unprofessional. This outcome would have far reaching effects beyond simply the research findings but for the whole research community which may be more reluctant to participate in future research projects.

The use of language is another aspect discussed by Crang and Cook (1995). This can be through the professional language; planning as a discipline is not dissimilar to many others, there is a distinct language and use of terminology. The former Local Development Framework process in England is testament to the number of acronyms and abbreviations which has become part of the lexicon of planning. It can also be through my own choice of English and how it is articulated, enunciated and pronounced when engaging with stakeholders.

The stakeholders to be chosen for the oral participation in this research will be drawn from their more informed position, i.e., practitioners, therefore they will already have an understanding of the terminology and language of the planning system and as such should not feel 'excluded' by the language. It will be important to craft the interview questions very carefully in order to ensure they are clear, unambiguous, yet not leading. Following interviews, the critical review of material collected will help to ensure that it is interpreted correctly for presentation within the research.

Confidentiality and anonymity are another aspect of research design which must be considered. Research is important to inform practice and therefore publication, presentation and dissemination of the findings will generate implications for the ability of the researcher to maintain the anonymity of the

participants. It was important to manage this at the outset of the research and to not make promises to participants that may not be able to be kept in perpetuity (Bell, 2005).

In accordance with standard University protocol, participants were provided with a written information sheet and this was also explained orally at the start of the interview. A participant consent form was signed and confirmed the arrangements regarding confidentiality. All participants were offered the opportunity for remaining anonymous in the research write up. If in the future there is any need for the disclosure of the participant(s) then prior to the disclosure, contact would be made with the participant to discuss the matter and obtain written permission at the time.

The interview questions were open ended to allow a degree of freedom and flexibility for participants to offer their opinions, but also this enabled me to probe further to follow up and explore on a particular point raised (Turner, 2010). Only the critical questions were asked since it is important to only collect data and information which is directly relevant to the research aim and questions. Moreover, I was mindful of the time requirements for conducting fieldwork for participants and also myself. Some participants were re-interviewed in order to validate findings from other participants.

Whilst it was originally intended that all the interviews were to be undertaken face-to-face, the practical reality of travel time and access to participants was a key consideration. Consequently, telephone interviews were undertaken with some participants. The consent of the participants was sought together with all participants having the right of anonymity in perpetuity. Digital recordings of the interviews were made, where the participant gave consent. I found that the digital recordings were helpful for transcription and analysis. All personal details of participants, recordings and transcriptions have been maintained securely and were destroyed following the submission of the thesis.

The volume of material gained from primary research presented a challenge for project managing the research. All data was classified and categorised.

The interviews that were recorded were listened to, and notes taken and reviewed many times during the analysis phase of the research.

Cloke et al, (2000) cited in Meth (2003:145) highlights that there are five key ethical issues: informed consent, privacy, harm, exploitation and sensitivity to cultural differences and gender. The University of Sheffield's Ethical Review Procedure requires all research to gain specific approval before fieldwork commences. The ethics application process informed thinking and secured approval for this element of the research design.

Access to participants at a national level did not present any particular difficulties since I was aware of the main national level participants in the development plan making process in the coalfield planning authorities through my role with The Coal Authority until I left in June 2016. At a local level for the case study access to participants was more challenging as contact details were protected through general data protection regulations.

However, as referred to earlier, my essentially privileged position would present challenges for the integrity of the findings of the research. I have always been acutely aware of this. As such I clearly reminded participants of my role as an independent researcher. I was not a representative of The Coal Authority or conducting the research for or on behalf of The Coal Authority.

My decision to leave The Coal Authority to enable me to complete the analysis and writing up of the PhD was very well timed. The detachment from the single-issue organisation and the minerals sector therefore represented a significant shift towards more objectivity and enabled a more critical reflection on the findings than may have been possible had I still been directly working within the minerals sector.

In any research there are practical aspects to be considered. At the document analysis stage, I needed to bear in mind who wrote the document, for whom and for what purpose since this has the potential to influence the subsequent interpretation and analysis.

As the literature review sets out the context for the research, the fieldwork was designed to examine national practice in coalfield areas but also through the analysis of a case study area. The analysis of the fieldwork in the case study gathered through the document review and semi-structured interviews allowed a reflection on how representative that the practises and issues illustrated by case study were when compared to the national context. The reflection on the findings was therefore an important part of the research.

4.6 Chapter summary

This chapter has set out the research aim, objectives and individual questions to be answered through this thesis. The approach to the research involved an extensive study of the national position for the English coalfield development plans in terms of their progress and chosen approach to interpreting and implementing the national requirement to safeguard mineral resources, including coal. The national review therefore provided a baseline picture of practice at a point in time for the interpretation of a national planning policy requirement at an individual local authority level. The secondary purpose of the national review was to enable the selection of a case study area for further examination at a greater depth.

The research methods involved document analysis for both the national review and the case study area. For the national review a telephone survey with coalfield mineral planning authorities asking factual questions regarding progress made on the development plan and the rationale behind their chosen approach for the safeguarding of coal resources. Other key players operating on a national basis were also interviewed. The case study area also used semi-structured interviews with key participants in the process to explore aspects of the policy making and implementation process.

Chapter 5 will now move on to introduce and present the findings of the extensive study of the national position to set the context before moving onto select and justify the case study area to be examined in **Chapters 6 and 7**.

CHAPTER 5 EXTENSIVE STUDY OF THE POLICY APPROACHES TO SAFEGUARDING COAL RESOURCES IN ENGLAND

5.1 Introduction

This chapter will present the findings of a detailed review into the progress and approaches to mineral safeguarding within the English Coalfield Mineral Development Plans undertaken between January and March 2014. The review is important to this research for two key reasons: firstly, it establishes a baseline for assessing the broad national picture on mineral safeguarding policies for coalfield resources in England; and secondly the review is intended to inform the selection and justification of intensive case study review.

As outlined in the methodology, the review was undertaken through a combination of a document analysis to provide a comprehensive review of the development plans of all relevant mineral planning authorities (MPAs) (i.e., those with amounts of coal reserves that justify a coal safeguarding policy) together with a telephone survey.

The analysis is divided into four sections. The first section explains and geographically illustrates where the coalfields are found in England. This is followed by a section which will explain the difference between surface and deep coal resources. The depth of coal resources will then be related to each of English coalfield MPA to identify which have surface coal resources, deep coal resources and both surface and deep coal resources. This is an important distinction in the discussion about safeguarding coal resources as this chapter will establish and explain.

A key part of this national review is to establish the stage of development plan making within each of the coalfield MPA in England. Each relevant authority will be examined and categorised in terms of their approach to implementing the national planning policy requirement in relation to mineral safeguarding and coal.

5.2 Coalfield Mineral Planning Authorities

According to the Office of National Statistics, in 2014 there were 418 local authorities that delivered administrative functions of local government in the UK: 353 in England, 32 in Scotland, 22 in Wales and 11 Northern Ireland. In England there are five types of local authority: county, district, unitary, London borough and metropolitan districts. At the local level there are 9,000 parish/town councils (ONS, 2014).

In England minerals planning is a 'county matter' under paragraph 1(1) of Schedule 1 to the Town and Country Planning Act 1990. This means it is the responsibility of the upper tier/county councils. There are 83 MPAs in England which are divided into 56 unitary authorities (including London Boroughs) and 27 shire counties (these cover 201 districts) (ONS, 2014).

The English coalfield, as defined by The Coal Authority, is illustrated in **Figure 5.1**. The English coalfield area is covered by 75 MPAs.

Figure 5.1

Local Government Authorities and Coalfields



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Main Map Scale: 1:1,000,000
 Inset Map Scale: 1:500,000
 Created by: LThomas
 Last updated: 17/11/2008
 Drawing ref: National_LGAs_Coalfield.mxd



5.3 Coal resources

As identified in an earlier chapter, as coal exists at different depths, this could lead to different interpretations and approaches to safeguarding coal. According to The Coal Authority Coal Resource GIS data set there are no MPAs with only surface coal resources; most have both surface and deep resources; and a minority have only deep coal resources (The Coal Authority, 2008b). This is illustrated in **Table 5.1**.

The Coal Authority defines 'surface resources' as those which are accessible by surface mining, which can be depths to an average of 150 metres from surface. It is interesting that The Coal Authority does not use the whole of the geological coalfield, it only focuses upon those parts of the geological coalfield where some extraction has taken place. The Coal Authority explained that "*given the sheer extent of England that is underlain by coal at various depths it would be impractical to have safeguarding areas that reflect the entire geographical extent. As surface coal resources are most vulnerable to being sterilised by new housing development in particular that is the reason why have provided all coalfield planning authorities with GIS data of the surface coal resources in their area and requested that this formed the evidence base for their mineral safeguarding area.*" (Policy Advisor, The Coal Authority, 2014)

There are some parts of the coalfield where coal has never been considered for extraction, notably for example Oxfordshire and Lincolnshire, where the coal is deeper than 1200m (The Coal Authority, 2014). This could be explained by the fact that the coal was at a depth which was beyond the level at which economically feasible recovery was considered possible. It would seem to suggest that around 1,000 metres in depth was seen as a general limit; since the deepest colliery was Bevercotes in Nottinghamshire at a depth of around 1,000 metres (Quibell, undated).

Table 5.1 – English mineral planning authorities and coal resources

#	Mineral Planning Authority	Surface coal resources only	Both surface and deep coal resources	Deep coal resources only
1	Barnsley Metropolitan Borough Council		✓	
2	Bath & North East Somerset Council		✓	
3	Birmingham City Council			✓
4	Blackburn with Darwen Borough Council		✓	
5	Bolton Borough Council		✓	
6	Bradford City and District Council		✓	
7	Bristol City Council		✓	
8	Bury Metropolitan Borough Council		✓	
9	Calderdale Metropolitan Borough Council		✓	
10	Cheshire East Council		✓	
11	Cheshire West & Chester Council			✓
12	Coventry City Council			✓
13	Cumbria County Council		✓	
14	Darlington Borough Council		✓	
15	Derby City Council			✓
16	Derbyshire County Council		✓	
17	Devon County Council			✓
18	Doncaster Metropolitan Borough Council		✓	
19	Dudley Metropolitan Borough Council		✓	
20	Durham County Council		✓	
21	East Riding of Yorkshire Council			✓
22	Gateshead Metropolitan Borough Council		✓	
23	Gloucestershire County Council		✓	
24	Halton Borough Council			✓
25	Hartlepool Borough Council			✓
26	Herefordshire City and District Council			✓
27	Kent County Council			✓
28	Kirklees Metropolitan Borough Council		✓	

#	Mineral Planning Authority	Surface coal resources only	Both surface and deep coal resources	Deep coal resources only
29	Knowsley Metropolitan Borough Council		✓	
30	Lake District National Park			✓
31	Lancashire County Council		✓	
32	Leeds City Council		✓	
33	Leicestershire County Council		✓	
34	Liverpool City Council		✓	
35	Manchester City Council		✓	
36	Newcastle upon Tyne City Council		✓	
37	North Lincolnshire Council			✓
38	North Somerset Council		✓	
39	North Tyneside Council		✓	
40	Northumberland County Council		✓	
41	Northumberland National Park		✓	
42	North York Moors National Park			✓
43	North Yorkshire County Council		✓	
44	Nottingham City Council		✓	
45	Nottinghamshire County Council		✓	
46	Oldham Metropolitan Borough Council		✓	
47	Peak District National Park		✓	
48	Redcar and Cleveland Borough Council			✓
49	Rochdale Metropolitan Borough Council		✓	
50	Rotherham Metropolitan Borough Council		✓	
51	Salford City Council		✓	
52	Sandwell Metropolitan Borough Council		✓	
53	Sheffield City Council		✓	
54	Shropshire County Council		✓	
55	Solihull Metropolitan Borough Council			✓
56	Somerset County Council		✓	
57	South Gloucestershire Council		✓	

#	Mineral Planning Authority	Surface coal resources only	Both surface and deep coal resources	Deep coal resources only
58	South Tyneside Council		✓	
59	St Helens Council		✓	
60	Staffordshire County Council		✓	
61	Stockport Metropolitan Borough Council		✓	
62	Stoke on Trent City Council		✓	
63	Sunderland City Council		✓	
64	Tameside Metropolitan Borough Council		✓	
65	Telford & Wrekin Metropolitan Borough Council		✓	
66	Trafford Metropolitan Borough Council			✓
67	Wakefield Metropolitan District Council		✓	
68	Walsall Metropolitan Borough Council		✓	
69	Warrington Borough Council		✓	
70	Warwickshire County Council		✓	
71	Wigan Metropolitan Borough Council		✓	
72	Worcestershire County Council			✓ *
73	Wolverhampton City Council		✓	
74	York City Council			✓
75	Yorkshire Dales National Park		✓	
* Note – see commentary below		0	56	18

(source: The Coal Authority, 2008b)

From **Table 5.1** it can be seen that the majority of MPAs have both surface and deep coal resources. There are 18 MPAs with deep coal resources within their administrative area, but interestingly no MPAs with only surface coal resources. This can be explained by the geological profile of coal resources across the British Isles.

The Coal Authority data set reveals a very interesting anomaly with Worcestershire County Council. Historically it had deep coal resources in a

small area, but the latest set of coal resource plans now do not show coal to be present at all within Worcestershire. There has been no recent coal working activity within Worcestershire which would help to explain the potential removal of all coal resources. It is perhaps more realistically explained by a change in the parameters or definitions used when creating plans. The BGS explained that "*when MPAs commission us for geological data to inform their plans, there are many variables and data is dynamic. As a result, there can be more than one data set produced for any mineral*" (Minerals Policy Advisor, BGS, 2014). This does therefore reveal that there may not be a 'true' data set for coal resources.

This is a potential challenge for the evidence base required upon which to begin the policy formulation process for coalfield development plans. However, in the absence of alternative data, the use of the latest data set and plans produced by The Coal Authority specifically for MPAs (and also LPAs) to understand where coal is within their area, is perhaps the only realistic starting point available for MPAs preparing their mineral safeguarding policies for coal. All data is based on parameters and evidence that changes over time as new or updated information becomes available.

5.3.1 Safeguarding coal resources - all coal resources? deep coal or surface coal resources?

Planning Practice Guidance identifies the purpose of mineral safeguarding "since minerals are a non-renewable resource, minerals safeguarding is the process of ensuring that non-minerals development does not needlessly prevent to future extraction of mineral resources, of local and national importance" (DCLG PPG, 2014: paragraph 27).

"A key aspect of sustainable development is the conservation and safeguarding of non-renewable resources, such as minerals, for future generations. The UK is endowed with a wide range of indigenous minerals but these natural resources are finite. With increased pressure on land use in the UK, there is a need to ensure that these natural resources are not needlessly sterilised by other development, leaving insufficient supplies for

future generations. Safeguarding is the term that encompasses the process necessary to ensure that outcome.” (Wrighton, McEvoy and Bust, 2011:i)

The principle underlying the concept of mineral sterilisation relates to the risk of losing the ability to extract the resource if permanent development is built upon the surface ground above the mineral resource. Mineral safeguarding can therefore be argued to only be potentially relevant for surface resources; since surface level minerals become sterilised when access to them is prevented by non-mineral development. This was the view of DCLG; *“we recognise that national policy covers a range of minerals with significantly different characteristics, for example their relative abundance and extraction methods. Coal is an abundant mineral and therefore we considered that safeguarding surface coal resources is a pragmatic response”* (Minerals and Waste Policy Advisor, DCLG, 2014).

Deep coal resources

However, there is nothing expressed in national planning policy or guidance that would preclude the safeguarding of deep coal resources. As such for those MPAs with both deep and surface coal resources their rationale and approach to implementing the safeguarding requirement will be interesting.

Surface coal resources

The Coal Authority has calculated that the surface coal resource in England covers approximately 7,304 km² which is administered across 57 different MPAs. The surface coal resource area is approximately 5.49% of the surface area of England (The Coal Authority, 2008b). **Table 5.2** sets out these 57 MPAs by the percentage of their administrative area containing surface coal resources. This gives an illustration in principle of relative importance that safeguarding surface coal resource should have within plan making as a starting point. As such, if surface coal resources are widespread then it would be a planning consideration that would affect the future growth strategy of the development plan and would have to be addressed within all development proposals.

Table 5.2: English mineral planning authorities and their percentage of surface coal resource

#	English Mineral Planning Authority	Surface Coal Resource % based on GIS analysis
1	Gateshead Metropolitan Borough Council	100.00
2	Newcastle upon Tyne City Council	100.00
3	North Tyneside Council	99.21
4	Bolton Metropolitan Borough Council	96.26
5	Barnsley Metropolitan Borough Council	86.93
6	Sheffield City Council	84.87
7	Rochdale Metropolitan Borough Council	76.74
8	Wigan Metropolitan Borough Council	71.45
9	Bury Metropolitan Borough Council	70.92
10	Kirklees Metropolitan Borough Council	68.21
11	St Helens Metropolitan Borough Council	65.44
12	Wakefield Metropolitan District Council	65.79
13	Oldham Metropolitan Borough Council	61.41
14	South Tyneside Council	59.90
15	Stoke on Trent City Council	56.03
16	Rotherham Metropolitan Borough Council	55.35
17	Walsall Metropolitan Borough Council	52.83
18	Blackburn with Darwen Borough Council	51.24
19	Leeds City Council	50.08
20	Tameside Metropolitan Borough Council	47.96
21	Sunderland City Council	46.05
22	Salford City Council	38.44
23	Stockport Metropolitan Borough Council	34.24
24	Bradford City and District Metropolitan Council	33.49
25	Durham County Council	33.23
26	Wolverhampton City Council	29.43
27	Knowsley Metropolitan Borough Council	27.26
28	Northumberland County Council	26.37
29	Dudley Metropolitan Borough Council	25.50

#	English Mineral Planning Authority	Surface Coal Resource % based on GIS analysis
30	Derbyshire County Council	24.78
31	South Gloucestershire Council	20.93
32	Calderdale Metropolitan Borough Council	18.38
33	Sandwell Metropolitan Borough Council	15.79
34	Telford and Wrekin Borough Council	14.13
35	Bristol City Council	13.85
36	Lancashire County Council	12.70
37	Manchester City Council	12.66
38	Bath and North East Somerset Council	12.59
39	Nottingham City Council	7.71
40	Shropshire County Council	7.36
41	Leicestershire County Council	6.80
42	Staffordshire County Council	6.67
43	Peak District National Park	4.83
44	Cumbria County Council	4.05
45	Gloucestershire County Council	3.98
46	Cheshire East Council	3.79
47	Nottinghamshire County Council	3.58
48	Northumberland National Park	2.81
49	Liverpool City Council	2.38
50	Darlington Metropolitan Borough Council	2.33
51	Doncaster Metropolitan Borough Council	2.25
52	Warwickshire County Council	1.26
53	North Somerset Council	0.72
54	Somerset County Council	0.71
55	Warrington Borough Council	0.42
56	North Yorkshire County Council	0.31
57	Yorkshire Dales National Park	0.17

(source: *The Coal Authority, 2008b*)

Table 5.2 illustrates that there are 7 MPAs which have 75-100% of their administrative area containing surface coalfield resources; these are located within the 3 northern regions of Yorkshire, North West and North East. A further 12 have between 50-75% of their areas and are also within the same 3 northern regions.

The next 10 fall into the 25-50% quartile and again these are mostly within the same 3 northern regions but supplemented by Dudley and Wolverhampton in the West Midlands. The remaining 28 containing only 0-25% of their area having surface coal resources are also found in the same 3 northern regions as before but also extend across the West Midlands, the East Midlands and South West.

5.4 Coalfield Mineral Development Plan Progress

To explore the approach to mineral safeguarding for coal and begin the process of selecting a case study for detailed analysis, a baseline position on the progress made by MPAs in England. This was principally focussed upon safeguarding of surface coal resources, but for completeness the position reached by the 18 MPAs with only deep resources was also included.

During January to March 2014 a review was undertaken of the progress on mineral safeguarding policies produced by the 75 coalfield MPAs in England. This was principally undertaken through document analysis, supplemented by a telephone call to each authority to confirm the position with regard to the development plan production stage and where the issue of coal safeguarding was to be found within the development plan. It also enabled further questions to be asked about their policy approach as necessary.

The development plan production cycle is meant to be a rolling programme and therefore some plans will have been adopted, some will be still in progress and potentially some yet to commence preparation. This variable progress will mean that only a snapshot in time can be obtained, however this is sufficient to assist in the process of choosing a case study.

As development plans are produced by different LPAs, their timetables would not be all in alignment. As such would not be possible to wait until all development plans had reached adoption and then undertake the analysis since some plans would have then commenced their review and started again.

The starting point to assess each development plan document was to find if, and where within the development plan, coal safeguarding was to be addressed. Prior to the publication of the NPPF in 2012, the development plan was created in a portfolio format (Planning and Compulsory Purchase Act 2004 and Town and Country Planning (Local Development) (England) Regulations 2004). It was known as the 'local development framework' and comprised multiple documents that collectively formed the statutory development plan. As such for there could be a number of different documents where the MPA could choose to include their mineral safeguarding policy.

Since the publication of the NPPF and the amended regulations the development plan making process was returning to a single document, under the Local Plan (Town and Country Planning (Local Planning) Regulations 2012). Paragraph 143 of the NPPF indicates that Local Plans should include mineral safeguarding policies. Consequently, when establishing the position in development plan production process, there will be some plans that were produced under the local development framework portfolio approach whilst others may be transitioning into the single Local Plan document (DCLG NPPF, 2012).

With reference to **Table 5.2** which ranks the MPA on the basis of the percentage area of their administrative area contains surface coal resource, therefore provides an indication of the relative importance of the policy issue, the first question to ask is whether there was a specific mineral safeguarding area policy for coal and was it defined on the policies map (previously called the proposals map). Has this spatial area been amended in any way, e.g. exclusion of specific features or designations?

For those with a specific policy, what is the method of implementation? Does it apply to all development proposals within the defined area or has the MPA established some exceptions, e.g. development/planning application types, size thresholds.

The Coal Authority as the principal government advocate for coal as a mineral is defined as a specific consultee in the regulations because of their duty to manage the coal resources on behalf of the state (Town and Country Planning (Local Development) (England) Regulations 2004; The Coal Industry Act, 1994). What representations did The Coal Authority make, e.g., were they content or did they seek changes? If they sought changes, were they achieved by the adoption stage?

To summarise the approach to establishing the baseline it involved the following:

1. What is the current status of the development plan?
2. Does the development plan safeguard coal resources?
 - a) If not, why?
3. What coal is safeguarded – all coal, surface or deep?
4. Are safeguarding areas illustrated on the proposals maps or policies map?
5. What is the policy implementation approach?
 - a) Geographical – include or exclude areas; and/or
 - b) Criteria based policies – thresholds, categories of development etc
6. What has been the role of The Coal Authority?
 - a) Have they made representations seeking changes on coal safeguarding?
 - b) If so, have they achieved their objective or is it still an outstanding matter?

The results were collated and presented in **Table 5.3** which illustrates the position of the review of the English coalfield mineral development plans as of March 2014.

For ease of navigating the table all English coalfield MPAs are presented in alphabetical order. The table also includes for completeness those 18 MPAs which only contain deep coal resources and these are shown in grey. Mineral safeguarding area has been abbreviated to 'MSA'.

Table 5.3 - English Coalfield Mineral Development Plans – March 2014⁷						Method of Implementation				
#	MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)	Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections
1	Barnsley	Adopted (Core Strategy) Draft (Sites/Policies DPD)	75-100%	✓	✓	X	✓ 2Ha	X	✓	No
2	Bath & North East Somerset	Amendments (Core Strategy) Launch (Place Making DPD)	0-25%	✓	X	X	X	X	✓	TBC
3	<i>Birmingham</i>	<i>Pre-Submission (Development Plan)</i>	0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	Blackburn with Darwen	Adopted (Lancs Core Strategy) Adopted (Lancs Alloc. & D.M.Policies)	75-100%	✓	✓	✓	X	X	✓	Yes
5	Bolton	Adopted (GM Minerals Plan) Adopted (Core Strategy)	75-100%	✓	✓	✓*	X	X	✓	Yes

⁷ * - Greater Manchester Minerals Plan excludes urban areas from the MSA, although it still requires consideration of prior extraction for allocated sites within the urban area

~ - Also proposes to exclude environmental designations in addition to urban areas

Note 1 – Coalfield MPAs with 0% surface coal may have deep coal, or have some former mining legacy features, or are in a buffer zone that includes them in the coalfield zone

Note 2 – Standard Categories of Development Excluded from the need to consider mineral sterilisation include: changes of use, other consents, householder development, reserved matters applications, and allocated sites where prior extraction and mineral sterilisation was considered as an integral part of the allocation process

English Coalfield Mineral Development Plans – March 2014						Method of Implementation			Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections
#	MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)		
6	Bradford	Publication (Core Strategy) Not Started (Land Allocations)	25-50%	✓	✓	X	X	✓ Majors Only	✓	No
7	Bristol	Adopted (Core Strategy) Modifications (Site Alloc. & D.M)	0-25%	✓	✓	X	X	X	✓	No
8	Bury	Adopted (GM Minerals Plan) Submission (Core Strategy)	75-100%	✓	✓	✓*	X	X	✓	Yes
9	Calderdale	Preferred Options (Core Strategy) Call for Sites (Land Allocations)	0-25%	✓	X	✓~	✓5Ha	X	X	Yes
10	Cheshire East	Submission (Core Strategy) Additional Sites (Local Plan)	0-25%	✓	X	X	X	X	✓	Yes
11	Cheshire West & Chester	Submission (Core Strategy) Call for Sites (Local Plan Allocations)	0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
12	Coventry	Withdrawn (Core Strategy)	0%	✓ <i>Deep</i>	✓ <i>Deep</i>	X	X	X	✓	N/A

#	English Coalfield Mineral Development Plans – March 2014					Method of Implementation			Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections
	MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)		
13	Cumbria	Adopted (Core Strategy 2009) Adopted (Devt. Control Policies 2009) Withdrawn (Site Allocations) Draft (Local Plan)	0-25%	✓	✓	Draft Local Plan will do	X	X	✓	Yes
14	Darlington	Adopted (Tees Valley Min Core 2009) Adopted (Tees Valley Min Policies)	0-25%	✓	✓	X	X	X	✓	No
15	<i>Derby</i>	<i>Issues (Derbyshire Minerals Plan)</i>	<i>0%</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
16	Derbyshire	Issues (Derbyshire Minerals Plan)	0-25%	TBC	TBC	TBC	TBC	TBC	TBC	TBC
17	<i>Devon</i>	<i>Options (Minerals Plan)</i>	<i>0%</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
18	Doncaster	Adopted (Core Strategy 2012) Submission (Sites & Policies DPD)	0-25%	✓	✓	X	X	X	✓	No

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
	MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)	Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections
28	Kirklees	Withdrawn (Core Strategy)	50-75%	✓	✓	✓	✓0.5Ha		✓	Yes
29	Knowsley	Examination (Core Strategy) Not Started (Site Alloc & Policies)	25-50%	✓	X	X	X	X	✓	No
30	Lake District National Park	Adopted (Core Strategy 2010) Adopted (Mineral Safeguarding 2013)	0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
31	Lancashire	Adopted (Lancs Core Strategy 2009) Adopted (Lancs Alloc. & D.M.Policies 2013)	0-25%	✓	✓	✓	X	X	✓	Yes
32	Leeds	Examination (Core Strategy) Adopted (Natural Resources 2013)	50-75%	✓	✓	X	X	Major Apps only (agreed since 2014)	✓	No

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
	MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)	Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections
33	Leicestershire	Adopted (Core Strategy 2009) Issues (Minerals & Waste Local Plan)	0-25%	✓	X	Issues does	X	X	✓	Yes
34	Liverpool	Submission (Core Strategy) Issues (Local Plan)	0-25%	✓	X	X	X	X	✓	Yes
35	Manchester	Adopted (GM Minerals Plan 2013) Adopted (Core Strategy 2012)	0-25%	✓	✓	✓*	X	X	✓	Yes
36	Newcastle upon Tyne	Submission (Joint Core Strategy); Scoping (Making Spaces/Growing)	100%	✓	✓	X	✓1Ha	X	✓	Yes
37	North Lincolnshire	Adopted (Core Strategy 2011) <i>Not Started (Minerals & Waste)</i>	0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
38	North Somerset	Adopted (Core Strategy 2012) Consultation Draft (Sites & Policies)	0-25%	X	X	X	X	X	✓(ref to coal in CS)	Yes
39	North Tyneside	Draft (Local Plan)	75-100%	✓	X	X	✓1Ha	X	✓	Yes

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
	MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)	Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections
40	Northumberland	Preferred Options (Core Strategy)	25-50%	✓	✓	X	X	X	✓	Yes
41	Northumberland National Park	Adopted (Core Strategy & Policies 2009)	0-25%	X	X	X	X	X	X	No
42	<i>North York Moors National Park</i>	<i>Issues & Options (North Yorks Minerals & Waste Plan)</i> Adopted (Core Strategy 2008)	0%	✓	X	X	X	X	X	TBC
43	North Yorkshire	Issues & Options (North Yorks Minerals & Waste Plan)	0-25%	✓	X	X	X	X	X	TBC
44	Nottingham	Modifications (Aligned Core Strategy) Preferred Options (Land & Policies)	0-25%	✓	✓	X	X	X	✓	No
45	Nottinghamshire	Preferred Approach (Minerals Plan) Not Started (MSA Document)	0-25%	✓	X	X	X	X	✓	Yes (Deep licensed)
46	Oldham	Adopted (GM Minerals Plan 2013) Adopted (Core Strategy & DM 2013)	50-75%	✓	✓	✓*	X	X	✓	Yes

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
MPA	Plan status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes urban areas	Uses area thresholds	Excludes categories of development (<i>other than standard</i>)	Has The Coal Authority achieved changes	Does The Coal Authority have outstanding objections	
47	Peak District National Park	Adopted (Core Strategy 2011) Preferred Approach (DM Policies)	0-25%	X	X	✓	X	✓ Major Apps Only	X	No
48	<i>Redcar & Cleveland</i>	Adopted (<i>Tees Valley Minerals 2011</i>) Adopted (<i>Tees Valley Min Policies 2011</i>)	0%	✓	✓	X	X	X	✓	No
49	Rochdale	Adopted (GM Minerals Plan 2013) Examination (Core Strategy)	75-100%	✓	✓	✓*	X	X	✓	Yes
50	Rotherham	Modifications (Core Strategy) Draft (Sites & Policies)	50-75%	✓	✓	X	X	X	✓	No
51	Salford	Adopted (GM Minerals Plan 2013) Sites Consultation (Local Plan)	25-50%	✓	✓	✓*	X	X	✓	Yes
52	Sandwell	Adopted (Black Country Core Strategy 2011) Adopted (Site Alloc & Delivery DPD 2012)	0-25%	✓	✓	X	✓0.5Ha (5Ha urban)	X	✓	No
53	Sheffield	Adopted (Core Strategy 2009) Pre-submission (Policies & Sites)	75-100%	✓	✓	X	X	X	✓	Yes

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
	MPA	Plan Status	% of surface coal	MSA for coal policy	MSA defined on proposals or policies map	Excludes Urban Areas	Uses Area Thresholds	Excludes Categories of Development (Other than Standard)	Has The Coal Authority Achieved Changes	Does The Coal Authority Have Outstanding Objections
54	Shropshire	Adopted (Core Strategy 2011) Revised (Site Alloc & Mgt of Devt)	0-25%	✓	✓	X	X	X	✓	No
55	<i>Solihull</i>	Adopted (Local Plan 2013)	0%	✓	✓	X	X	X	✓	No
56	Somerset	Pre Submission (Minerals Plan)	0-25%	✓	✓	X	X	X	✓	No
57	South Gloucestershire	Adopted (Core Strategy 2013) Call for Sites (Policies, Sites, Places)	0-25%	✓	✓	X	X	X	✓	No
58	South Tyneside	Adopted (Core Strategy 2007) Adopted (DM Policies 2011) Issues (LP Strategic Policies)	50-75%	✓	✓	X	✓1Ha	X	✓	No
59	St. Helens	Adopted (Core Strategy 2012) Scoping (Alloc & Sus Dev LP)	75-100%	✓	X	X	X	X	✓	Yes
60	Staffordshire	Issues & Options 2 (Core Strategy)	0-25%	TBC	TBC	TBC	TBC	TBC	TBC	TBC
61	Stockport	Adopted (GM Minerals Plan 2013) Adopted (Core Strategy 2011)	25-50%	✓	✓	✓*	X	X	✓	Yes

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
MPA	Plan Status	% of Surface Coal	MSA for Coal Policy	MSA Defined on Map	Excludes Urban Areas	Uses Area Thresholds	Excludes Categories of Development (Other than Standard)	Has The Coal Authority Achieved Changes	Does The Coal Authority Have Outstanding Objections	
62	Stoke on Trent	Adopted (Joint Core Strategy 2009)	50-75%	X	✓	X	X	X	Yes	
63	Sunderland	Rev Pref Options (CS & DM) Not Started (Allocations)	25-50%	✓	✓	X	X	X	✓	Yes
64	Tameside	Adopted (GM Minerals Plan 2013) Preferred Options (CS & DM)	25-50%	✓	✓	✓*	X	X	✓	Yes
65	Telford & Wrekin	Adopted (Core Strategy 2007) Strategy Options (Shaping Places LP)	0-25%	✓	✓	X	X	X	✓	TBC
66	Trafford	Adopted (GM Minerals Plan 2013), Adopted (CS 2012)	0%	✓	✓	✓*	X	X	✓	Yes
67	Wakefield	Adopted (Core Strategy 2009) Adopted (Dev. Policies 2009) Adopted (Site Specific Policies 2012)	50-75%	✓	✓	X	X	X	✓	No
68	Walsall	Adopted (Black Country CS 2011), Issues (Site Allocations)	50-75%	✓	✓	X	✓0.5Ha (5Ha urban)	X	✓	No

English Coalfield Mineral Development Plans – March 2014						Method of Implementation				
	MPA	Plan Status	% of Surface Coal	MSA for Coal Policy	MSA Defined on Map	Excludes Urban Areas	Uses Area Thresholds	Excludes Categories of Development <i>(Other than Standard)</i>	Has The Coal Authority Achieved Changes	Does The Coal Authority Have Outstanding Objections
69	Warrington	Examination Mods (CS) Not Started (Minerals LP)	0-25%	✓	X	X	X	X	✓	TBC
70	Warwickshire	Call for Sites (Minerals Local Plan)	0-25%	✓	X	X	X	X	X	TBC
71	Wigan	Adopted (GM Minerals Plan 2013) Adopted (Core Strategy)	50-75%	✓	✓	✓*	X	X	✓	Yes
72	Worcestershire	<i>Second Consultation (Minerals LP)</i>	0%	✓	✓	X	X	✓ Major Apps Only	X	No
73	Wolverhampton	Adopted (Black Country Core Strategy 2011) Issues (Development Strategy DPD)	25-50%	✓	✓	X	✓0.5Ha (5Ha urban)	X	✓	No
74	York	<i>Issues & Options (North Yorks Minerals & Waste Plan)</i> <i>Preferred Options (LP)</i>	0%	✓	X	X	X	X	X	TBC
75	Yorkshire Dales National Park	Options Paper (Local Plan) Withdrawn (Minerals DPD)	0-25%	✓	X	X	X	X	X	TBC

5.5 Analysis

The results of the national review have been presented in **Table 5.3**. This section therefore provides summary analysis of the findings in order to assist with the process of selecting the case study.

The key headline is that the principle of safeguarding has been included within the majority of development plans containing surface coal resources. Of those MPAs with only deep coal resources, 8 of the 18 had actually included a policy to safeguard the deep coal resources. The Coal Authority, as the principal government advisor on coal matters had submitted representations to all plans.

5.5.1 Coalfield development plan making progress

Table 5.4 collates the results into those plans having reached the final stages of production, namely the formal submission and into examination and also the adoption. It also sets out a summary of the number of plans in preparation, but have not yet reached the final stages of production. Finally, it is interesting to note the number of plans where no coal safeguarding policy has been included. The reasons in each case will be explored in due course.

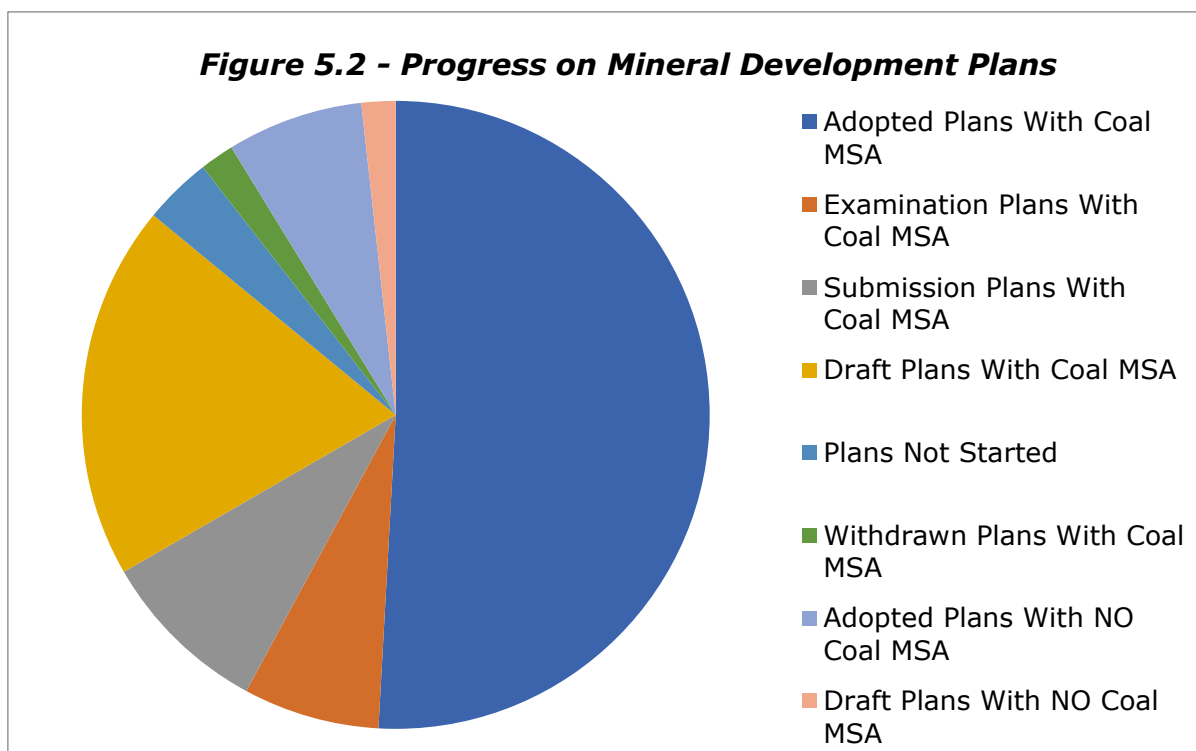
A key headline is that 38 (67%) of plans being prepared by MPAs had reached the final stages of production of a local plan prepared since the 2012 NPPF, including 29 adopted plans, all containing an MSA for coal.

It is perhaps also illuminating that there are variations between MPAs in their plan production process. All MPAs are at different stages which shows that the plan-making process is not uniform. Progress on development plans is documented elsewhere, for example an article by Collins (2013) in the *Journal of Planning and Environmental Law*, and it is not an intention of this research to explore this dimension.

Table 5.4 – Plan making progress

Final Stages of Plan Preparation		
29 x MPAs with Adopted Plans including a MSA Policy for Coal	51%	↑ 67% ↓
4 x MPAs at Examination Stage with Plans including a MSA Policy for Coal	7%	
5 x MPAs at Submission Stage with Plans including a MSA Policy for Coal	9%	
Plans in Preparation		
11 x MPAs with Plans in Preparation including a MSA Policy for Coal	19%	↑ 24% ↓
2 x MPAs who have not yet commenced Plan Preparation	3%	
1 x MPA who has Withdrawn Plan that included a MSA Policy for Coal	2%	
Plans Without an MSA for Coal		
4 x MPAs with Adopted Plans with No MSA Policy for Coal	7%	↑ 9% ↓
1 x MPA with Plan in Preparation at Issues Stage with No MSA Policy for Coal	2%	

Figure 5.2 graphically illustrates the results of **Table 5.4** and demonstrates that the dominant portions arise from those adopted plans with a coal MSA and also those draft plans which contain a coal MSA.



There are 4 plans, North Somerset, Northumberland National Park, Peak District National Park and Stoke on Trent, that have been adopted without a coal MSA.

North Somerset which was adopted in 2012 but only has 0.72% of their administrative area containing surface coal resources. North Somerset Council suggested that *"it is such a small part of our area that contains coal and it hasn't been worked in a long time, we decided that it wasn't necessary to safeguard it."* (North Somerset Council, 2014)

Northumberland National Park Authority adopted its Core Strategy and Policies document in 2009, which was prior to the publication of the NPPF in 2012 and consequently used the former MPS1 to influence the plan preparation process. There is a small amount of coal resource, approximately 2.81% of the national park area that contains surface coal resource. The reason given for why the plan does not contain a coal safeguarding area was that *"as a National Park we have a special and sensitive landscape. Any proposals for coal extraction that might be submitted would be assessed*

against national policy and other policies in the development plan.” (Northumberland National Park Authority, 2014)

Peak District National Park Authority adopted their Core Strategy in 2011, again prior to the NPPF, but like Northumberland it contains a relatively limited amount of surface coal resource (4.83%). Like Northumberland, their response to the question as to why the plan did not contain a coal safeguarding area was that *“it is not anticipated that coal extraction would take place in the Peak District. There are other places with more coal which would be of more interest to coal companies.”* (Peak District National Park Authority, 2014)

Stoke on Trent is interesting as it is within the top quartile of those MPAs with surface coal resources and this would have suggested that it should have been an important issue. However, the Core Strategy was adopted in 2009 which makes it one of the oldest mineral plans in my national review. The Stoke on Trent and Newcastle under Lyme Core Strategy was a joint plan between Stoke on Trent City Council as the MPA and the district authority of Newcastle under Lyme Borough Council. The presence of Etruria Marls (used for brick making) was identified for safeguarding. However, Planning Officers did recognise the presence of coal. *“Plan making started before MPS1 but as Etruria marl is a nationally scarce mineral it was decided to be more important to safeguard those areas than coal which can be found elsewhere. We have illustrated the shallow coal resources in the plan but not specifically safeguarded.”* (Stoke on Trent City Council, 2014).

A further plan, Staffordshire, is beginning its preparation without any suggestion of a coal MSA. However, as this is at the very early stages of preparation and therefore it has yet to establish policy positions on topics such as mineral safeguarding so no further analysis is needed at this stage.

Table 5.4 has demonstrated that the national planning policy requirement for mineral safeguarding, and more specifically safeguarding of surface coal resources, is contained within the majority of plans. The industry representatives made several comments in general about the plan making

progress, and the length of time it takes, but the CBI specifically commented that *"we are pleased by the number of adopted plans which now contain a coal MSA. However, it has taken a lot of sustained effort to get us to this point. There is now a much greater awareness of coal resources and we hope that we won't need to fundamentally repeat our arguments about the principles of safeguarding in future plan reviews"* (Confederation of British Industry, Minerals Group Representative, 2014).

However, although the principle of safeguarding coal now appears to have been accepted by MPAs; it is important to explore how the individual policies interpret this requirement in order that safeguarding can be applied in practice. The examination of local policy formulation and implementation will be the purpose of the detailed case study.

5.5.2 Illustration of safeguarding areas

Paragraph 157 of the NPPF 2012 is clear that land-use designations should be indicated on a proposals map. The proposals map (now re-named policies map), is supposed to present the policies and proposals visually and is therefore an important part of the plan for plan users (DCLG NPPF, 2012: paragraph 157).

As a development plan contains a variety of designations, policies and allocations to illustrate. As such there is a practical dilemma for all LPAs, not just MPAs, as to how to clearly illustrate different layers of information when many overlap each other. The use of interactive geographical information software and tools has made this easier because different layers can be switched on and off. However, there will always need to be a hard copy plan for those who cannot access the plan via GIS software.

Table 5.3 shows that the majority of those development plans containing a mineral safeguarding policy for coal have illustrated it in some way within the plan.

Of those MPAs that have a mineral safeguarding policy for coal, 11 however chose not to illustrate it in any form. The common reason that was given was that *"it is controversial"*. This is interesting because it confirmed that coal was still an emotive issue for some areas, such as Calderdale, North Tyneside, Newcastle upon Tyne, Leeds and Knowsley. The Director General of the Confederation of UK Coal Producers indicated that *"dealing with the preconceptions and personal experiences of coal mining activity is one of the biggest challenges that we encounter in engaging with the planning system and in trying to get the MPAs to illustrate MSAs for surface coal"* (Director General of the Confederation of UK Coal Producers, 2014).

The strongest response came from St Helen's Council who said *"they [planning officers] couldn't possibly show it on any plan as Members just wouldn't approve the plan for public consultation. It [safeguarding of coal] is just not acceptable to them."* (St Helen's Council, 2014). Newcastle City Council planning officers were concerned that *"illustrating a coal safeguarding area would put off investors looking to move into the city. It might affect the regeneration priorities"* (Newcastle City Council, 2014).

These two responses are interesting because they highlight the challenges facing the safeguarding of coal. The perception of anything coal related would be locally and politically sensitive and could affect the policy implementation process. This introduces boundaries and could be seen to be affecting decision making as preconceptions are potentially introducing a bias which would affect a fair assessment and neutral approach which is required for policy making. The comment in relation to how the illustration of the policy designation reveals that there is often more thought about the wider implications of compliance with the national planning policy requirement. In this regard it highlights the complexity of issues that the planning system needs to balance the conflicting issues, on one hand the compliance with national planning policy but also ensure that the planning system is creating the best conditions to attract inward investment, particularly in less economically attractive areas.

5.5.3 Policy approach

Planning Practice Guidance suggests that local plans should contain criteria-based policies to enable effective decision making (DCLG PPG, 2014: Paragraph: 002).

As the British Geological Survey explained "*the illustration of an MSA is insufficient, and "will not in itself safeguard mineral resources"* (Minerals Planning Geologist, BGS, 2014). However, it must be acknowledged that for those mineral planning authorities where at least half of their administrative area contains surface coal resources the issue of how to implement the policy requirement of avoiding unnecessary sterilisation needs to be refined. The Planning Liaison Manager at The Coal Authority stated that "*a geographical area alone is insufficient. It would be effectively a designation for information, as there would be no further guidance on what it would mean for individual development proposals falling within the safeguarding area"* (Planning Liaison Manager, The Coal Authority, 2014)

Planning policies can be tailored to meet local circumstances and different minerals. MPAs could set out the types of include types or sizes of development which effectively exempt them from any need to consider the potential impact of the proposed development on the likelihood of mineral sterilisation.

The BGS/TCA guidance in paragraph 5.2.7 sets out a list of potential exemption criteria. These are largely based upon existing planning application types to aid the planning administrative process. As such consideration of the impact on the need to safeguard minerals could be excluded from applications for Listed Building Consent; Conservation Area Consent⁸; Advertisement Consent; Hazardous Substances Consent and applications for householder development (i.e. house extensions, garages, conservatories etc) as now defined in Article 2(1) of the Town and Country Planning

⁸ Since removed by the Enterprise and Regulatory Reform Act 2013

(Development Management Procedure) (England) Order 2015 (as amended), (Wrighton, McEvoy and Bust, 2011).

Other types of development could also be exempted, such as change of use of buildings or land, reserved matters consent where the issue was dealt with at the outline application stage and also for applications on allocated sites within the development plan where mineral sterilisation has been considered by the plan making authorities at the time of plan preparation process.

From the extensive study of the national picture, it is evident that the majority of policies for mineral safeguarding did contain some form of criteria.

Beyond excluding application and development types, some mineral planning authorities have gone further and used additional policy criteria to achieve the implementation of the policy objective for mineral safeguarding. A total of 29 (51%) of the 57 plans did include some additional policy criteria as set out in **Table 5.5**.

In making this assessment, the position in relation to safeguarding pf minerals has been considered, so although the Peak District National Park Authority has no coal MSA, it has been included in this table for how it approaches the safeguarding of coal and other minerals which has resulted in a policy approach that has no defined MSA.

These policy implementation approaches fall into three broad areas:

- Geographical exclusion;
- Size of application threshold (i.e. only application sites above this size need to consider mineral sterilisation); and
- Categories of planning applications excluded (i.e. majors or minors)

Table 5.5 - Mineral planning authorities using additional criteria

Method of implementation	No. of MPAs with surface coal resource	Percentage of all MPAs with surface coal resource
Geographical exclusion	14	25%
Size threshold	10	18%
Category exclusion	2	4%
Mix of geographical exclusion and size threshold	2	4%
Mix of geographical exclusion and category exclusion	1	2%
Total	29	51%

Geographical exclusion

Given the geographical extent of surface coal resources within some MPA areas, policy makers have tried to reduce or modify the spatial area in some way. The most common method utilised to modify the spatial extent of the mineral safeguarding areas appeared to be the removal of urban areas.

The rationale behind a number of MPAs taking this approach was that urban areas such as towns and cities had already sterilised the mineral resource through existing development. Several of the MPAs indicated that in urban areas the mineral resource has already been sterilised then any new development proposals would have no greater impact on the ability to access the minerals than currently exists. The Coal Authority argued against such an approach, because *"it fails to take account of the fact that any re-development in urban areas will present an opportunity to access the minerals once again through the process of prior extraction"* (Policy Advisor, The Coal Authority, 2014)

Within an MSA, the majority of policies contained a requirement to 'consider' whether the prior extraction of the mineral could take place before the non-mineral development is constructed above it and thereby sterilises the potential future access into the mineral resource. Although, again with the urban areas, several MPAs suggested that *"it would be difficult to extract minerals on constrained sites where a range of machinery and equipment would be required."* This is perhaps interesting since assumptions were clearly being made by planning officers regarding the nature of the machinery that would be required for this activity. This view was frequently challenged by The Coal Authority; *"we were able to provide planning authorities with site specific evidence to demonstrate that prior extraction had in the past been carried out on sites as small as 0.08 hectares"* (Planning Liaison Manager, The Coal Authority, 2014). The Mineral Products Association effectively supported The Coal Authority's argument; *"we agreed that coal could be prior extracted in urban areas and on small sites. However, for some other minerals this would not be viable or practical. For example, for hard rock which requires blasting, an urban setting would not be appropriate"* (Coal Representative, Mineral Products Association, 2014).

From the national review there were 17 MPAs which had chosen to exclude the urban areas from their MSA for coal, either as the only exclusion criteria or as part of a suite of exclusions. This included the Greater Manchester Minerals Plan which covered 9 surface coal MPAs, therefore the number of individual plans which excluded urban areas was in fact 8.

The 8 plans included Greater Manchester Minerals Plan; Blackburn with Darwen; Calderdale; Cumbria; Gloucestershire; Kirklees; Lancashire and the Peak District National Park. Of these 7 plans, all but 2 were within the northern regions where there is a desire for regeneration, the local market economy was not as strong and therefore development was needed to be positively encouraged. As the MPA prepares the development plan for their area, the responsibility is with them to justify why they feel it inappropriate to have a MSA for coal to incorporate the urban areas.

The Greater Manchester Minerals Plan excluded urban areas, but within Policy 8 (Prior Extraction) there was a promotion of prior extraction both within and outside of the defined MSAs.

Gloucestershire also chose to exclude the urban area from the MSA for coal, however, the spatial extent of surface coal resources only covers 3.98% of their administrative area and consequently they decided that this was *de minimis*.

It is interesting to look back at **Table 5.1** showing those MPAs and the percentage of their administrative area containing surface coal resources and then compare this to whether they have chosen to exclude urban areas.

Gateshead and Newcastle upon Tyne are two northern cities which together form a large conurbation and despite a Green Belt designation, coalescence has occurred and there is little clear distinction as to where Gateshead ends and Newcastle begins, except for the River Tyne. The joint development plan did not exclude the urban areas, but did impose a site size threshold of 1 hectare, below which development proposals would not need to consider prior extraction. North Tyneside as a neighbouring authority to both Newcastle and Gateshead also chose not to exclude urban areas, but also adopted the 1-hectare site size threshold.

From the interviews it was clear that Planning Officers from each of these MPAs had discussed this policy topic. North Tyneside felt that *"it was important for consistency between authorities as that would help with evidence on the duty to cooperate for the independent examination stage. It was also felt to be appropriate to ensure that local policy approaches did not interfere with the market, whereby flexible developers seeking land in the local area would not choose land in a neighbouring authority because they appeared to have less restrictive planning policies"* (North Tyneside Council, 2014). Although South Tyneside contained slightly less coal than Gateshead, Newcastle and North Tyneside, only 50-75% of their area, they also adopted the 1-hectare threshold for the principally the same reason.

Both Bolton and Rochdale were also in the top quartile of surface coal resources and were part of the Greater Manchester Minerals Plan. As such their individual opinions on the approach were somewhat hidden by the collective adopted view. Planning Officers at Bolton were of the view that *"an effective compromise had been reached with The Coal Authority as although the urban areas were excluded which was the root of The Coal Authority's objection, the policy still requires the consideration of prior extraction for allocated sites within the urban area"* (Bolton Council, 2014).

For Sheffield and Barnsley, the remaining two MPAs within the top quartile of surface coal resources, neither chose to exclude urban areas but whilst Sheffield did not use any site area thresholds, Barnsley had a 2-hectare threshold. This is perhaps interesting because whilst both MPAs had regeneration aspirations, the Planning Officers at Barnsley said that *"the 2-hectare threshold was sufficiently large enough to enable small to medium projects to not have to consider the requirement for prior extraction which would probably put them off from coming to Barnsley"* (Barnsley Council, 2014)

By contrast the Sheffield Planning Officers were more of the view that *"as a consequence of a lot of Sheffield already being built on coal, any redevelopment would be likely to leave the foundations intact and a new building being erected on top of the existing platform. As such providing the developers proposals are not going to be altering the foundations then practically the prior extraction requirement that accompanies the coal MSA is likely to have very limited impact on redevelopment and regeneration proposals"* (Sheffield City Council, 2014).

What the Barnsley and Sheffield approaches reveal is that policy implementation can be considered as a mechanism to sift out potential and perceived conflict, therefore perception rather than reality, as in the case of Barnsley. Sheffield appeared to consider it in a different way and rather more as to the likely practical effect of the policy.

Blackburn with Darwen had surface coal resources within around 50% of their administrative area and chose to exclude urban areas from their coal MSA. The Planning Officers commented that *"the Joint Lancashire, Blackpool and Blackburn with Darwen Minerals and Waste Development Plan Document has to set a policy threshold which will work across the whole plan area and excluding built up areas seemed logical as they are already built on and therefore sterilised"* (Blackburn with Darwen Council, 2014).

At the other end of the spectrum, for those MPAs with less than a quarter of their administrative area containing surface coal resources, Calderdale was planning to exclude not only the urban areas but also environmental designations. The rationale for this approach according to Planning Officers at Calderdale was that *"urban areas are already sterilised and mineral extraction would be incompatible with environmental designations, for example, mineral extraction would destroy a site of special scientific interest, therefore as it would be unlikely to get planning permission there is no point in including the environmental designation within the coal MSA"* (Calderdale Council, 2014).

Thresholds and categories

Thresholds can be another method of policy implementation. In the planning regime thresholds are commonly used as a mechanism to differentiate requirements. For example, in relation to the Environmental Impact Assessment, Schedule 2 Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011⁹ uses thresholds only above which it is necessary to consider the requirement for an Environmental Statement. Another mainstream use of thresholds is within the Development Management Procedure Order where the definition of 'major' development is based upon number of dwellings, or site size or floorspace. In this context it relates to the fact that the local planning authority is then allowed 13 weeks to determine the major planning application rather than the standard 8 weeks

⁹ Since replaced by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 2017/571) which came into force on 16 May 2017.

(The Town and Country Planning (Development Management Procedure) (England) Order 2015).

A measure of success for any form of policy is whether it can be implemented in day-to-day decision making. “For some types of non-mineral application, the sterilising effect on mineral resources may be negligible...It is recommended that MPAs adopt a policy that specifies those types of proposed development that lie within an MSA but do not need to be considered on mineral grounds. The setting of exemption criteria will be of particular value in reducing the number of applications that need to be considered in urban areas where the majority of small householder applications are received.” (Wrighton, McEvoy and Bust, 2011:30).

The Practice Guidance goes on to suggest a preferred approach of exemption criteria based upon types of applications, such as householder development (for example, house extensions, garages, sheds, outbuildings). The advice identifies that the use of size thresholds is not the preferred approach but could be used providing that careful consideration is then given to the local circumstances and the difference between types of minerals. As in relation to prior extraction, minerals such as coal or sand and gravel can feasibility be extracted on relatively small sites whereas hard rock for example could not be prior extracted on a small site due to the need to undertake blasting.

The results of the national review revealed that 10 of the 57 plans included thresholds as the only exclusion mechanism with 2 other plans having it as part of a suite of exclusion criteria. There were a range of thresholds chosen by mineral planning authorities from 0.5 hectare (Kirklees, Dudley-rural, Sandwell-rural, Walsall-rural, Wolverhampton-rural); 1 hectare (Durham, Gateshead, Newcastle, North Tyneside; South Tyneside); 2 hectares (Barnsley); 5 hectares (Calderdale; Dudley-urban, Sandwell-urban, Walsall-urban, Wolverhampton-urban). Leeds City Council in their Natural Resources and Waste Development Plan chose to only require major applications whereby it was deemed necessary to consider mineral sterilisation.

Whilst some MPAs chose to use thresholds their evidence base to underpin their choice of size threshold was variable. The clearest and most robust evidence was set out by South Tyneside. They spent time gathering and analysing the site sizes of several years of planning application data to establish the average site size. A second exercise was undertaken to examine the site sizes of their site allocations. Based on the available evidence they decided that a 1-hectare threshold would be the most appropriate. One of the Planning Officers recalled that *"having evidence to underpin all policy decisions is crucial. Objectors to our plan not only object to the policy but look at the evidence which underpins it. We just couldn't pick a figure, there needed to be more to it"* (South Tyneside Council, 2014).

Interestingly, Calderdale also chose to include a site size threshold of 5 hectares, this was in addition to the exclusion of urban areas and also any environmental designation. The 5-hectare threshold would potentially accommodate 150 houses using the former national indicative minimum of 30 dwellings per hectare (Paragraph 47, Planning Policy Statement Note 3 – Housing (DCLG, 2006)).

For Calderdale the administrative area is predominantly rural with a series of former mill towns and surrounding villages. The West Yorkshire Metropolitan Green Belt covers around two thirds of the administrative area and washes over the towns and villages (Calderdale Core Strategy Preferred Options, 2012). Consequently, with the removal of the urban areas and any environmental designation, the addition of a 5-hectare threshold there would be barely any development proposal that would be likely to encounter the coal MSA and the requirement to consider prior extraction. Other than the Black Country MPAs, no other MPA chose to use such a large threshold.

Some MPAs chose to use a site size threshold relative to their own interpretation of urban or rural. For example, the Black Country Core Strategy prepared jointly by Dudley, Sandwell, Walsall and Wolverhampton which was adopted in 2011 used 0.5 hectares for sites within their rural areas and for their urban areas it was 5 hectares. The reasons for the approach as

given by Planning Officers within the Black Country authorities was that *"the proportion of development directed to the rural areas is designed to be a lot lower than the urban areas. As such the site size threshold needs to be proportional"* (Dudley, Sandwell, Walsall and Wolverhampton Councils, 2014).

5.6 Summary of the findings of the extensive study

This chapter has reported on an extensive study was undertaken to review the progress on mineral safeguarding policies being produced by the 75 MPAs in England in early 2014. No such study has previously been undertaken.

For the 57 MPAs with surface (and deep coal resources) the majority, 67% (38 MPAs) had reached the final stages of plan production, including 29 that had been adopted, and all of which contain an MSA for coal. For those 11 emerging plans in preparation, they also all contained an MSA for coal. Only 4 MPAs had adopted plans without a MSA for coal; and a further 3 MPAs were yet to commence any plan production. This therefore illustrates that the principle of MSAs appears to have been accepted by MPAs.

However, the approaches to the definition of the MSA does vary according to the findings of the national review. It is interesting that 29 MPAs, approximately 51% of those with surface (and deep) coal resources, chose to include a refinement mechanism. The most common approach, chosen by 17 of the 57 MPAs was to remove some parts of their administrative area, typically urban areas, from the MSA designation. Others represented the whole geological coal resource but used thresholds and criteria to help to implement the mineral safeguarding policy when determining individual planning applications. It is clear that there is no one single approach to implementing the national planning policy requirement at the local level.

Further conclusions can be drawn from the national review:

- Some MPAs produce detailed mineral plans whereas others have brief content in a larger document;

- Some authorities do the mineral safeguarding in one stage whereas others do it in two documents, i.e. principles set out in one document and then the definition of the boundaries in a second, separate document;
- Despite the NPPF defining minerals of national and local importance, which minerals actually get safeguarded does still differ between MPAs;
- There have been a variety of approaches to implementation criteria, in terms of the exclusions to be used; and
- The awareness and priority placed upon mineral safeguarding by MPAs appears to have increased during the period of the research with some of the early adopted plans (e.g. Stoke on Trent) not having considered the matter in detail. This can be mostly likely attributed to the involvement of The Coal Authority from 2009 in all emerging coalfield development plans by providing information, data and guidance to MPAs on mineral safeguarding.
- For some MPAs, (e.g. St Helens) the notion of illustrating an MSA for coal in a plan, no matter how well the supporting text was written to explain the role and purpose of the coal MSA, was simply too sensitive an issue for local politicians to agree. This demonstrates that although there was a local understanding of the national policy requirement any explicit and overt compliance at the local level would serve to highlight the issue and therefore generate conflict in local decision making.
- The spatial illustration of a coal MSA raised concerns with some (e.g. Greater Manchester) but not all (e.g. Leeds) MPAs with regeneration aspirations and priorities. This shows that the same concerns did not manifest themselves across all MPAs.
- Given that the BGS/TCA Guide represented good practice and itself suggested that thresholds and categories of development could provide a form of implementation criteria for MPAs defining their coal MSA, it is perhaps not surprising therefore that around half of the coalfield MPAs used one or both of these criteria. Some MPAs also

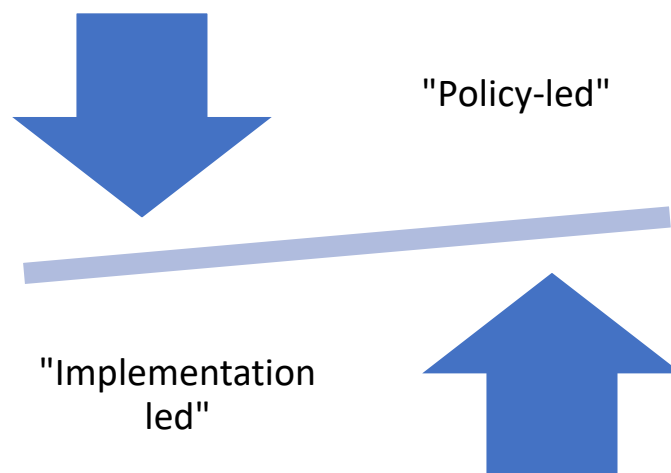
used geographical exclusion of areas, although this was specifically discouraged by the BGS/TCA Guide.

5.7 Reflections on the implications of the findings for policy making

This extensive study has given an insight into the approaches being taken at the local level to implement a national planning policy requirement to safeguard coal resources.

As there is a requirement for a geographical definition of the safeguarding area, MPAs need to understand the distribution of coal resources within their area and

This research reveals that on a simple level the findings can be viewed in two broad ways, which I will refer to as “policy-led” and “implementation-led”.



The “policy-led” approach seeks to formulate a local policy that is closely aligned to the national requirement. This approach would therefore be viewed as a compliant policy at the independent examination stage. This approach may however, lead to challenges when it is used in the implementation stage and decision-making on individual planning applications.

The “implementation-led” approach seeks to apply practicalities to the policy formulation process. This would use evidence from planning applications data, site allocations etc to influence the evolution of the policy.

From the extensive study the findings reveal that, whilst taking into account the MPAs are at different stages of plan making, some MPAs can be aiming for a policy-led approach whereby the coal MSA is illustrated and there are no other policy criteria to be used to sift proposals in or out of the policy requirements for prior extraction. For example, Cumbria, Darlington, Northumberland, Nottingham, Rotherham, Sheffield, Shropshire, Somerset, South Gloucestershire, Sunderland, Telford and Wrekin and Wakefield.

Others with a minimal approach to additional criteria would include Bradford who used the ‘major’ category of development; Leeds, initially had no additional criteria but then found in practice following the adoption of the policy that additional criteria would be needed.

The reality is that that policy formulation will be likely to be somewhere in between. Depending upon the plan production stage, it is probable that a policy would shift between the two approaches as it evolves. It is therefore probably appropriate to view the policy formulation process as a continuum. Once adopted then the policy should begin a review process taking in feedback from those applying it in practice in order to potentially refine it for the next version of the policy document.

5.8 The choice of case study for intensive analysis

There are various rationales for case study selection, as explained within **chapter 4**. For example, a single case study; comparison between case studies that vary in some respect in order to explore different contexts; or a range of case studies intended to be representative of a broader picture. In any research programme there are trade-offs between breadth and depth when thinking about the nature, type and number of case studies.

The decision was taken in this PhD research to choose a single case study area to provide an examination in depth of a representative MPA that illustrates many of the tensions and conflicts that arise when translating national planning policy into the local context.

Furthermore, there was not much merit in comparing case studies because the overall summary analysis from the extensive study revealed broadly similar stories across England. There were differences in political interest and commitment to mineral safeguarding but the key issue was around the weight given to safeguarding in areas where this was a potential issue for conflict, most notably around the degree of growth and regeneration priorities.

A single case study was to be chosen in order to provide the sufficient depth of analysis and from which conclusions and recommendations could be drawn.

Drawing on the findings from the analysis of the coalfield MPA and the extensive study of the national position of the progress on mineral safeguarding areas and policies for coal across England; the following criteria were formulated as the basis upon which to select the case study:

- 1) At least 50% of the administrative area would contain surface coal resources which require safeguarding;
- 2) Stage in the plan making process would need to be sufficiently advanced in order to examine how the approach to mineral safeguarding had potentially evolved through the plan making process;
- 3) A mix of urban and rural locations - since a development plan has to cover an entire administrative area, would there be a different approach to mineral safeguarding areas for areas with urban and rural parts within the same MPA area?
- 4) Type of MPA - unitary (single tier) or county within the two-tier system;
- 5) The approach to mineral safeguarding; aiming for simplicity, safeguarding the whole resource with some form of threshold or category;

- 6) Potential for conflict arising around the need for mineral safeguarding when faced with other spatial planning pressures such as housing growth or regeneration; and
- 7) Potential political attitudes towards coal.

The rationale for each of these 7 criteria was as follows:

To explore the case study in sufficient depth there should be an extensive surface coalfield, at least 50% of the administrative area was considered to be a suitable cut-off point. At such a level there was a strong likelihood that the surface coalfield would underlie both the development and undeveloped parts of the case study area. This therefore forms the basis of the first criterion.

The development plan would need to have reached an advanced stage of production, i.e. at least submission/publication, but preferably examination or had already been recently adopted. It would then provide a sufficient journey through the plan production process whereby a greater volume of documentary material would be available for analysis and consequently enable more opportunities for questioning within interviews. This provides the second criterion.

Any case study needs to reflect the main elements which underpin the planning context; many of which stem from whether you are trying to address urban planning or rural planning issues. In particular the focus of growth is at present very urban centric with many rural areas being protected from growth, either by environmental designations such as Green Belt, Areas of Outstanding Natural Beauty, or by the spatial approach in the development plan which seeks to limit development in villages to small scale proposals aimed at meeting local needs only. A case study that includes a mix of urban and rural locations would therefore be preferred. The MPA area which has a large city, conurbation suburbs, market towns, villages, hamlets would be ideal as this may be likely to lead to differing opinions and options for formulating and implementing a MSA policy for coal across a diverse area. This therefore forms the basis for the third criterion.

This research is looking at both the policy and the implementation of MSAs for coal; since these two aspects cannot be considered in isolation from each other, the chosen case study will need to be a unitary authority as they deal with both policy and implementation. A two-tier area with a County Council has the MPA defining safeguarding and the District Council dealing with the implementation. As such with 2 separate organisations there are likely to be more variables which could affect the findings. This would be the fourth criterion.

The fifth criterion would make a judgement against the level of complexity with regard to their approach to mineral safeguarding. In essence the approach should focus on simplicity, by safeguarding the whole resource and using a policy for implementation, maybe using either a threshold or category of development approach, to implement the mineral safeguarding policy.

The sixth and seventh criteria are based upon a subjective judgement about the potential for conflict that the topic of mineral safeguarding is likely to encounter during the policy making process either in relation to it needing to compete with other planning priorities, such as growth and/or regeneration; or local political conflict.

Table 5.6 illustrates the results of the application of the criteria to those MPAs which contain at least 50% of their administrative area containing surface coal resources.

Table 5.6 – Application of case study selection criteria

	English Mineral Planning Authority	At least 50% surface coal area	Advanced stage of production submission, examination or recently adopted	Mix of urban and rural parts within the administrative area	Mineral Planning Authority type – unitary of county	Policy approach to coal safeguarding – whole area, with some form of threshold/category	Potential for conflict around competing planning priorities	Potential for local political conflict regarding coal
1	Leeds City Council	50%	✓	✓	Unitary	✓	✓	✓
2	Blackburn with Darwen Borough Council	51%	✓ #	✓	Unitary	x	x	x
3	Walsall Metropolitan Borough Council	53%	✓ ~	x	Unitary	✓	✓	✓
4	Rotherham Metropolitan Borough Council	55%	✓	✓	Unitary	x	x	x
5	Stoke on Trent City Council	56%	x	✓	Unitary	x	x	x
6	South Tyneside Council	60%	✓	✓	Unitary	✓	x	✓
7	Oldham Metropolitan Borough Council	61%	✓*	x	Unitary	x	✓	x
8	St Helen’s Council	65%	✓	x	Unitary	x	x	✓
9	Wakefield Metropolitan District Council	66%	x	✓	Unitary	✓	✓	✓
10	Kirklees Metropolitan Council	68%	x	✓	Unitary	x	✓	✓
11	Bury Metropolitan Borough Council	71%	✓*	x	Unitary	x	✓	✓
12	Wigan Metropolitan Borough Council	71%	✓*	✓	Unitary	x	✓	✓
13	Rochdale Metropolitan Borough Council	77%	✓*	✓	Unitary	x	✓	x
14	Sheffield City Council	85%	x	✓	Unitary	x	✓	x
15	Barnsley Metropolitan Borough Council	87%	✓	✓	Unitary	✓	✓	✓
16	Bolton Metropolitan Borough Council	96%	✓*	x	Unitary	x	✓	x
17	North Tyneside Council	99%	x	✓	Unitary	✓	x	x
18	Gateshead Metropolitan Borough Council	100%	✓ +	✓	Unitary	✓	✓	x
19	Newcastle City Council	100%	✓ +	✓	Unitary	✓	✓	x

Table 5.6 Notes * Part of the Greater Manchester group of mineral planning authorities producing the Greater Manchester Minerals Plan.
Blackburn with Darwen, although a unitary authority, it shares a plan with Lancashire County Council in a two-tier area.
~ Walsall is part of the Black Country group of MPAs producing the Black Country Core Strategy. + Newcastle and Gateshead have a joint Core Strategy.

Using the aforementioned criteria, there were two MPAs, Barnsley and Leeds, which met all of the criteria for selection.

The Barnsley plan included a 2-hectare threshold, below which mineral safeguarding as a topic would not be considered by decision-makers. Consequently, mineral sterilisation would occur on sites that were less than 2 hectares. This is a considerable spatial area, i.e. a minimum of 60 houses, and as such it was considered that it must be discounted from the final selection process because the cumulative impact would undermine the purpose of mineral safeguarding.

Having applied the selection processes the case study choice is therefore Leeds City Council. It covers not only the city itself with ambitious growth and regeneration proposals but also the suburbs such as Headingley, together with the market towns of Otley and Wetherby, larger villages such as Boston Spa and Collingham, alongside the smaller villages, hamlets and the open countryside including the Green Belt. Leeds City Council is also one of the few MPAs with specialist coal development management knowledge that has been used to inform the policy development. It is a plan which appears to have carefully considered the issue of implementation within the policy development process.

It is an unusual local authority administrative area which encompasses not only one of the 10 core English cities but also a very large rural hinterland (Corecities.com, 2014). As part of the Northern Powerhouse policy initiative, it is seen as a pivotal area by the government for growth and regeneration (Northern Powerhouse Strategy, 2016). Leeds contains a large proportion of its area being within the defined surface coalfield (50.08%) and production of Natural Resources and Waste Local Plan encompasses a long time period of preparation from 2007 to 2013; during which the general importance of safeguarding has changed, partly through the publication of the updated Good Practice Guidance on Mineral Safeguarding in 2011 and the NPPF in 2012. Leeds also changed their policy approach to mineral safeguarding at

each stage of the plan making process which is an interesting dimension to explore in greater detail.

Leeds was also a plan in which The Coal Authority played a very active part in the plan production process with numerous representations, meetings and conversations about mineral safeguarding; along with sufficient time to be able to explore how it is then being implemented in decision making on planning applications.

The Leeds Natural Resources and Waste Local Plan was adopted in January 2013 which gives certainty on the adopted local policy framework.

5.9 Chapter summary

In this chapter the findings of the extensive study into the national progress of English coalfield development plans has been presented. This has established the baseline on plan progress at a point in time. It revealed that the majority of MPAs had a policy for mineral safeguarding, which included coal. It also helped to identify and categorise the different policy approaches being taken by MPAs, such as choosing the spatial area to safeguard, incorporating thresholds or categories of development which would enable the plan-users to understand whether mineral safeguarding was a planning consideration for individual development proposals.

From the national review and other considerations criteria have been devised in order to select the case study for the in-depth analysis of policy formulation and implementation in practice. The case study of Leeds City Council has been chosen to explore in the following two chapters. **Chapter 6** will focus on the local policy making process and the adopted Natural Resources and Waste Local Plan.

CHAPTER 6 CASE STUDY - LEEDS LOCAL POLICY

6.1 Introduction

This chapter forms the second of the three elements of empirical work in this research project. The findings from the national review of English coalfield development plans revealed that the majority of coalfield MPAs had a local policy for safeguarding coal. This demonstrated that the national planning policy requirement for mineral safeguarding had been accepted in principle by MPAs. It is acknowledged that the development plans were at different stages in the production process, some early stages and others had reached adoption, and this is a consequence of the MPA being able to determine the production process timetable for their Local Plans.

However, the national review did reveal an important, and very interesting finding in that different approaches are being adopted by MPAs to safeguard minerals. This aspect therefore demonstrates that the interpretation and implementation of the national planning policy requirement to safeguard minerals did vary at the local level. The national review was therefore able to identify and categorise the findings to show that mineral planning authorities were implementing the policy requirement through a combination of choice of a spatial area for mineral safeguarding and also using thresholds or categories of development within the policy as a form of sifting mechanism to enable plan-users to understand whether mineral safeguarding was required to then be a planning consideration for an individual development proposal.

It was difficult to assess from the extensive study what the approach to coal safeguarding meant in practice. It was an overview to gain an understanding of how the national policy requirement for mineral safeguarding for coal was being interpreted by individual planning authorities. Whilst the extensive study demonstrated the breadth, it was not able to explore to any significant depth how rigorously it was being applied in policy making, whether it had been tested, and if so, what were the outcomes.

In order to understand more about the underlying process and the application of the requirement to safeguard coal resources, the next stage was to select a case study area for more detailed analysis.

As set out previously the decision was taken to focus upon one MPA. Leeds was selected because (a) the administrative area contained at least 50% surface coal resources and there was a good mix of urban (regeneration) and rural issues including Green Belt; (b) there was an adopted policy; (c) the adopted policy approach to coal safeguarding contained a sifting mechanism and there was initial evidence of some tension around both the topic of coal and also how mineral safeguarding as a topic had to be incorporated within the development plan where there were competing planning priorities, especially in relation to strong demand for new housing.

This chapter, along with **chapter 7**, will collectively present the findings from the Leeds case study examining how the national planning policy requirement to safeguard coal resources has been translated into local planning policy and then exploring how the policy was used in practice in relation to individual decisions on planning applications.

It will focus upon the formulation of the local planning policy. It will explain the importance of planning policy in the planning system and describe, in general terms, the process of how a development plan containing the local planning policies is prepared. It is important to examine the local planning policy context because it is the first part of the implementation of the national planning policy requirement for mineral safeguarding. Exploring how Leeds City Council, as the MPA for the area, chose to interpret the national planning policy requirement is an important part of understanding how national planning policy can be interpreted. The findings will therefore contribute to a greater understanding of mineral safeguarding policy at the local level and also make a contribution to a wider body of knowledge about planning policy formulation.

There will be an introduction to the Leeds area and a section to set out the background on both the existing planning policy context and the presence

and role of coal within the Leeds area. The plan making process in the Leeds context will be outlined in the form of a timeline and the commentary will be focusing upon the evolution of the mineral safeguarding policy. The analysis will therefore identify who the key actors and participants were, what their interest or role was in the process and when did they become involved. There will be a section on key debates arising from the policy formulation process and also at what point in the process were certain issues raised and why.

Chapter 6 will conclude with findings that reflect on the policy outcome which was adopted. This will enable **chapter 7** which will follow to then continue the research into the micro level by examining how the adopted policy for safeguarding coal resources was used in the decision-making process of individual planning applications.

6.2 Planning policy, plan making and the importance of the development plan

Since the 1990s the planning system has been described as being 'plan-led' (Cullingworth and Nadin, 2006). The formulation of a development plan by each local planning authority provides an opportunity to set out a vision and strategy for a local area for a 15-20-year time horizon. The vision and strategy will be implemented through a series of locally distinctive policies and land allocations to deliver a sustainable future of growth, development and protection and conservation. The locally distinctive policies are formulated by reference to a range of technical evidence which examines the local needs and context upon which the policies can be grounded.

Development plans therefore enable interested parties to understand how an area would change and develop over a period of time. The land allocations that are chosen consequently provide certainty in that it is a site where planning permission for that use indicated in the development plan is likely to be forthcoming, subject to the details being acceptable to the local planning authority.

The development plan is a powerful document in that the action by local planning authorities in selecting future land for development and the type of development has a significant impact on land values (Cullingworth, et al, 2015; Sheppard, et al, 2017). If land is clearly identified in such a plan as being destined for residential development it can make the land significantly more valuable. However, the development plan can also depress land values, for example areas that are defined as 'protected open space' are unlikely to be available for future development and as such the potential or hope value by a landowner is diminished. Where land has been allocated or designated for some public use (e.g., road improvement schemes, High Speed 2) then, even if the policy is not realised for other reasons, the landowner may suffer from a form of 'blight' whereby the land is more difficult to sell or dispose of and/or has its value significantly altered.

The development plan has statutory status within the planning legislation derived in principle from the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 (Cullingworth et al, 2015).

In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, it states that "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise" (s38(6), PCPA 2004).

When an application is made for planning permission, the local planning authority shall have "regard to the provisions of the development plan, so far as material to the application, any local finance considerations, so far as material to the application, and to any other material considerations" s70(2) Town and Country Planning Act 1990 (s70(2), TCPA 1990).

This means that the starting point for individual decision making on planning applications is the development plan. As such the adopted development plan plays an important role in the planning system. An adopted development plan carries full weight in decision making and any emerging development plan will carry different weight in the decision-making process according to

the stage in the production process that it has reached. The UK courts have been very clear in that the weight to be attached to emerging development plans and other material planning considerations is a matter for the decision maker as per *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 27 EG 154; [1995] 2 PLR 72, (Cullingworth et al, 2015; Sheppard et al, 2017).

However, whilst there is a degree of certainty in terms of what the policy position is in relation to different land use topics and where new development is to be focussed through the selection of site allocations; it does not mean that there is not flexibility and where necessary or appropriate then a departure from the contents of the development plan is possible.

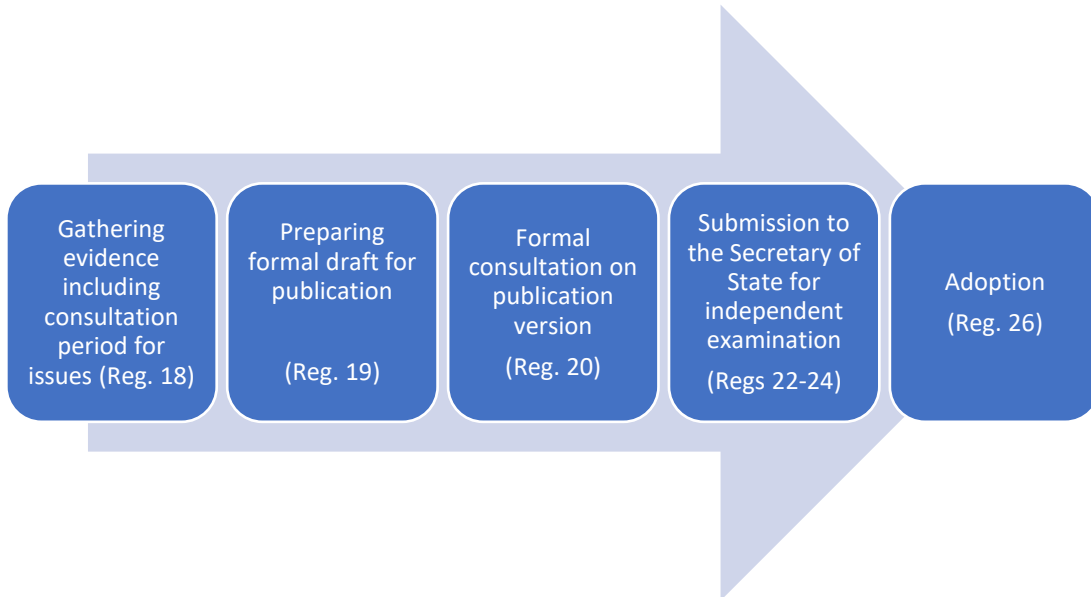
Although s38(6) PCPA 2004 imposes a duty on the local planning authorities to determine the application in accordance with the development plan, regard also must be had by the decision maker to any other material considerations. Material considerations are those land use planning matters relevant to the particular decision and include, for example, national planning policy and supporting guidance. Essentially, unless there are such other material considerations, it creates a presumption in favour of development which is in accordance with the development plan. This therefore demonstrates that the planning system is 'plan-led' and the development plan is a keystone of the system (*Edinburgh City Council v Secretary of State for Scotland* [1998]).

6.3 The development plan making process

The process of preparing a development plan is prescribed by secondary legislation. Leeds City Council started preparing its plan under the provisions of the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended) which set out the stages that must be followed by local planning authorities in order to achieve an adopted development plan. During the timescale of Leeds producing its plan, new regulations came into force, namely the Town and Country Planning (Local Planning) (England) Regulations 2012. These new regulations introduced some changes, but the overall broad approach to plan preparation was the similar.

Figure 6.1 sets out a simplified version of the process, drawing the key stages out from the regulations.

Figure 6.1 *Simplified version of development plan making process*



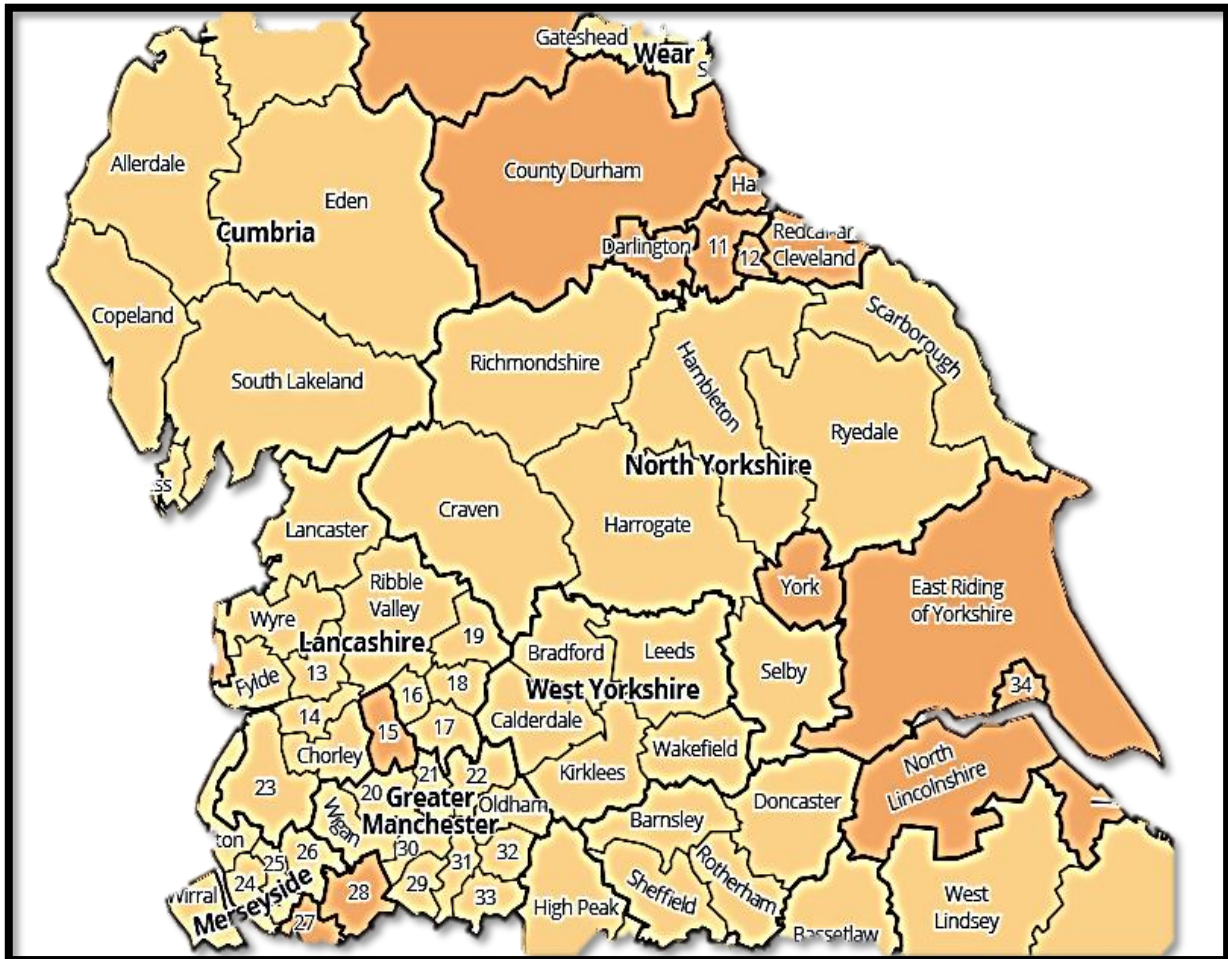
(Based upon the Town and Country Planning (Local Planning) (England) Regulations 2012)

Figure 6.1 identifies the key stages to demonstrate that plans must undergo a minimum of 2 consultation stages, together with an independent examination by the Secretary of State, whereby the recommendations of the Planning Inspector appointed by the Secretary of State should be published and any modifications arising from the examination process undergo a further round of consultation before the plan can be adopted (Cullingworth et al, 2015; Sheppard, 2017; Harwood, 2017).

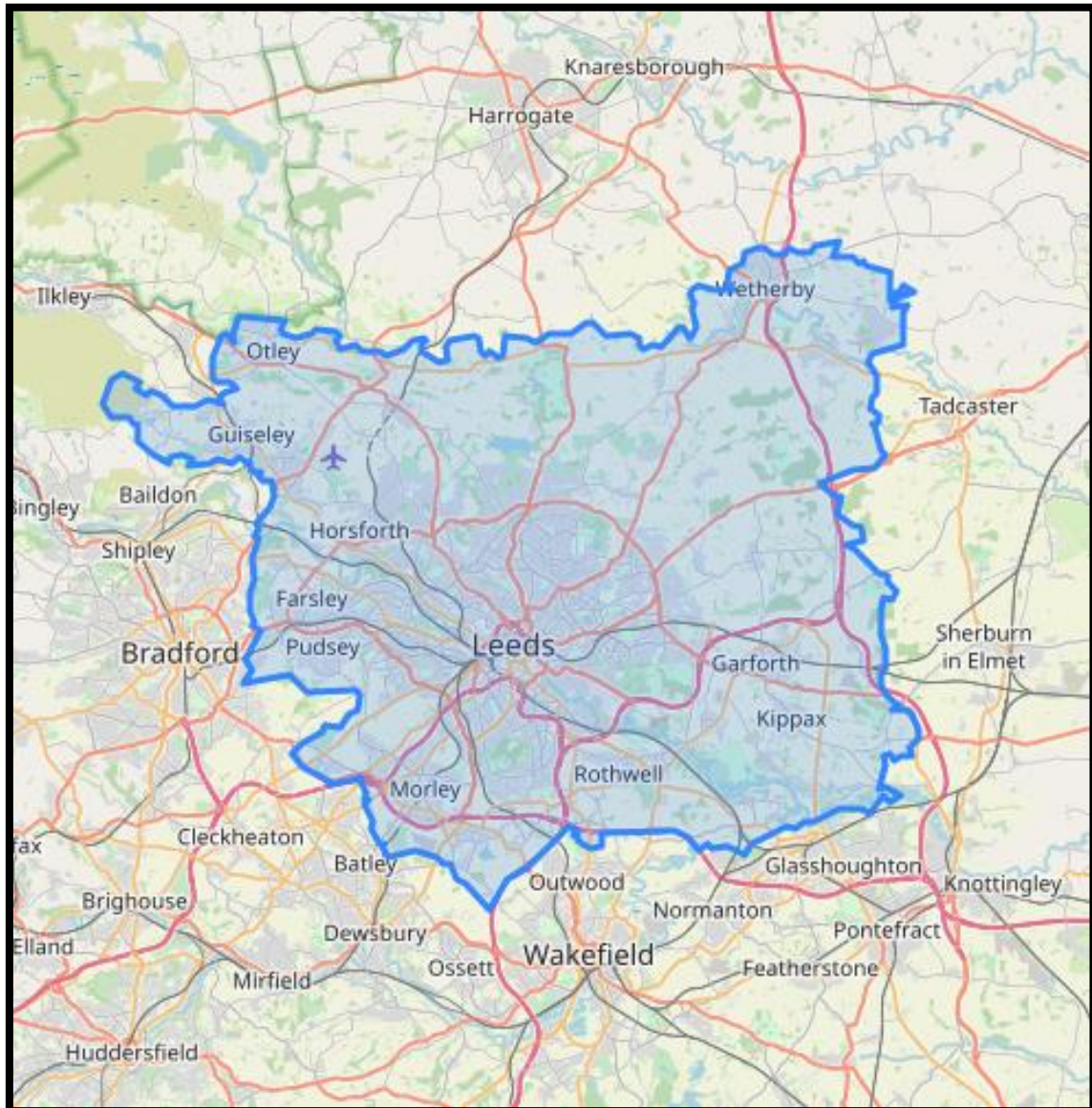
6.4 Leeds

The Leeds City Council area is a metropolitan district of 217 square miles in the Yorkshire and Humber region of England. **Figure 6.2** illustrates the administrative context of northern England. Leeds is located within a geographical area known as West Yorkshire and is bordered to the west by Bradford and to the south by Kirklees and Wakefield. To the north lies Harrogate and to the east is Selby, both within the County of North Yorkshire.

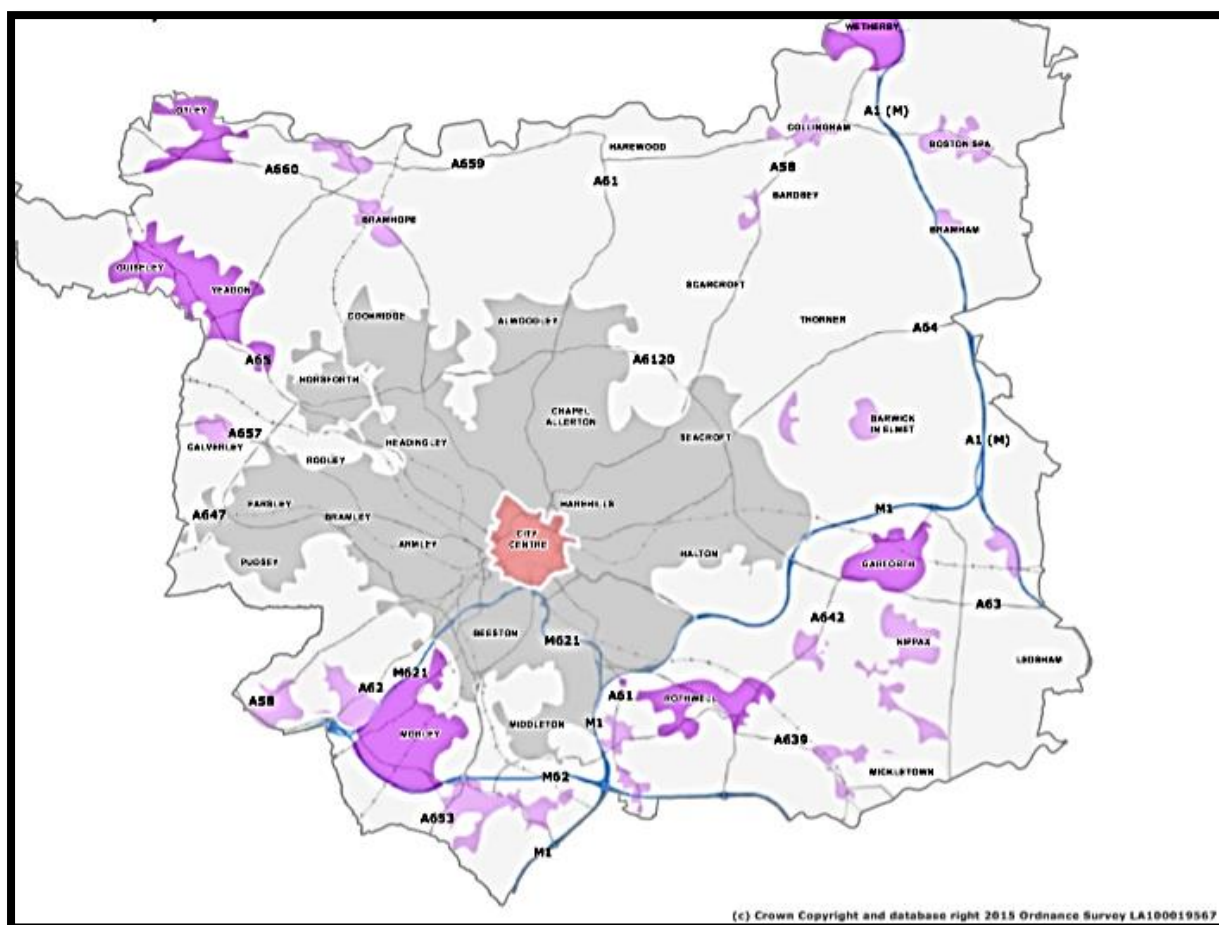
Figure 6.2 Leeds in the administrative context of northern England



(Source: ONS, 2014)

Figure 6.3 Leeds City Council Boundary

(source: © OpenStreetMap contributors, 2019 OpenStreetMap® is open data, licensed under the Open Data Commons Open Database License (ODbL) by the OpenStreetMap Foundation (OSMF))

Figure 6.4 Leeds

(source: LCC, 2014a: 31)

6.4.1 Geographical characteristics

The population of Leeds according to the 2011 Census was reported as 751,485 (ONS, 2016b). The administrative area is a mixture of urban and rural landscapes. **Figure 6.4** illustrates the city centre (pink) and the surrounding main urban area (grey). There are a number of major settlements (purple), including traditional market towns, set within the wider countryside such as Otley to the north-west, Wetherby to the north-east and Morley to the south-west. The rural areas with smaller settlements (lilac) fall within the defined Green Belt, which covers approximately two thirds of the administrative area.

The Green Belt also includes numerous smaller settlements; for example, Bramham to the east, Kippax to the south-east and Bramhope to the north-west. There are 72 Conservation Areas and 2,300 Listed Buildings within Leeds (LCC, 2014a).

Leeds predominantly grew into an urban centre during the industrial revolution. It became recognised as an important centre for tailoring, engineering, and a trading centre for a range of goods and services. Mining was an important part of the economy of Leeds; however, it has left a social and environmental legacy in parts of the area. The economy of Leeds today, like the UK as a whole, is now more heavily based on services. Leeds has transformed into a leading financial and legal centre outside of London, for example the High Court regularly sits in Leeds.

Leeds is already established as a Core City¹⁰ in England and is at the heart of the overall Leeds City Region network (Corecities.com, 2014). Leeds City Council has an ambitious growth plan for the future, recognising that this will require proactive and positive planning and associated strategies within regeneration, economic development, environmental protection and housing to deliver the overall growth strategy. Leeds also forms part of the Northern Powerhouse initiative (HM Treasury, 2016). The forward planning strategy will need to balance many competing issues to deliver sustainable development. Overall, the Leeds City Council administrative area includes many characteristics which provides a diverse range of planning issues and challenges.

¹⁰ The Core Cities Group represents the councils of England's eight largest city economies outside London along with Glasgow and Cardiff. It was established approximately 15 years ago for economic development purposes. The ten Core Cities urban areas deliver 28% of the combined economic output of England, Wales and Scotland (26.5% of the UK economy) and are home to almost 19 million, 30.7% of the combined English, Welsh and Scottish population (29.8% of the UK population). Further information can be found at www.corecities.com [last accessed 21 June 2016]

6.4.2 Governance

Leeds was granted city status in 1893 (Thoresby Society, 2016). The current form of local government administration is legally known as Leeds Metropolitan District Council which is referred to more simply as Leeds City Council. It is a single tier unitary council, with responsibility for both minerals and non-minerals policy and development.

Leeds City Council (LCC) has 99 elected members each serving a standard four-year term and covering 33 electoral wards. Following the election in May 2015, the political composition was dominated by the Labour Party with 63 seats and this is followed by 19 Conservatives, 9 Liberal Democrats, 5 Morley Borough Independents, and 3 Greens.

The principal decision-making function in the LCC is held by the Executive Board which includes the Leader of the Council, 8 Executive Members, each with a portfolio of council functions and services, together with the Leaders of both the Conservative and Liberal Democratic Groups. For general decision making there are a series of panels and committees which report to the Executive Board (EB). Some are advisory, like the Development Plans Panel (DPP) which considers the planning policy matters and makes recommendations to the Executive Board. Other panels are statutory, for example the City Plans Panel which deals with planning applications that are not determined by officers under delegated powers (LCC, 2016).

Leeds City Council is ambitious, it aims to address current challenges and secure future opportunities and as identified in the Leeds Initiative - Vision for Leeds 2011-2030 which is for Leeds to be the 'Best City in the UK' through the Local Strategic Partnership (LCC, 2011a).

6.5 Minerals and coal in Leeds

The administrative area of Leeds contains a range of minerals including sand, gravel, sandstone, magnesium limestone and coal (LCC, 2010).

Surface coal resources are present across over 50% of the Leeds administrative area according to The Coal Authority (The Coal Authority, 2015a). The depth of the coal resources varies; some can be found very close to the surface whilst other resources are much deeper. The majority of the coal resources are found in the eastern and southern parts of the district and resources decrease towards the north and west. Coal also exists underneath the urban area (LCC, 2010a).

According to The Coal Authority, Leeds had its own local coal industry until 2010. The Coal Authority since it was established in 1994 has granted 16 licences for coal extraction in separate surface mining operations predominantly in the eastern part of Leeds. There were no deep mines within Leeds (The Coal Authority, 2015b). According to the Minerals Planning Officer "*between 1988 and 1997 there were 8 [surface mining] sites working*" (LCC, 2014b). The last extraction of coal as a development activity in its own right took place in Leeds in 2010. Since 2010 coal extraction has been undertaken as incidental works within the site preparation process, this incidental working is generally known as prior extraction (The Coal Authority, 2015b; LCC, 2014b).

6.6 Leeds Planning Policy

6.6.1 Background and the Unitary Development Plan

The Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, introduced the requirement to produce district wide development plans. As a Unitary Council, Leeds began production of its first Unitary Development Plan (UDP) in the early 1990s. It was not adopted until 2001 for reasons which are not directly relevant to this research.

As the plan making process is designed to be iterative and cyclic, the UDP Review (UPDR) commenced following the adoption of the UDP. The review process was not a full review to create a replacement UDP, but a partial review of those parts of the plan where there had been changes to national policy or other local aspects which needed to be updated. The resultant adoption of the UDPR in 2006 therefore incorporated those parts of the UDP 2001 which had not changed. This meant that plan users needed to consult a single plan, rather than two parts. The UDPR in itself was therefore known as an alteration, rather than a replacement. The plan period for UDPR was 2006-2016 (LCC, 2006).

The Planning and Compulsory Purchase Act 2004 introduced the change in the development plan making process from that centred upon a single document either the UDP or in two-tier areas, the Structure Plans and Local Plans; to become the portfolio approach known as the Local Development Framework (LDF). During the transition period adopted development plan policies were permitted to be 'saved' in accordance with the regulations until a replacement policy on the same topic has been adopted within a document contained in the new LDF (Cullingworth et al, 2015; Sheppard et al, 2017; Harwood, 2017).

6.6.2 Local Development Framework (LDF)

The planning system has a wide remit and as such plan making therefore needs to accommodate many different topics which will support the delivery of a vision for the future of an area. Many topics are drawn initially from national planning policy, but the introduction of the Localism Act 2011 encouraged a more localist approach. This enabled local planning authorities more discretion regarding the additional issues which they wanted to cover within their development plan and also where the issue was to be addressed within the LDF portfolio. For example, if the issue is felt to be more strategic then it is likely to be placed into the Core Strategy. Different local planning authorities could take different approaches, depending upon their own interpretation of what is strategic in their area (Sheppard, et al, 2017).

For mineral safeguarding, as it has been demonstrated in the national review set out in **chapter 5**, some planning authorities see it as a strategic issue and will have both the policy and the definition of the mineral safeguarding area within the Core Strategy, whilst others may identify it within the Core Strategy as an issue, but will leave the definition of the mineral safeguarding area to be covered in a later document, such as the site allocations or general policies documents.

Work commenced on the Local Development Framework for Leeds in 2006, following the adoption of the UDPR in 2006. The LDF was designed to include a range of documents, including the Core Strategy, Site Allocations, Natural Resources and Waste, and the Aire Valley Area Action Plan (LCC, 2005).

The Core Strategy was adopted in November 2014 and sets out the overall spatial expression of the Leeds 2030 Vision and sets the local planning policy context up to 2028. The Core Strategy sets out the desire for long term regeneration over the plan period. There are four regeneration priority areas as these areas where there is evidence of poor performance against a range of national statistical indicators. The priorities include “providing homes and jobs in sustainable locations....maximising opportunities to recycle previously developed land,...minimising greenfield and Green Belt release.” (LCC, 2014a:4)

The Core Strategy aims to facilitate the population growth from its 2011 Census figure of 751,485 to 860,618 by 2028 at the end of the plan period. This translates to a housing requirement of 74,000 units, with approximately 66,000 units needing to be identified in the site allocations document and an allowance of approximately 8,000 units to be brought forward as windfall or unexpected development (LCC, 2014a).

Accompanying the housing growth, the Leeds Employment Land Review 2010 Update identified a need for approximately 706,205 square metres of office space (majority within the city centre) and 493 hectares of land for industrial and warehousing development by the end of the plan period in 2028. The Core Strategy also includes the other strategic planning topics of transport,

built and natural environmental conservation and protection which provides the principal policy upon which to prepare subsequent documents within the LDF portfolio (LCC, 2014a).

At the end of 2016 the local planning policy framework for Leeds comprised a number of documents which collectively form the overall Development Plan for Leeds. The principal document is the Leeds Core Strategy development plan document which is to be supported by the Site Allocations; the Natural Resources and Waste; Aire Valley Area Action Plan; Housing Standards; and individual Neighbourhood Plans prepared by the local neighbourhoods.

The Leeds Core Strategy suggests that “the level of housing growth expected to occur by 2028 within Leeds is greater than any other authority within England.” The main urban area is anticipated to accommodate around 60% of the growth; this means approximately 44,400 of the required 74,000 dwellings will be directed to this area (LCC, 2014a: paragraph 4.1.3).

To achieve the vision Leeds would become a major city and regional capital by 2028. The new spatial development will have been balanced between the re-use of previously developed land (brownfield land) and greenfield. The distinctive settlement pattern will have been maintained and the characteristics enhanced, there will be multi-functional greenspace, sustainable town centres, the regeneration priority programme areas will have undergone a transformation to provide more attractive and sustainable areas.

The scale of growth contained within the overall vision for Leeds by 2028 will lead to pressure on resources. The spatial distribution of growth will encounter coal resources. The City Council chose to set out a framework for managing the natural resources and waste within a specific development plan document (LCC, 2008:5).

Officers were keen look at natural resources differently and explore the interrelationship between six key themes of: waste, minerals and aggregates, energy and climate change, land use, water resources, and air quality. The

Planning Policy Officer reflected that *"in reality we'd put the difficult issues together in one plan."* (Leeds Planning Policy Officer, 2014)

The requirement of the former Planning Policy Statement 10 (Waste) and the prospect of potential fiscal penalties arising from the European Directive 2008/98/EC on waste (Waste Framework Directive) for the absence of a specific local waste strategy led to waste being added into this early development plan document (LCC, 2011b). The Minerals Planning Officer confirmed that *"the driver for doing a minerals and waste document was probably waste, not minerals. It didn't make sense for a waste plan on its own, but the Council needed to find a site for its own municipal incinerator. Minerals are important but as a topic they just don't get the recognition they deserve and often end up as a collection of policies at the end of a document"* (Leeds Minerals Planning Officer, 2014).

6.7 The Natural Resources and Waste Development Plan Document

The Natural Resources and Waste Development Plan Document (NRW-DPD) began the production process in 2007. Alongside the Core Strategy, the NRW-DPD was completed approximately 5 years later with the formal adoption taking place on 16 January 2013 (LCC, 2013). The timeline of the process is set out in the following table (**Table 6.1**).

**Table 6.1 – Leeds Natural Resources and Waste DPD
Production Process Timeline**

Production stage		Key Dates	Activity (DPP = Development Plans Panel; EB = Executive Board)	Response
Stage 1 Issues and Alternative Options	Pre-Submission	Throughout 2007	Officer preparation of themes and creation of the Issues and Alternative Options document and creating/updating supporting evidence and topic papers throughout the plan process	111 written comments received
		18 Dec 2007 (DPP)	Approval of Issues & Alternative Options document for consultation EB approval not required	
		8 May – 19 Jun 2008	Informal Consultation (6 weeks)	
Stage 2 Policy Position (Council's Preferred Option)		10 Mar 2009	Report to DPP with progress update and analysis of written comments received	101 written comments received
		13 Oct 2009 (DPP)	DPP approved Policy Position for consultation EB approval not required	
		18 Jan to 1 Mar 2010	Informal Consultation (6 weeks)	
		11 May 2010	Report to DPP on progress	
Stage 3 Publication	Submission	12 Oct 2010 (DPP) 3 Nov 2010 (EB)	DPP recommended to EB publication version for formal consultation.	28 Representations received
		15 Dec 2010 to 9 Feb 2011	Formal Consultation (8 weeks, extended due to Christmas/New Year period)	
Stage 4 Submission for Independent Examination	Examination	March 2011 (DPP & EB) 6 Apr 2011 (Council)	Recommendations from DPP, EB and Council for formal submission to the Secretary of State and commence Independent Examination	
		25 July 2011	Formal submission to the Planning Inspectorate	
		Oct 2011 (DPP & EB)	Approval of Proposed Changes for Examination (no consultation)	
		15 Nov – 7 Dec 2011	Examination Hearing Sessions covering 12 issues, including mineral safeguarding	
Stage 5 Adoption	Adoption	7 Dec 2012	Inspector's Report Received with list of 25 Main Modifications (consultation during the examination stage)	
		19 Dec 2012(DPP) 20 Dec 2012 (Scrutiny)	Reports to DPP Additional internal review by the Scrutiny Board review who made recommendations to the EB in addition to the DPP	
		9 Jan 2013 (EB) 16 Jan 2013 (Council) 16 Jan 2013	Notice of Adoption	

6.7.1 Stage 1 - Issues and Alternative Options, May 2008

The publication of the Issues and Alternative Options document in May 2008 was a 138-page document with a series of technical appendices. The remit of the document covered waste, minerals and aggregates, energy and climate change, land use, water resources, and air quality which were presented in themes.

According to the consultants who were commissioned to start the plan preparation process and gather the evidence base, Leeds City Council were the first authority in England to prepare the integrated document and look beyond minerals and waste (LCC, 2008:5). It was designed to support the Leeds Core Strategy by providing more detail on the objectives and policies on issues relating to natural resources and waste.

The NRW-DPD identified within the introduction that “natural resources as being materials and energy sources that are supplied by the earth and its forces, and are essential to sustain life.” (LCC, 2008:4). A common factor amongst natural resources is that “they are finite, that is once used they are gone forever” (LCC, 2008:2). The rate of growth and development has a direct impact on the speed of exploitation of natural resources, therefore it is necessary and good planning practice to consider the policy approach towards appropriate use and preservation of natural resources alongside the economic growth. “In practice this means planning for and delivering environment, economic and social objectives at the same time.” (LCC, 2008:4). These series of statements were part of the introduction to the document and therefore set the context for the policy options which were to be set out for consultation.

In preparing the NRW-DPD the Council drew upon the UK government publication "Securing the future: the UK government sustainable development strategy" (Defra, 2005) that categorised natural resources under five headings:

- "Raw materials – such as minerals and biomass. Minerals such as fossil fuels, metal ores, gypsum and clay, are non-renewable because they cannot be replenished within a human timescale, in contrast with biomass, this is in principle renewable within the human timeframe and includes quickly renewable resources, like agricultural crops and slowly renewable resource like timber. However, both of these can be pushed beyond their limits of recovery if over exploited;
- Environmental media - such as air, water and soil. These resources sustain life and support biological resource upon which we depend;
- Flow resources – such as wind, geothermal, tidal and solar energy. These resources cannot be depleted but require other resources to exploit them. For example, energy, materials and space are needed to build wind turbines or solar cells;
- Space is required to produce or sustainable all of the above. Space provides land for our cities and towns, infrastructure, industry and agriculture. It is also required by wildlife, rivers and natural processes for them to function healthily; and
- Biological resources include species and genetic information. Plants, animals and other organisms maintain the life sustaining systems of the earth. Their variability (biodiversity) is also a resource and includes the diversity within species, between species, and of ecosystems." (LCC, 2008:3).

The Council aimed to manage their natural resources in a sustainable way whilst not preventing the economic growth and the social development that a large city requires. In principle, the NRW-DPD aims to set out policies to identify:

- “Locations where particular types of development relating to natural resource management will be promoted or allowed, e.g. waste management facilities and renewable energy opportunities; and
- Locations where existing natural resources require to be protected from development, e.g. mineral resources.” (LCC, 2008:3).

The concept of mineral safeguarding falls within the second of these two principles.

The Issues and Alternative Options document was structured around six themes: waste, minerals and aggregates, energy and climate change, land use, water resources and air quality. Each theme had objectives from which to set the general direction for the start of the policy making process. Each theme provided a few paragraphs of descriptive text to provide the context including facts and figures for Leeds, then consultation questions for the theme were presented as ‘issues for consideration’ and comments were invited.

Minerals and Aggregates Theme – Objectives

The minerals and aggregates theme contained three objectives; the first one related to safeguarding resources and the other two related to aggregates, encouraging re-use rather than primary extraction, and ensuring the maintenance of the aggregate landbank.

The first objective stated that “policies should safeguard mineral deposits from sterilisation and provide for an adequate and steady supply of minerals.” (LCC, 2008:6). At the time this document was prepared the national policy context was set out in MPS1 (DCLG MPS1, 2006).

Looking carefully at the terminology it is clear that the use of word “deposit” was a more technical term than was necessary. Whilst it could be argued that this is simply a matter of semantics, terminology is important in order to help people engage with a topic and aid their understanding. The term “deposit” is commonly used by geologists and therefore is a reflection upon the professional background of those involved in the policy formulation process. MPS1 refers to “resources” rather than “deposits” and as such the first objective in the minerals and aggregates theme would have been better framed using the language of the MPS1 to demonstrate consistency.

The Planning Policy Officer reflected upon this terminology and suggested that *“we should have more closely aligned our wording with MPS1. This could have avoided confusion and maybe more people would have got involved at this stage. Our starting point could have been clearer, but we learnt lessons and actually with this topic [mineral safeguarding], we were learning all the time about what it really meant.”* (LCC Planning Policy Officer, 2014).

Minerals and Aggregates Theme – Policy Issues

Under the minerals and aggregates theme there were 12 policy issues, covering aggregate provision overall; sand and gravel had three policy issues; crushed rock; building stone; coal and the remaining were more operational matters associated with minerals including recycled materials; restoration; after use; site management and concrete batching and asphalt facilities.

Paragraph 3.6 identified that there were “proven coal deposits.....and demand for extraction by opencast methods” (LCC, 2008:6). This single paragraph which set out contextual information on coal therefore reinforced two key issues: that coal was still available within Leeds and that there was market interest for it. There was no reference to safeguarding coal for its own sake. Consequently, whilst the consultation document indicated that coal was acknowledged as an important mineral within Leeds there were two policy options presented under issue 14.

Issue 14 - Coal:

1. Simply acknowledge the presence of the coal reserve and continue with the existing approach set out in saved policies (which was a presumption against development [coal extraction] unless the proposal can demonstrate clear beneficial effects); OR
2. Designate identified locations as Mineral Consultation Areas and include criteria for future exploitation.

These two options were offering either the maintenance of the status quo in the existing saved policies of the UDP which was in itself a repetition of national policy for coal (i.e. Minerals Planning Guidance 3 – Coal (1999)); or an option which could be read as being pro-coal.

This therefore presented a binary choice, both of which contained a reference to extraction. The starting point for the evolution of the local planning policy on mineral safeguarding would have therefore coloured the minds of all of those people reading the document and involved in the plan making process. Consequently, this did not help people understand that mineral safeguarding is not about extraction.

Like the terminology used in the objective, looking at the terminology used under option 1, there is reference to “reserve”. Once again, whilst this is a typical geological term and indicates that they are the resources which are proven, often through boreholes or similar, it may have led to confusion as national policy referred to “resources”.

The Planning Policy Officer suggested that in the early versions and stages of the NRW-DPD *“our choice of terms was perhaps not the best, we used them interchangeably but without probably spending enough time to think about whether they could be understood or more importantly, misunderstood.”* (LCC Planning Policy Officer, 2014).

The criteria for future mineral extraction only addresses the aspects connected with minerals. It does not therefore help people understand how non-mineral development proposals within areas of minerals would be assessed.

In addition, the policy options presented made reference to “mineral consultation areas”. This mechanism was previously designed to enable county and district planning authorities to work together, whereby the district planning authority would consult the county (mineral) planning authority on non-mineral planning applications which were within the defined “mineral consultation area” to ensure that the impact on mineral resources could be specifically considered.

As Leeds City Council is a unitary authority, it was perhaps rather unusual to see this internal administrative tool being proposed for a single tier council. Unless effectively explained to the plan users, it could lead to potential confusion. The Planning Policy Officer suggested that *“it was a useful tool.”* (LCC Planning Policy Officer, 2014).

At the time this consultation document had been produced, MPS1 had already introduced the concept of MSAs as being the tool to be used in the planning process to prevent the unnecessary sterilisation of the mineral resources by non-mineral development. National policy contained in MPS1 did make reference to MCAs, but by this time it was seen by government as *“should only be needed where the two-tier local government structure [counties and districts] was in place. It would not be necessary in a single tier council.”*

Overall looking at the NRW-DPD 2008, its content, structure and language, it illustrates that it lacked clarity in the issues to be addressed. For mineral safeguarding, whilst there was an objective for the policies of the NRW-DPD, there were no specific policy options for mineral safeguarding presented for interested parties and stakeholders to comment upon.

Consultation methods and responses

In January 2009, the Council published the consultation report setting out the details of the responses received to the Issues and Alternative Options consultation document. It indicates that the consultation stage had sought views from statutory consultees, internal stakeholders within the Council, other interested bodies and groups, general public and hard to reach groups via specific forums.

The results were collated and revealed that at this stage there were only 6 formal written responses from the statutory consultees and 18 responses from others. Of the 18 responses from others only two were from members of the public. There were two workshops, an internal one attended by 15 people and an external workshop which was also attended by 15 people.

These workshops attracted 137 specific comments. A series of exhibitions were held in supermarkets and 32 comments were received. At the exhibition, they issued 930 questionnaires from which only 53 were returned. They also received 2 responses from the targeted consultation of hard-to-reach groups. Overall, a total of 248 responses/comments were received (LCC, 2009).

The Council was relatively pleased with the response. The Planning Policy Officer commented that *"it is always difficult to get people engaged at the early stages as there are no lines on maps. It is difficult to write the start of any document, but particularly this type of integrated document, because you have to start from first principles. We all know that in reality you can't start any plan making process from a blank sheet of paper."* (LCC Planning Policy Officer, 2014).

In terms of the responses to the minerals issues and coal, as the consultation only sought responses to the questions posed there were no real opportunities for people to identify if they thought that something was missing. Overall, of the 6 key themes, minerals were ranked as the least important and consequently did not generate much interest.

The mineral companies that responded included Lafarge, Cairn Bardon and Aggregate Industries. They also referred to the need to address the issue of mineral sterilisation, but only in relation to aggregates, sand and gravel which of course is their respective mineral interest. The response to the coal issue was similarly limited.

At the time of this consultation the government structure still included regional government offices who had an important role in commenting upon development plans on behalf of the Secretary of State. The response from the Yorkshire and the Humber Government Office identified that MPS1 was clear on the need to identify mineral safeguarding, as this had not been addressed in the issues set out in the consultation document it would need to be included in the next consultation document.

The Coal Authority responded and identified "the need for the plan to safeguard coal and ensure that it was not needlessly sterilised." (The Coal Authority, 2008b). A similar comment was received from the Confederation of UK Coal Producers (CoalPro) as the trade body for the coal industry; although they referred to the term that Leeds had identified in the plan, i.e. mineral consultation area (CoalPro, 2008).

The Planning Policy Officer recalled that at the workshops, a specific comment on a post-it note was recorded in relation to coal. It stated that "*coal and other minerals should be safeguarded to prevent unnecessary sterilisation to ensure that a balanced supply can be delivered across the areas where it is found.*" (LCC, Planning Policy Officer, 2014).

The Consultation Report, January 2009, stated that "stakeholders were asked which of the following options is best for the Council to consider relating to opencast coal developments" and identified that there were 53 responses to the coal issue, this represented 21% of all comments received to the whole document (LCC, 2009).

Of the two options identified, 47% of respondents agreed with option 1 (the status quo), 4% disagreed with option 1 and the remaining 49% did not state

any preference. In relation to option 2 (designate mineral consultation areas). 36% of respondents agreed, 19% disagreed and the remaining 45% had no preference. The preferred outcome therefore appeared to be option 1 which would reflect the status quo (LCC, 2009).

From the language used in the consultation document and subsequently in the consultation report, specifically the phrase “opencast coal development”, whilst being an accurate reflection of the two policy options presented in the consultation document, the two policy options were presented as being about coal extraction. This did not help people to understand the concept of mineral safeguarding.

The Planning Policy Officer commented that *“this was a technical report on the outcome of the consultation. It is something which we compile to help inform the next stage of the process. I doubt the public would read it.”* (LCC Planning Policy Officer, 2014). Whilst this could be true, every part of the development plan making process is important and background or technical documents should also be careful in their use of terminology. The overall process should enable people to follow the evolution of the policies. It is important that people feel that they are able to make a contribution and that the Council has listened to their views.

From the Consultation Report it appeared to suggest that the level of interest in coal, and indeed minerals as a whole, was limited to those with technical knowledge. The Minerals and Aggregates Technical Expert who attended the public supermarket exhibitions as part of the consultation team remarked that “there appeared to be absolutely no interest in minerals which was very disappointing.” (LCC, 2009: 218). Furthermore, the minerals industry representatives who attended the stakeholder workshop were keen to express their view that “their permitted areas were almost worked out and the prevailing attitude in Leeds is that permissions are resisted.” (LCC, 2009: 218). This comment is perhaps to be expected from mineral companies which would be essentially looking after their own interests. Their view was that a strategic approach to minerals planning is more a role for government and

trade/industry associations who should be looking at the regime from a relatively impartial position.

There was a disconnect between the three objectives identified under the minerals and aggregate's theme, one of which included safeguarding, and the policy objectives for coal which followed. The consultation document focussed upon providing a choice between the approach towards the future supply of minerals. Safeguarding minerals for their own sake was not clearly identified as a topic wide issue, not just in relation to coal. Safeguarding minerals was not presented as a policy option at this stage for any mineral.

6.7.2 Stage 2 - Policy Position, January 2010

The Policy Position Report was published in January 2010 for an informal consultation period of six weeks (LCC, 2010a). It was developed from the Council's evaluation of the responses received to the previous document, Issues and Alternative Options during 2008 and 2009.

This was now effectively the draft plan containing the policies which the Council considered to be appropriate for taking forward into the next and formal consultation stage. This Policy Position Report was therefore the first opportunity for people to comment on the overall objectives and the actual details and criteria of the proposed draft individual policies. The previous "minerals and aggregates" theme had been re-titled as "minerals" (LCC, 2010a).

Minerals Theme – Objectives

The previous list of 23 objectives set out in the 2008 Issues and Alternative Options document had been slimmed down to only 12. For minerals, there were previously 3 objectives but by this second policy making stage the minerals objectives had been reduced to 1. The single minerals objective was to ensure a supply of minerals with an emphasis on re-use of aggregates. This objective was a combination of two of the three previous objectives. Minerals safeguarding was no longer identified as an objective for the plan.

The Minerals Planning Officer said *"we had too many objectives so at each policy stage we tried to re-focus and refine them. I would have liked to have kept more personally, but this is not a single-issue document and we were trying to cover lots of issues. To only have one minerals objective was rather too brief and doesn't reflect everything under the minerals subject that we need to deal with as a Council."* (LCC Minerals Planning Officer, 2014).

The Sustainability Appraisal¹¹ that accompanied the 2010 Policy Position had identified the need to safeguard resources and provide a steady supply of minerals as one of three objectives for the topic area (LCC SA, 2010). These were the same three objectives as set out in the 2008 Issues and Options document. The Policy Position document confirmed that MPS1 requires development plan documents to safeguard mineral resources through the identification of mineral safeguarding areas (DCLG, MPS1, 2006). However, it did not use this as an objective.

Minerals Theme – Policies

At this stage of the plan making process the minerals policy context comprised 9 individual policies; two general policies for all minerals and then 7 mineral specific policies.

Preferred Policy Position – Minerals 1: Safeguarded Mineral Sites

Safeguards the existing minerals sites shown on Maps B1, B2 and B3 for continued mineral purposes.

Applications for the change of use of a safeguarded minerals site must demonstrate that there is no longer a need for the site for mineral purposes either in the Leeds district or adjoining local authority areas.

This approach therefore illustrates that the Council's interpretation at this stage was to safeguard existing committed sites, i.e. those with planning

¹¹ A technical assessment to test the impacts of the policy against social, environmental and economic baseline data.

permission for mineral extraction. This was the Council's interpretation of safeguarding under the MPS1 guidance. Furthermore, this interpretation can be confirmed through the inclusion of the Council's own definition of mineral safeguarding in the glossary of terms stating that "A mineral area where planning permission is controlled to prevent uses which are incompatible with or unnecessarily sterilise a mineral resource" (LCC 2010a:x). This definition serves to illustrate the Council's interpretation of the role and purpose of a mineral safeguarding area at this stage of the plan making process.

In relation to coal as one of the specific minerals policies, following the preference expressed in the majority of consultation responses to maintain the status quo, the consultation document stated in paragraph 3.19 that "most respondents to the consultation did not wish to see any encouragement for further coal mining." The Council also added that "the shallow coalfield in Leeds is very fragmented and this makes it untenable for the Council to identify Mineral Safeguarding Areas for coal." (LCC, 2010a:16).

Preferred Policy Position – Minerals 5: Coal

Acknowledges that there are existing coal resources, but does not identify Minerals Safeguarding Areas in relation to coal. Therefore, any planning applications will be decided on merit, subject to strict environmental criteria.

The consultation document included an illustration of the mineral safeguarding areas which identified the identified mineral sites operating within the Leeds area. Coal was excluded as a consequence of the Council's interpretation of mineral safeguarding relating to existing mineral sites. The Planning Policy Officer suggested that "*we were following our interpretation of mineral safeguarding, which was not correct as we then found out through the consultation responses.*"

For the minerals topic the consultation document sought views on three specific questions (LCC, 2010a).

(a) Do you agree that we should protect mineral resources from development that would prevent them being used in the future and that existing mineral reserves should be safeguarded to reduce pressure for new sites to be exploited?

(b) Mineral-related activities are often located in general industrial areas and we want to make sure that these locations are not lost to other uses. For this reason we propose to safeguard existing mineral-related sites (these are shown as B1 sites on Maps A1 and A2). Do you agree with this approach?

(c) Do you agree that we should find alternative uses for quarries, once they are exhausted, such as nature conservation or recreation, rather than filling them with landfill waste first?

Consultation methods and responses

The consultation period ran from 18 January to 1 March 2010. The consultation methods chosen for the Policy Position stage were broadly the same as the Issues and Options stage.

A total of 400 stakeholders had been invited to attend one of the two sessions. There were 26 attendees, 17 for the first session and 9 for the second session. A stakeholder workshop was also held for statutory and other specific consultees who had a more informed understanding of the plan and this workshop was attended by a total of 30 stakeholders from the 207 that were invited. A series of public exhibitions were held at supermarkets. The document was available on the Council's website and in hard copy at the offices and local libraries. In addition, at this stage, two specific events were held, facilitated by Planning Aid for the hard to reach groups, and letters were sent to specific owners/tenants whose interests were likely to be directly affected.

By May 2010 the Council had reviewed and collated the 101 written responses received and a report was tabled at the Development Plans Panel. For the minerals topic there were 31 responses, with all but 3 being received from the minerals industry or statutory bodies (LCC, 2010b).

Officers chose to present the findings of the consultation responses and specific questions for members on each policy topic. The Planning Policy Officer said that *"we needed a format that would help members understand both the detail and the key issues that came from the consultation period. We needed to get an initial report to members quickly but a more detailed report would follow. It is always a challenge in summarising representations, but it is a necessary skill in this job"* (LCC Planning Policy Officer, 2014).

The Development Plans Panel Report in May 2010 provided members with an initial summary of the key issues arising from the consultation. The minerals part of the report had been summarised into three questions covering the issues of safeguarding minerals in principle, safeguarding existing mineral sites and finally how to ensure appropriate restoration and after-use of mineral sites. These three issues would therefore form the proposed policy areas for the next version of the NRW-DPD (LCC, 2010b).

This was the first mineral specific question and is the most relevant of the three questions for this research. It asked consultees: "Do you agree that we should protect mineral resources from development that would prevent them being used in the future and that existing mineral reserves should be safeguarded to reduce pressure for new sites to be exploited?" The response was limited, with 31 stating that they agreed, none were in disagreement but 70 gave no response at all.

The second question was particularly specific and highlighted that within Leeds there is a conflict of land uses. The second question was about safeguarding existing sites. Once again, the response was limited, with 30 agreeing, 1 disagreeing and the remaining 70 not providing a response to this particular question.

The Development Plans Panel Report stated that whilst there was general agreement and support for the proposed 3 policy areas. The report indicated that there was a "small amount of disagreement in 8 responses, mainly site-specific as opposed to policy specific." Only one objection was received which was from The Coal Authority, it stated "the need for the DPD to identify coal resources across the District." (LCC, 2010b: 4).

A more detailed report of representations received was tabled at the Development Plans Panel in June 2010. Appendix 2 of the report set out a more detailed summary of the 27 more detailed representations received on the minerals theme and the Council's response (LCC, 2010c).

The Planning Policy Officer recalled that *"members commented that the most sensitive matter politically within the NRW-DPD was minerals, but specifically opencast mining and the lack of sand and gravel supplies. As Officers we knew this was a controversial topic as coal tends to provoke both environmental comments as it is fossil fuel but there is also the social and economic history of coal mining as well as the emotions from the miner's strike which is still around"* (LCC Planning Policy Officer, 2014).

Nine representations explicitly supported the safeguarding of minerals in principle; these were from one of the two local residents, two community groups, Parish Council, landowner, aggregates company, Friends of the Earth, a waste company and a stone company.

There were two representations which indicated some opposition to mineral safeguarding in principle. One landowner suggested that "not all mineral resources need safeguarding, and need to be assessed on individual merits." (Representor 091). Another representor objected to mineral safeguarding in general industrial areas (Representor 075).

The Council's approach to safeguarding coal generated lengthy representations from four respondents, namely the Government Office for Yorkshire and the Humber, The Coal Authority, the coal industry trade association, and two coal operators. These representations collectively stated

that the Council's approach to coal was wrong and did not comply with national policy contained in MPS1 and MPG3. Other issues within the representations included that urban areas should not be excluded from the safeguarding area for coal, the presumption against coal extraction set out in MPG3 should not preclude the definition of safeguarding areas, coal is a nationally important mineral, and although coal is a fossil fuel it is more sustainable to use indigenous sources for electricity generation than to continue to import coal from abroad.

One developer also commented on the approach to safeguarding coal in that they thought that given the fact that Leeds "has significant resources of un-worked coal, its exploitation should not be prevented simply because it is not identified spatially." (Respondent 075). However, in the same representation it was also suggested that industrial areas should be excluded from the safeguarding area.

The Council's response to all of the negative representations on coal was that they would review the approach to MSAs as a whole. In particular in relation to coal, there also needed to be a "carefully re-worded statement on the shallow coalfield.... itself is not fragmented but the opportunities for extraction are limited within built up areas and outside those areas other constraints apply." (LCC, 2010c – Response to Representor 025). This demonstrates that the Council had seemingly accepted that their own approach to mineral safeguarding was not well supported and it needed further work.

The Council's approach to safeguarding other minerals was also not without criticism, the Mineral Products Association, another trade association, remarked that "the text appears to misunderstand....mineral safeguarding and confuses mineral resources with reserves." (Respondent 038). The Council's response was to provide definitions. The neighbouring North Yorkshire County Council also remarked that Leeds had taken a somewhat limited approach to safeguarding of resources in Leeds" (Respondent 046).

Whilst it was evident that there was an approach to mineral safeguarding in Leeds; it could not be deduced with confidence at this stage in the plan-

making production process that it would be compliant with national policy which would be tested at the independent examination stage.

Whilst the Council had some understanding of minerals, since paragraph 3.1 recognised that “minerals are a vital and finite nature resource which can only be worked where they are found, their production is limited to a small number of working sites. Their limited nature means that there is a need to safeguard mineral reserves and husband existing mineral workings prudently”. Once again, the terminology included reference to “reserves” and “husband existing workings prudently” which demonstrates the Council’s approach was to focus upon safeguarding existing sites rather than protecting the resource for their own sake.

6.7.3 Stage 3 - Publication, December 2010

The publication version of a development plan document sets out a Council’s finalised strategy and policies for formal public consultation. This plan production stage is the version that the Council thinks should be adopted. The document, evidence base and consultation responses at this stage are submitted to the Secretary of State for independent examination and scrutiny (LCC 2010e).

The publication version was approved for consultation by the Development Plans Panel in October 2010 (LCC, 2010d). Alongside the NRW-DPD there were a number of background and technical papers published, including a Minerals Topic Paper (LCC, 2010f). The consultation period was eight weeks (to include Christmas) and was open from 15 December 2010 to 9 February 2011.

Strategic Objectives

The publication document now set out 16 strategic aims under four headings which were more thematic and based on outcome rather than topic specific. For example, under the first heading entitled “an efficient use of natural

resources” there was an objective relating to mineral safeguarding, it stated “avoid sterilising future mineral resources.” (LCC, 2010e: 12)

An illustration of the mineral resources within Leeds was good and as such its placement within the policy document (as figure 2.2) as opposed to a separate map book, was helpful to understand the spatial distribution of minerals and provided a reference point for the policies.

Minerals Policy

The publication version chapter on minerals set out national policy, quoting from MPS1 and then explained the nature and scale of current mineral extraction within Leeds. It identified the different types of minerals found in Leeds, which included coal. This document contained the third version of the Council’s approach to a mineral safeguarding policy for coal.

The minerals policy section of the publication document contained 14 policies covering mineral supply, management of extraction and also protection of mineral resources. Although there were still some anomalies in terminology with paragraph 3.9 referring to ‘proven deposits of minerals’ and the policy itself referring to ‘mineral resources.’

The document included some introductory and contextual information surrounding mineral safeguarding, it explained in paragraph 3.9 that “where there are proven deposits of minerals, we will ensure that they are protected from developments that may prejudice their future extraction. These protected areas are known as Mineral Safeguarding Areas (MSAs)” (LCC, 2010d: paragraph 3.9). This represented a clear commitment to mineral safeguarding and an understanding that the resources need to be protected from other development which could affect the ability for future generations to use the mineral resources.

MINERALS 2: MINERAL SAFEGUARDING AREAS (MSA)

Within areas identified as Mineral Safeguarding Areas, shown on Map A3, mineral resources will be protected from development which could sterilise them for future use.

Applications for development within an MSA must demonstrate that there will be no sterilisation, or that extraction of the mineral will take place prior to or during development if appropriate as detailed in **MINERALS 8** below in the case of surface coal.

Paragraph 3.9 further explained the implications of the MSA designation, in that there was no presumption that planning permission for mineral extraction would be granted simply because the site was within the MSA. It aimed to clarify that non-mineral development would not be refused planning permission because of the MSA designation (LCC, 2010d: paragraph 3.9).

The term “sterilisation” was defined as “when a change of use or the development of land prevents possible mineral exploitation in the foreseeable future” (LCC, 2010d: 74). This is an important part of the process of safeguarding minerals and therefore represented a much more explicit understanding of the national planning policy requirement.

The Council retained its policy approach of safeguarding existing mineral sites as set out in Policy Minerals 3. The use of the term “safeguarding” in this context could potentially lead to some confusion, however, this is perhaps limited since the term means protection.

As an MSA should be protecting resources, irrespective of other designations, it is necessary to put in place a local policy context for how applications for non-mineral development which are to be located within the MSA are to be assessed. Minerals Policy 2 therefore refers to the need for the minerals to be extracted prior to development to avoid their unnecessary sterilisation.

For coal, the planning considerations for 'prior extraction' were set out in Policy Minerals 8.

MINERALS 8: SURFACE COAL AND DEVELOPMENT SITES

Within the Mineral Safeguarding Area for surface coal applicants should consider the opportunity to recover any coal present at the site in their plans to develop the land or change its use. Applicants submitting major applications will need to demonstrate to the local planning authority that;

- * any coal beneath the site is irrecoverable or of no economic value, or
- * there is coal but it will not be sterilised by the development proposed, or
- * there is coal but there is an overriding need for the development proposed, the economic value of which outweighs the value of extracting the coal.

In situations where none of the above applies applicants must show how the coal can be removed in an environmentally acceptable manner, taking account of detailed considerations listed in **MINERALS 10**.

The Council subsequently included a sifting filter of 'major applications' as to when effectively the need to consider the safeguarding of coal would be triggered. A "major application" is defined in legislation and relates to any application for minerals; waste; residential development of 10 or more dwellings, or site area of 0.5 hectares and the number of dwellings is not defined; the provision of a building or buildings where the floorspace to be created is 1,000 square metres or more; or finally the development will be on a site with an area of 1 hectare or more (Article 2, Town and Country Planning (Development Management Procedure) (England) Order 2010).

As such any planning application which did not fall within the statutory definition of "major" would not need to consider the impact on coal resources and whether there was a need to remove the coal before or as part of the development process. As such, it was accepting that some coal within the MSA could and would be sterilised by this policy approach.

The publication document also included a local policy for proposals that were seeking to extract coal as a development scheme in its own right.

MINERALS 9: SURFACE COAL AND NON-DEVELOPMENT SITES

There will be a presumption against working of surface coal deposits beneath undeveloped land which is not going to be developed for other uses, unless applicants are able to demonstrate the environmental acceptability of their proposal, that the highest operational standards will be met and that restoration will enhance landscape quality and biodiversity.

Weight will be attached to schemes which provide local and/or community benefits, avoid the sterilisation of mineral resources or facilitate other development which is in accordance with the development plan.

Consultation methods and responses

The consultation methods were broadly the same as those used at the previous stage. The Publication Consultation Statement confirmed that there were 29 representations made to this version of the overall plan by 28 respondents. The respondents were categorised into several groups: local residents (4), community group (1), parish council (1), neighbouring local authorities (2), developer (1), landowners (4), infrastructure providers (4), statutory organisations (5) and 6 companies with the respective industries of minerals and waste (LCC, 2010g).

For the mineral section, there were only a total of 12 responses received from 11 organisations. All of the representations were from organisations with an interest in a particular mineral, either statutory organisation (i.e., The Coal Authority), a trade body (Mineral Products Association) or minerals companies. There was one developer who commented on Policy Minerals 8. There were no representations from individual members of the public. Interestingly, there were no representations from the coal industry, either through their trade association of CoalPro or as individual coal companies (LCC, 2010g).

The Coal Authority made representations, in relation to mineral safeguarding and it supported the latest version of the mineral safeguarding policy and its reference to coal, Policy Minerals 2. Although it was seeking a more positive approach to prior extraction of coal resources before all development, not only for the sake of the coal resource itself, but also explaining the benefits to a development proposal by removing any instability in the ground arising from past mining activities and the opportunity for generating some money from the sale of the coal. The Council subsequently agreed to the principle of this further amendment being set out in a change which would be submitted for consideration by the Planning Inspector as part of the independent examination stage (LCC, 2011c).

There were four coal related changes (numbers 14-18) set out in the Schedule of Changes in July 2011. Two were related to policy wording and two were supporting text amendments. In relation to safeguarding only one change was requested and included. Change 14 indicated a change to Policy Minerals 8 to encourage prior extraction on all development sites.

English Heritage supported all Minerals policies. The Mineral Products Association objected to Policy Minerals 2, by stating that it was "unsound. It is not in accordance with best practice and is not justified. Evidence base needs to be confirmed. It should be on an OS [Ordnance Survey] base." The Council's response was "all spatial proposals will be consolidated on the Proposals Map which will be on an OS [Ordnance Survey] base" (LCC, 2011c:6).

Lafarge Aggregates responded wanting more definition of the areas where coal could be extracted as a secondary mineral. The Council's response tried to clarify that the policy "does not seek to identify specific sites where coal can be worked by opencast methods. It does seek to provide sufficient flexibility to allow the recovery of coal by opencast methods as an incidental activity to the primary re-development of any site within the area identified as the MSA for coal on Map A3." (LCC, 2011c:8).

A property development company who had not responded to previous plan stages objected to Policy Minerals 2 stating that it “is unduly onerous and needs amendment.” (Respondent 010). They also went on to object to Policy Minerals 8, by saying that “Minerals 8 fails to clarify how major applications will be defined. Policy approach is not clear in terms of economic value. The general extents of the MSA for coal and onerous requirements will generally harm the regeneration interests of the City.” (Respondent 010).

The Council proposed a Consolidated Schedule of Changes for Submission as part of the submission for Examination in July 2011. There was subsequently a period of consultation on these “Post Submission Focussed Changes” with the representations received being forwarded to the appointed Planning Inspector conducting the Examination.

6.7.4 Stage 4 - Independent Public Examination, November 2011

The plan was submitted to the Secretary of State in July 2011 for the Examination stage. The purpose of the Examination stage in plan production is to explore and assess the soundness of the plan based upon issues arising from the duly made representations from those parties that still consider that the plan is “un-sound.” (Inspector’s Guidance Note, 2011).

There were 4 examination hearing sessions held in November and December 2011 and the Planning Inspector’s Report was published a year later in December 2012.

The Planning Inspector’s matters and issues for the examination hearings were set out based upon the unresolved objections to the Publication and Post-Submission Schedule of Changes. There were 13 issues for discussion (Inspector’s Matters and Issues, 2011).

Policy Minerals 2 (Mineral Safeguarding Areas) was included as issue 2 and so the Planning Inspector was inviting a round-table debate around the question “is this policy effective and justified?”

There were supplementary questions which were designed to explore:

- On what basis have the Mineral Safeguarding Areas (MSA) been defined?
- How is the presence of minerals within the MSA's and their suitability for future extraction to be demonstrated?
- Are the areas of potential future aggregate production appropriately identified in the plan?
- How is proximal development adjacent to but outside of the MSAs to be dealt with?
- Would the requirements of this policy place an unjustified burden on development proposals within Leeds? and
- Should this policy cover coal deposits?

By this stage in the plan making process there were no outstanding objections to Policies Minerals 8 and 9 as there had been discussions between The Coal Authority and the Council to resolve the issues. Consequently, other issues relating to coal did not feature significantly within the examination process other than as the Planning Inspector testing the evidence underpinning the policy in order to ensure that it was compliant with national policy and there was sufficient local justification for the approach chosen.

The Coal Authority, Mineral Products Association, a landowner and the Council were present at the hearing session for Issue 2. The Coal Authority attended because the agenda contained mineral safeguarding as a topic and coal was mentioned. As The Coal Authority had no outstanding objection there was no 'right' to attend the hearing, however it felt it should attend to assist the Inspector and the Council. The Planning Inspector used his discretion and agreed to The Coal Authority attending.

In addition, Issue 4 is relevant to this research as although it related to sand and gravel it has been a matter which had been raised in relation to coal earlier in the process. Issue 4 was "should the sand and gravel resources under the urban area be safeguarded?" this issue relates to the content of Policy Minerals 2 and was in response to the representations made at the

publication stage including from the developer who considered that the policy was unduly onerous.

The Planning Inspector had noted that the plan had taken a different approach. Coal had been safeguarded both within and outside of the urban area, whereas sand and gravel had however only been safeguarded outside of the urban area.

In reaching his conclusion the Planning Inspector referred to the advice set out in the revised guidance document 'Mineral Safeguarding in England: Good Practice Advice (Wright, C. E., McEvoy, F.M., and Bust, R.A. 2011). In taking this advice it was clear that good practice advises that the safeguarding of minerals should not be constrained by other planning designations such as urban areas, without sound justification. The Planning Inspector did not consider that the plan had set out any such justification and that arguments about sterilising redevelopment and adversely affecting regeneration simply did not stand up to scrutiny. He concluded that "if considered early enough in the development process, prior extraction need not delay essential development and in some instances the commercial value of the extracted mineral can help to support marginal regeneration projects." (Inspector's Report, 2012: paragraph 47).

Following the debate at the examination the Council put forward two Main Modifications (MM7 and MM20) which extended the MSA for sand and gravel to include the whole resource, both within and outside of the urban area of Leeds (LCC, 2011d). In addition, the Council saw an opportunity through MM7 to move the criteria that were previously only specified for surface coal in relation to the need to consider the prior extraction in to a new combined policy so that common criteria could apply to the assessment of non-mineral planning applications that potentially could sterilise both sand and gravel and coal. As such Policies 8 and 9 were merged into a new Policy 3.

MM7 also allowed an opportunity for the Council to address the anomalies that existed in Policy Minerals 8 regarding the terminology which were

identified earlier but were not matters of soundness and therefore did not warrant consideration at the examination (LCC, 2011d).

Overall MM7 did successfully address the following previous deficiencies:

1. It was made clear that the precise boundaries of the MSA were to be shown in the accompanying proposals map. This addressed some previous concern that the map was not useable as it was not on an ordnance survey base.
2. Additional text allowed the plan to better explain the interaction between mineral safeguarding and development proposals. This included more helpful guidance to plan users on the relevant factors to be considered in the decision-making process on individual planning applications for non-mineral development in an MSA;
3. Policy Minerals 2 now explicitly included sand and gravel, whilst a new Policy Minerals 3 (replacing what were previously known as Minerals 8 and 9) covered safeguarding of surface coal resources;
4. Both Policies Minerals 2 and 3 now had the same criteria to be considered in the decision-making process on individual non-mineral proposals, this provided equity and addressed the previous concern of a lack of clarity;
5. Finally, the confusion in terminology previously identified, i.e. the 'always', 'non-householder' and 'major' development had now been addressed with Policy Minerals 2 for sand and gravel clearly setting out a threshold of 1 hectare in size. Policy Minerals 3 in relation to the safeguarding of coal set a clear threshold as being any proposal for non-householder development needing to properly consider the issue of mineral sterilisation.

6.7.5 Stage 5 - Adoption, January 2013

The NRW-DPD was adopted by Leeds City Council on 16 January 2013 (LCC, 2013).

Subsequently a successful High Court challenge was made to the plan in relation to Policies Minerals 13 and 14 (only) (s113, PCPA 2004). These policies were remitted by the High Court back to the Council for re-consideration and subsequent re-consultation and re-examination process.

The two challenged policies were eventually adopted and reincorporated into the plan on 16 September 2015. The issue of mineral safeguarding was not affected in any way by the High Court challenge or the re-examination process.

The overarching MSA policy was replaced with mineral specific policies. Mineral safeguarding for coal is now set out in Policy Minerals 3 (previously Policy Minerals 8 and 9) of the adopted plan.

MINERALS 3: MINERAL SAFEGUARDING AREAS – SURFACE COAL DEVELOPMENT SITES

Within the Surface Coal Mineral Safeguarding Area shown on the Policies Map applications for non-householder development must demonstrate that the opportunity to recover any coal present at the site has been considered.

Coal present should be removed prior to or during development unless:

1. it can be shown that it is not economically viable to do so, or
2. it is not environmentally acceptable to do so, or
3. the need for the development outweighs the need to extract the coal, or
4. The coal will not be sterilised by the development.

NON-DEVELOPMENT SITES

Permission shall not be given for the working of surface coal deposits beneath undeveloped land which is not going to be developed for other uses, unless applicants are able to demonstrate the environmental acceptability of their proposal, that the highest operational standards will be met and that restoration will enhance landscape quality and biodiversity. Weight will be attached to schemes which provide local and/or community benefits avoid the sterilisation of mineral resources, address mining legacy issues or facilitate other development which is in accordance with the development plan.

The evolution of the NRW-DPD and the local policy approach for the safeguarding of coal was described by the Minerals Planning Officer as "*laborious*." (LCC Minerals Planning Officer, 2014).

The motivation and opinions about the principle of mineral safeguarding by the key players in the process, Officers, Members and Consultees could be argued to have affected the efficient delivery of a local policy or alternatively

it could simply demonstrate an effective use of consultation and a responsive approach by the Council.

On reflection the Council's choice of starting point did not provide a sound basis upon which to build a policy framework for mineral safeguarding and coal. The adopted plan was found to be sound but there had been a lot of discussions, analysis, consultation responses to get the finalised policy to be found sound. The Council's starting point, use of terminology and their understanding of the role and purpose of the national requirement to safeguard minerals consequently led to conflict being generated when consultees responded to the consultation drafts and identifying matters of concern and non-compliance with national policy. The finalised and adopted policy had met the requirements of national policy, by this time it was set out in the National Planning Policy Framework (DCLG NPPF, 2012).

6.8 The key participants, interests and roles

In this section, the motives and levels of interest of the key participants in the policy making process will be explored. It will be demonstrated that the knowledge and understanding of mineral safeguarding was not as good as it could have been for the Planning Policy Officers. It will also be shown that the approach by the Officers was seeking to avoid conflict with the elected members on the topic of coal but this approach meant that the conflict emerged between the Council and the consultees. The need for an advocate or champion for minerals appears to be quite critical to the process.

The NRW-DPD contained a range of issues and the Council had chosen a bold and different approach to other planning authorities. They were attempting to reconcile conflicts by putting "*the difficult issues together in one plan, so everything was contentious because it included minerals, waste, flood risk, renewable energy*" (LCC Planning Policy Officer, 2014).

Coal was a new issue for the Leeds development plan. The predecessor plan, the UDPR was adopted in 2006 and could not take account of the new approach to mineral safeguarding introduced by MPS1 2006.

At the beginning of the plan making process Planning Policy Officers scoped the issues for the NRW-DPD with their appointed consultants. Mineral safeguarding as a topic was included within the scope. The consultants that led the majority of the plan making process "*produced a lot of material and information.*" (LCC Minerals Planning Officer, 2014). Although this phase illustrated there was a minimal level of understanding of both the consultants and the Council Officers of mineral safeguarding beyond stating its inclusion as an issue.

Officers were nervous about the topic of coal. The Minerals Planning Officer recalled that "*it had always been a sensitive issue with Councillors, they openly admitted in conversations at the beginning that they did not want a positive policy on coal. They thought it was the wrong message and wouldn't win votes. They definitely weren't interested in having any coal workings in the urban area.*" (LCC Minerals Planning Officer, 2014). This quote was quite illuminating since it demonstrates that the elected members had pre-determined and established their opinions and effective position on coal as a topic, before the plan making process began. It could be suggested therefore that an opportunity at the outset was missed to use the change of emphasis in national planning policy of MPS1 to set out the role and purpose of mineral safeguarding.

Whilst the majority of the Elected Members involved in planning decision making were relatively new to the Council, the stories of sites with problems in the past seem to have been passed on from member to member over time to become part of the collective local knowledge. The Minerals Planning Officer confirmed that "*members have a good memory for bad sites, not a good memory for good ones.*" (LCC Minerals Planning Officer, 2014). This comment suggests that members had existing views and perceptions based upon local history, and some experience, rather than trying to take a neutral, rational and impartial position. It is often difficult to view topics from a neutral starting point, particularly when there has been some form of negative experience.

It was clear that the origins of the Elected Members' views were from the stories and experience of previous coal extraction operations. Members did not appear to associate safeguarding with the protection of minerals, but rather with extraction and in particular, with an infrequently used old extraction technique, of opencasting using drag lines and buckets.

It is perhaps also interesting that the Elected Members were not thinking about the potential for delay on economic growth at any part during the policy making process which is the more common linkage and which was illustrated in the representation from a property developer during the plan making process. The Elected Members were focussed on amenity considerations arising from a policy which was positive on coal. They assumed that a positive policy on coal would lead to coal extraction and then their thoughts turned to the conflict that coal extraction would create in their ward areas, and beyond into the next round of elections. Coal is a politically sensitive topic, as confirmed by the Planning Policy Officers, as it has the potential for Elected Members to lose their seats over; and their concern was that they would be voted out at the next election.

Beyond the unrecorded verbal discussions between Officers and Members there was little published material which attempted to fully explain the policy principle of mineral safeguarding in the first instance. There was a sense from the language used in the interviews with those Council Officers involved that as Elected Members had formed a view, whether it was right or wrong, it would be difficult to persuade them otherwise. This illustrates an interesting relationship between Officers and Elected Members, given that Officers are the professionals paid by the Council to assist and advise Elected Members in decision making.

National policy, in MPS1 at the time, set out principles for minerals. To implement the principles, the first stage is to decide on whether a local policy is needed or can be justified. A key issue in Leeds was about the understanding of the policy principle at the outset and then the approaches

to formulating a local policy which is then carried through into day to day decision making.

The views of the members on the topic of coal at the outset presented Planning Officers with a challenging starting point. MPS1 had introduced a new requirement in mineral safeguarding. The Minerals Planning Officer said that he tried at the time to persuade the Elected Members that "*their position was wrong and contrary to national policy and will attract objections.*" (LCC Minerals Planning Officer, 2014). The Planning Policy Officer suggested that "*she would have liked to write a policy which said there would be no surface coal extraction in the Green Belt but it wouldn't have been sound.*" It is interesting that the Planning Policy Officer here was thinking that the issue of coal was only about extraction in surface mining operations. This did not consider mineral safeguarding; furthermore, within the Green Belt, mineral extraction is explicitly indicated in the NPPF not to be an inappropriate use in the Green Belt (DCLG, NPPF, 2012).

The role of central government in the plan making process is important. The regional network of Government Offices (in this case, for Yorkshire and the Humber) was the Secretary of State's presence within each of the English regions and was there to help planning authorities with guidance and advice. The Coal Authority was a government level expert and as such was also important to the planning process.

Terminology and general minerals knowledge

The Issues and Options consultation document used incorrect terminology, on page 6 it referred to 'deposits' (LCC, 2008). Whilst it may seem a matter of semantics, terminology is important in minerals and incorrect usage does inevitably lead to misunderstanding.

The difficulty with the term 'deposits' as used by Leeds in the Issues and Options document is that it was unclear precisely what they intended to be within the scope of the emerging policy approach. This starting point makes it more difficult for anyone wishing to comment on the document. It would

seem that in the context of the Leeds plan they actually meant resources when they refer to deposits.

National policy in MPS1 uses the term 'resources' rather than 'reserves.' The BGS identify that there is an important distinction. The resource encompasses the entire geological extent of a mineral, whereas 'reserve' is the term used when a resource has been proven and has consent or otherwise specifically identified for extraction (BGS, 2019).

Coal was identified as an important mineral within Leeds and was included as an issue at the start of the plan production process. This gave two options:

1. Simply acknowledge the presence of the coal reserve and continue with the existing approach set out in saved policies (which was a presumption against development unless the proposal can demonstrate clear beneficial effects); OR
2. Designate identified locations as Mineral Consultation Areas and include criteria for future exploitation.

The Council's starting point confused the terminology. In the first option they refer to 'reserve', when it would appear to be 'resource' that they actually meant. Whilst this could be suggested a simple typographical error, the Planning Policy Officer acknowledged that their "*understanding wasn't the best*" (LCC Planning Policy Officer, 2014). In the second option the Council was looking more at the issue of what criteria against which any planning applications for coal extraction will be determined rather than safeguarding the mineral for its own sake.

The advice of the Minerals Planning Officer, as a geologist, appears to have significantly influenced the Planning Policy Officers. The Planning Policy Officer said "*I don't know what I would do without [the Minerals Officer] as he can reel out everything going back to 1972 and it's not written down anywhere*" (LCC Planning Policy Officer, 2014). Whilst an in-house expert is clearly very valuable, if there is no knowledge transfer process in place, or any mechanism of documenting the knowledge, then there is a risk to the

continuity of the policy making process. This is not unique to Leeds, nor is it unique to the planning profession, it is a matter for on-going succession planning for any profession.

However, there is also a counter-argument that where something is new, it allows people to look at it a fresh from first principles. Within Leeds, the role of the Minerals Planning Officer was very much central to the formulation and evolution of the minerals content of the NRW-DPD. There appeared to be no re-check of first principles, no re-assessment against the wording of national planning policy on minerals. This was a missed opportunity as had there been some detailed analysis of the wording by Planning Officers and thought as to what this really means in practice then perhaps the starting point and the definitions might have been different.

The Planning Policy Officers had engaged external consultants at the beginning of the process for the plan, but it is evident from the material produced by the consultants that there was little material on the topic of mineral safeguarding. This was an opportunity at the start of the process when scoping and drafting the Issues and Options to explore the topic more. Apparently "*coal did have a lot of discussion time*" according to the Minerals Planning Officer but very little was written into material to help anyone's understanding on mineral safeguarding. The focus was on the other topics within the NRW-DPD (LCC Minerals Planning Officer, 2014).

The opportunity was missed at the beginning of the plan making process to set out in the consultation document the role and purpose of mineral safeguarding, furthermore, what it is not about. This could potentially have given some clarity to the starting point for everyone involved.

Having not explained mineral safeguarding sufficiently and choosing to focus on the criteria for future mineral extraction, it does not indicate how non-mineral development located in areas of mineral resource would be considered. This means that the principle of mineral safeguarding was not set out and therefore how non-mineral development would be considered in relation to the safeguarded resource was not clear.

The plan at that early stage referred to mineral consultation areas. This was the historical term used in the 1980s for those defined areas within which the district councils were required to consult the county council on any non-mineral application for development so that its impact on the mineral resources could be considered.

At the time that the consultation document was produced MPS1 had already introduced the concept of MSAs being the term and the tool to be used to prevent the sterilisation of mineral resources by non-mineral development. National policy in MPS1 did still refer to MCAs but by this time this had evolved into an implementation mechanism to be used in areas where the two-tier local government structure remained, i.e. where the local planning authority (district) would be required to consult the mineral planning authority (county).

For a Unitary Council with a single planning department, this consultation mechanism appears to be less relevant since all planners with the Council should be using the same computer system which includes geographical information. If it was not electronically available, it would ordinarily be available in paper format and on notice boards. However, there is always merit in using these as internal mechanisms, but not necessarily ones that need to be published in a development plan.

Despite the suggested and apparent expert knowledge of the Minerals Planning Officer about national minerals policy together with the use of external consultants; the terminology and the starting point for minerals safeguarding for coal as published in the Issues and Options Consultation Draft was incorrect.

Was mineral safeguarding a priority?

The Issues and Alternative Options document identified mineral safeguarding as an objective. However, it was not transposed into an issue which was subsequently published for consultation. According to the Planning Policy

Officers it seems to be have been the case that it just was overlooked as the document was trying to incorporate lots of issues.

It could be argued that given the nature of the topics within the NRW-DPD, mineral safeguarding was seen as a minority topic which was potentially based on a limited understanding about how to undertake the mineral safeguarding process amongst the Planning Policy Officers. The Planning Policy Officer admitted that "*Leeds did it all wrong...but once we'd got the basic interpretation right [terminology] we started again*" (LCC Planning Policy Officer, 2014). It then started to be an evidence-led approach to policy making.

The Issues and Options consultation document focussed on providing a choice between what is best approach towards the future supply of minerals, therefore safeguarding minerals for their own sake was not clearly identified as an issue for consultation at this early stage of plan production.

The Issues and Options consultation document was consistent, it did not single out coal as it did for the aggregates (sand, gravel and crushed rock) in issues 8-12 inclusive. However, there was no consideration of mineral safeguarding. In relation to building stone and coal, the plan attempted to look at the principle of safeguarding although from an uninformed starting point.

Looking back at the previous local minerals policy in the UDP and UDPR; the approach was focussed upon safeguarding existing mineral producing sites. This was not about protecting the resource and safeguarding it for future generations, but at the time of the UDPR adoption, MPS1 and the principles of safeguarding had only just been published. This meant that the next version of the development plan would need to look at the issue of mineral safeguarding for the first time.

The Planning Policy Officer recalled that the approach to minerals in the UDP was "*easier because the mineral sites were small and easy to avoid with allocations. The mineral safeguarding areas are much more extensive and*

the housing requirement is much greater so there is more of a problem.” (LCC Planning Policy Officer, 2014). It seems that the Planning Policy Officers were using their knowledge of the approach in the UDP but did not refresh themselves national policy and/or good practice guidance. *“We realised that our knowledge of mineral safeguarding wasn’t the best, we were advised [through consultation responses] to look at the BGS guidance from 2007 and then we realised we weren’t going about mineral safeguarding the right way. The representation from The Coal Authority was very useful in helping us to understand the correct process.”* (LCC Planning Policy Officer, 2014).

It is interesting that it was through the consultation responses that were submitted that the Officers were seemingly learning about the issue of mineral safeguarding. It could also be argued that this is a method of demonstrating that consultation responses are taken into account and changes are made in response. The Planning Policy Officer confirmed that there was no underlying strategy behind their approach, it was simply a case that their apparent misunderstanding of the requirements for mineral safeguarding was because they were not sufficiently sighted on what MPS1 stated. *“The first go at mineral safeguarding wasn’t correct and, in some ways, it was good as we learnt a lot from the process and it really did illustrate the benefit of multiple consultation periods as everyone has the opportunity to contribute and influence the plan making. Although it is frustrating by causing delays in the speed of plan making with everyone’s input there should be a better outcome.”* (LCC Planning Policy Officer, 2014).

Overall, the two options presented in relation to coal were technically flawed. Firstly because of the incorrect terminology and secondly because the approaches being suggested mixed up unconnected issues and were not in line with government policy at the time which was set out in MPS1. There were only two options presented which was somewhat limited. The document only contained a single page on the whole minerals topic which encompassed 12 discrete issues. Given the nature of the topics within the NRW-DPD the consultation with a large number of environmental bodies was obviously necessary which needs to be considered in relation to the comments received.

If the NRW-DPD was only focusing upon the minerals topic then this would be likely to affect the level of interest amongst different organisations.

A mineral safeguarding area for coal was not included initially and this omission led to objections from the Government Office for Yorkshire and the Humber and The Coal Authority. These were two specific (statutory) consultees and both were government bodies. No other representations were received identifying this omission.

When the mineral safeguarding area for coal was included, whilst it was not yet compliant with national policy according to The Coal Authority, the inclusion of something on coal generated interest and objections. There were representations received from landowners who were claiming that it was unreasonable and will prevent development, some were outright objections that it should be completely removed. Officers receiving the representations needed to try to reconcile these conflicting views. Members received a summary of the representations received with a commentary from Officers on proposed changes if relevant (LCC, 2010b; LCC, 2010c).

The Planning Policy Officers and the Minerals Planning Officer used the representations from both the Government Office and The Coal Authority to defend their position. It could have been just as easily done by explaining the requirements of national policy and then just referring to the representations from both government bodies. However, there was a sense that responding to a representation carried more weight in the process than just responding to national planning policy.

The policy objective for mineral safeguarding had disappeared by the Policy Position stage. The previous long list of objectives set out in the Issues and Alternative Options document had been slimmed down to only 12 for this next stage. For minerals, there was only a single objective which related to just the supply of minerals. Mineral safeguarding as a policy principle was no longer identified as an objective for the plan. This was because Planning Policy Officers wanted to focus on those issues which they felt were important and arising from the level of interest by those responding to the consultation

stages. This indicates that the Planning Policy Officers were trying to balance the priorities for the document, but it could also be argued that given the position of the elected members on the topic of coal the Planning Policy Officers had tried but had become less confident in their professional position due to the attitude of the elected members. *"We knew members would be worried that it [coal safeguarding] would be seen as a step towards having big opencast coal sites again. We did try to explain to them and also in the documentation that the coalfield in Leeds is shallow. We also tried to explain to members the benefits of why you might want extraction, but it was geared to small-scale."* (LCC Planning Policy Officer, 2014).

Overall, there was a desire amongst Officers to 'get it right' but more in order that it would pass the public examination stage of the plan making process rather than for its own sake. The exception to that statement may have been with the Minerals Planning Officer, his personal interest in the subject played a large role in the evolution of the policy on coal. There was a representation from a consultant representing a landowner whose representation set out more than simply his client's interests but moved in the language, similar to The Coal Authority's whereby it was trying to explain the policy principle and how it can be applied at the local level.

The Planning Policy Officers in trying to balance different interests chose initially to try to avoid the conflict with the elected members on the topic of coal but then as the representations were received, particularly from the Government Office and The Coal Authority, the plan was incrementally amended. It could be seen from the representations that The Coal Authority was inevitably the national advocate for coal.

At the publication/submission, as the statutory stage, it is clear that is when the other specific (statutory) consultees predominantly chose to engage with the plan. This is appropriate as a strategy unless there are changes being sought, since it is quite late in the plan making process to raise new issues. The underlying strategy was therefore to place greater priority on the views of the elected members to whom the officers were employed to advise. This

was a choice that was subconsciously made, but based on the fact that as the consultees, each of whom employed professional planning resources, would not like the approach being taken but there would be an opportunity for a conversation about professional planning which in turn would help demonstrate that representations had been taken into account and changes made to the plan.

A really interesting point was revealed during the interviews that since the adoption of Policy Minerals 3 "*alarm bells have been ringing internally*" according to the Planning Policy Officers (2014). This comment relates to colleagues in development management who have the task of implementing the policy. It is interesting that there should be limited knowledge and understanding about emerging local policy. Planning Case Officers are determining individual planning applications on a day-to-day basis; but it was evident that they did not appear to have sufficient time to think about the implications of the emerging policy given the daily pressure of meeting determination deadlines for planning applications. It may be partly explained by the fact that planning applications must be determined in relation to the adopted policy at the time of decision, since emerging policy can and does change.

Following the adoption of the NRW-DPD Planning Policy Officers prepared internal briefing notes and gave informal presentations to their internal planning colleagues. However, since the adoption the Planning Policy Officer explained that many of the Planning Case Officers had approached both the Minerals Planning Officer and Planning Policy Officers for individual conversations about whether Policy Minerals 3 was necessary (LCC Planning Policy Officer, 2014).

The policy created some internal conflict in implementation. The management of this conflict was through further explanation and re-iteration of the need to safeguard minerals in accordance with national policy. The Planning Policy Officer said "*we can only resolve this conflict by me and [the Minerals Officer] jumping up and down about it.*" (LCC Planning Policy Officer,

2014). This comment perhaps illustrates that whilst something may be contained within national planning policy and even translated into the local policy context; there is still a requirement for some form of advocate for the issue and its presence in a development plan is just not sufficient to ensure compliance and due consideration in day-to-day decision making.

Planning policy comes from people, predominately the professional planning officers, their knowledge and commitments and the extent to which there is a champion and advocacy for a particular topic. The Leeds example therefore suggests that without the continuous promotion of Policy Minerals 3 internally, the policy may not be fully utilised on a day-to-day basis. This further raises questions about the breadth of issues within the development plan as a whole and how accessible the document is for users.

6.9 Chapter summary

This chapter has set out the first part of the second part of the empirical work of this research. This chapter has focussed upon formulation of the local planning policy in Leeds as the chosen case study. It has explained the importance of planning policy in the planning system by describing, in general terms, the process of how a development plan containing the local planning policies is prepared. It is important to examine the local planning policy context because it is the first part of the implementation of the national planning policy requirement for mineral safeguarding. Exploring how Leeds City Council, as the planning authority for the area, chose to interpret the national planning policy requirement is an important part of understanding how national planning policy can be interpreted.

The key findings from the local policy making process in Leeds are:

- The concept of mineral safeguarding as a policy requirement was not initially understood or fully accepted. The local policy approach evolved in direct response to the detailed responses from specific consultees. There were a range of opinions expressed on coal and mineral safeguarding and therefore the Planning Officers had to

understand, evaluate and respond to points being raised. This was positive from the point of view that it demonstrates that participation in the plan making process is important representations do lead to changes. However, the process could have been more efficient if the initial knowledge and understanding of those formulating the local policies was more considered.

- The NRW-DPD contained a range of topics and as such mineral safeguarding was just one. Consequently, the attention it received was diminished because of the wide range of topics in the NRW-DPD.
- Coal was recognised as an important, but locally controversial mineral because of its place in the socio-economic history of the area and the environmental legacy that the extraction of coal has left on the landscape. Safeguarding coal resources did not generate a large number of consultation responses through the plan making process; however, this could be more attributed to the nature of the document and the topics it contained did not generate as much general interest overall.

Chapter 7 will now move on explore the use of the adopted mineral safeguarding policy for coal in day-to-day decision making through individual development proposals in the final part of the empirical work in this research.

CHAPTER 7 CASE STUDY – LEEDS POLICY IMPLEMENTATION

7.1 Introduction

This chapter forms the third and final part of the empirical work in this research project. The empirical work so far has illustrated that the seemingly straightforward national planning policy requirement to safeguard minerals can result in different interpretations at the local level. It has also demonstrated that that mineral safeguarding is often viewed as another name for mineral extraction.

Coal has played a significant role in the socio-economic and political history of the UK. This means it is an interesting mineral because it generates a reaction and opinion which can be largely attributed to a person's local experience. Whilst there is no evidence that disputes that coal when burnt is a contributor to climate change, the environmental concerns about climate change have, and will continue to, influence thinking and views on emerging policy and implementation of policy. For mineral safeguarding this could mean that it becomes a more well established and understood policy tool. In relation to coal, it could be the means to ensure that coal is not forgotten simply because of its fossil fuel nature and that it is diminishing in its contribution to energy security. The local policy making process in Leeds illustrated these opinions and perspectives. It was evident through the process that the involvement and engagement of different stakeholders had a positive influence on the policy approach for safeguarding coal.

Having looked at the local policy making process in Leeds this chapter explores the impact of the policy in practice. Often research tends to focus upon either policies and policy making or the implementation and use of policy in practice. Rarely is an opportunity taken to investigate both elements. This research takes such an opportunity.

This chapter will explain the role of local planning policies and the decision-making process for individual applications. The chapter will move on to outline and apply the methodology to select two appropriate planning applications as case studies which will enable an examination of the application of the coal safeguarding policy in practice. Each case study will be presented with brief description of the proposal and then through the use of document analysis and interviews there will be an analysis of how the adopted policy for safeguarding coal was used in the determination of each planning application. The analysis will focus upon how well the principle of mineral safeguarding was understood by those parties involved and therefore the extent to which the policy requirement to safeguard coal featured in the decision-making process. The key findings from this chapter will be summarised to conclude the final part of the empirical research.

7.2 The role of local policies and the decision-making process for individual planning applications

In the last chapter the importance of the development plan was demonstrated. Given this established importance, it is now necessary to outline how the development plan is used in the overall decision making (Cullingworth et al, 2015; Sheppard, 2017).

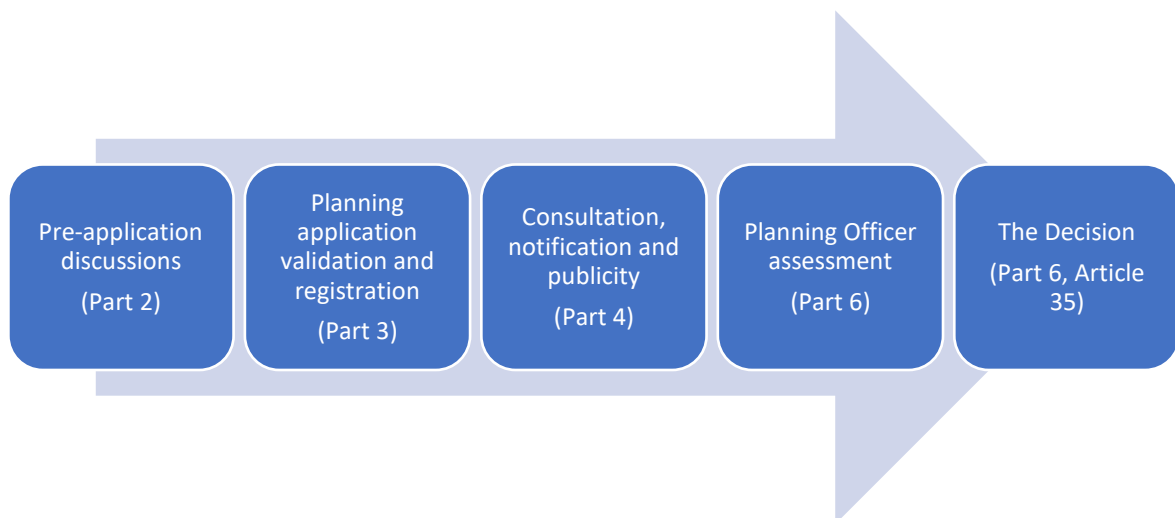
The adopted development plan is the starting point for planning decision making. As it sets out the Council's framework for determining planning applications it provides an important starting point for anyone interested in planning. For applicants who are seeking an understanding of the future development strategy for an area, what the policy requirements and potential constraints which a proposal may face is important for their investment decisions. For landowners, the contents and policies of the development plan can have a direct effect on the value and future aspirations for their land. For local residents it will provide an indication of where new development will take place in the future (Cullingworth et al, 2015).

The policies contained in a development plan therefore form a decision-making framework with criteria to help guide and assess individual planning

applications. It has to be acknowledged that the development plan, like the planning system as a whole, contains tensions. For example, the need for growth and development which is counter balanced with the need for protection and conservation of the built and natural environment. Consequently, it is through each individual planning application that these tensions need to be resolved (Healey, 1997). The decision maker therefore determines the proposal against the provisions of the development plan together with all relevant material considerations, balancing the relative weight of evidence, to reach a decision on whether to approve or refuse planning permission (Moore and Purdue, 2014).

The process for determining a planning application, like with many aspects of the planning system, is set out in secondary legislation which is currently the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) (SI 2015/595).

Figure 7.1 Simplified version of the planning application determination process



(Based upon the Town and Country Planning (Development Management Procedure) (England) Order 2015)

Figure 7.1 illustrates a simplified process of the determination process of a planning application. There are different types of planning application, but that detail is not necessary for the purposes of this research.

For the majority of development proposals, pre-application discussions between an applicant and the local planning authority are optional. This stage is considered to be good practice as it is an opportunity to gain an insight into how the local planning authority may view a proposal. Although pre-application advice is not binding on any future decision the local planning authority may make, it does enable potential matters that may be of concern to be addressed and therefore submitted with the planning application. By ensuring that the necessary information and supporting documents are included within the planning application submission it should enable the prompt validation and registration of the planning application when it arrives with the local planning authority. This therefore can reduce the potential time required for the determination process (DCLG PPG, 2014).

An important part of the determination process is allowing an opportunity for interested parties, neighbouring landowners/occupiers and statutory consultees to provide their views on the application (Healey, 1997; Sheppard et al, 2017).

Within the local planning authority, each planning application is allocated to a specific Planning Case Officer who is the single point of contact and is responsible for the application until the decision is issued. There are statutory time limits for the determination of planning applications (Article 35, DMPO, 2015) and the decision-making performance by each individual planning authority is monitored by central government.

The Planning Case Officer will undertake administrative checks either during the validation stage or when the case file is issued to them to principally ensure that all the correct information has been received. The Planning Case Officer will decide, with reference to the DMPO and the Council's adopted Statement of Community Involvement, who should be consulted on the planning application. Consultation requests are then issued. Typically, at the

end of the consultation period the Planning Case Officer will then start to assess the planning application (DCLG PPG, 2014).

As described earlier the planning system is 'plan-led' and as such the development plan is the first stage of assessing a planning application. A Planning Case Officer has to firstly choose and then assess the planning application against the most relevant policies within the adopted development plan and other material considerations. Then having regard to the consultation responses received, review the evidence submitted with the planning application and reach a view on what the main issues which require the analysis. Each planning application will have a determination report which formally records the description, consultation responses, key issues and the analysis and reasoning before the decision is set out at the end of the report. The Planning Case Officer has to make professional judgements based on the evidence before them.

Each planning application is determined on its own individual merits in accordance with the development plan policies and any other material considerations which need to be taken into account. The weight to be applied to the other material considerations is a matter for the decision maker. A material consideration is difficult to precisely define since anything is potentially capable of being a material consideration if it is relevant to the proposed development. The Planning Case Officer has to therefore decide which aspects of the proposal are the most important. For example, on a very simplistic level does the need for housing, outweigh the adverse impact on the built and natural environment (Duxbury, 2012; Hart, 2015; Moore and Purdue, 2014).

Figure 7.1 illustrates the linear process, but in reality, many planning applications will be revised following comments from both the Planning Case Officer and consultees before the final decision is made. This means that re-consultation may be undertaken, although it is not a legislative requirement, and such as this will generally elongate the determination period.

The majority of planning applications are determined by Planning Case Officers under delegated powers (Moore and Purdue, 2014; Harwood, 2016). This is the established presumption of planning decision making. The delegated powers are established within the overall Council's administrative framework and will set out whom within the Council has the authority to make and legally sign planning decisions. However, a small proportion, typically 5-10%, are determined by a Planning Committee, which is made up of elected local councillors who meet on a periodic basis (generally monthly) to debate and determine planning applications based upon a report and recommendation from the Planning Case Officer. Each Council establishes their own Standing Orders which set out the criteria by which a planning application would be decided by the Planning Committee rather than the nominated Planning Case Officer (Harwood, 2016; Sheppard, et al, 2017)

The decision is an important legal document in that it grants planning permission (or not) for a development. It also contains planning conditions which have been attached in order to ensure the development is acceptable and thereby enables a mechanism for the local planning authority to effectively control the development (Duxbury, 2009).

7.3 Planning applications in Leeds

As has been described earlier Leeds is an administrative area which contains an urban and rural area. The Council is seeking growth, but the Green Belt designation provides a check to unrestricted growth. Evidence of a significant industrial economy has left an environmental legacy, including brownfield land. Regeneration is a priority for the Council.

7.3.1 Planning application decision making structure in Leeds City Council

The Leeds City Council Constitution establishes the framework for conducting the business of the Council in terms of who is responsible for decisions and how the decisions are to be made (LCC, 2016). In common with the majority

of Councils, decision making on planning applications in Leeds is a delegated matter.

Full Council has delegated the decision-making power on planning applications to three Plans Panels: North and East; South and West; and City Plans and collectively cover the administrative area. Each Panel comprises of elected Council members. This is their version of a Planning Committee which can be called by any name and can either cover the whole area of a local authority or part of an area.

The Plans Panel meet in public meetings each month. There are three functions of the Panels: they can receive pre-application presentations from applicants to enable the Panel members to informally discuss proposals before an application is submitted. The Panel also receives 'Position Statements' which are Officer Reports providing an information update on the progress of large, complex or sensitive planning applications. Finally, the North and East; and South and West Panels make decisions on individual planning applications within their designated geographical area. The exception to this is where in the opinion of the Chief Planning Officer, the proposal meets one of the criteria for the decision to be taken by the City Plans Panel. For example, it is of major strategic significance; is for 300 or more dwellings and other criteria (LCC, 2016). The City Plans Panel is intended to be strategic and therefore operates across the whole of Leeds.

In addition, the administrative area has also been divided into ten areas, each with a Community Committee. These are quarterly public meetings to enable local residents to meet with their local Councillors to discuss any matters of interest and concern within the local area (LCC, 2016). They are advisory committees and have no decision-making power in relation to planning matters but they form another mechanism for local people to engage with the Council. The nature of the business that these Community Committees consider is similar to a Parish or Town Council in the two-tier Local Authority areas (LCC, 2016).

7.3.2 The choice of planning applications

Leeds City Council receives a significant number of planning applications each year. As such a well-defined methodology for selecting two relevant planning applications to explore the use of the mineral safeguarding policy in practice in further detail was needed. As the Mineral Safeguarding Area for coal covers the majority of Leeds it provides a wide geographical scope for potential development proposals.

Potential planning applications needed to be determined with reference to Policy Minerals 3 of the NRW-DPD which was adopted in January 2013. A period of two calendar years, from January 2013 until December 2014, was chosen as it should provide a representative and manageable sample of planning applications to review and select the most relevant planning applications.

The approach to choosing a planning application involved three stages:

- Data from Leeds City Council's on-line public access system of all planning applications;
- Data from the Coal Authority on the consultation requests received from Leeds City Council on non-householder planning applications; and finally
- Discussions with Planning Officers at Leeds City Council.

For stage one, all planning application case files at Leeds are electronic and available on-line. The Council do not keep any other records.

The first search through the on-line planning case files was for outline planning applications. This was useful because it is an application type which tends to be used for larger scale proposals. The second search was for the full application type but also including the key word of residential.

Following the adoption of Policy Minerals 3, whilst not included within the wording of the policy itself, the Council subsequently chose to focusses upon

larger proposals, those falling within the legal definition of a 'major' application types which is defined as proposals which are "greater than 0.5 hectare; 10 or more dwellings or 1,000 square metres of floorspace." (Article 2(1), DMPO, 2010). Policy Minerals 3 excludes householder development (e.g. house extensions, garages etc.) and change of use, so it was necessary to exclude these from the results. As Leeds City Council do not use a sub-category for householder or change of use, the search needed to use the key word of 'residential' which from the results did exclude householder development and changes of use. A third search used 'mixed use' as a key phrase and a final search was for 'hybrid'. The latter two searches again were seeking the larger scale proposals.

The results of the first stage revealed that during the period of 1 January 2013 – 31 December 2014 there were 52 outline applications; 54 full (residential) applications; 18 mixed use applications (none of these were double counted in either the outline or the full searches) and finally 3 hybrid applications. This was a total of 253 planning applications.

The second stage was to review the data from The Coal Authority for those consultation requests received from Leeds City Council. The Coal Authority as a statutory consultee has a direct interest, as the owner of coal resources on behalf of the state, in receiving consultations within the area containing coal resources and also unstable land as a result of past coal mining activity. The Coal Authority's consultation records for the chosen search period revealed 450 planning applications received. A small number of requests for consultation appear to have been incorrectly sent to The Coal Authority as the sites did not contain coal resources.

From this combined data set, each planning application was analysed to assess the degree to which Policy Minerals 3 and coal was a key issue. This was done using the Coal Authority's geographical information system and reviewing each application site boundary to determine the proportion of the application site that contained coal. The second aspect was look through the consultation responses to establish whether coal resources had been

commented upon specifically and finally where available, the contents of the Officer Report and Decision.

The final stage was to seek suggestions from the Planning Officers interviewed as part of the fieldwork element of this research. Whilst it was understood that the Planning Officers interviewed would not necessarily have detailed personal knowledge of each planning application, they would have internal access to their colleagues and as such enable an informed view of those planning applications which would be relevant to the objectives of this research.

From the discussions it was evident that one particular regeneration proposal and another strategic development site scheme were mentioned several times by the Planning Officers.

Both planning applications were within the mineral safeguarding area for coal and therefore coal was a key issue. They were both received by the Council following the adoption of Policy Minerals 3 and as such the adopted policy would form part of the decision-making framework for each application. Both applications were described by the Minerals Planning Officer as "*probably the best picture of where we've got to.*" (LCC Minerals Planning Officer, 2014).

The Minerals Planning Officer confirmed that the eastern side of Leeds is where the coal is closest to the surface and as such easier and more economically viable to extract. There have been a number of minerals applications within this part of the district in the past for the extraction of coal, although none in more recent years for just mineral extraction.

Other potential planning applications within East Leeds were reviewed but discounted as they were outside of the chosen timescale and as such determined under a different policy context, i.e. UDP Review 2006.

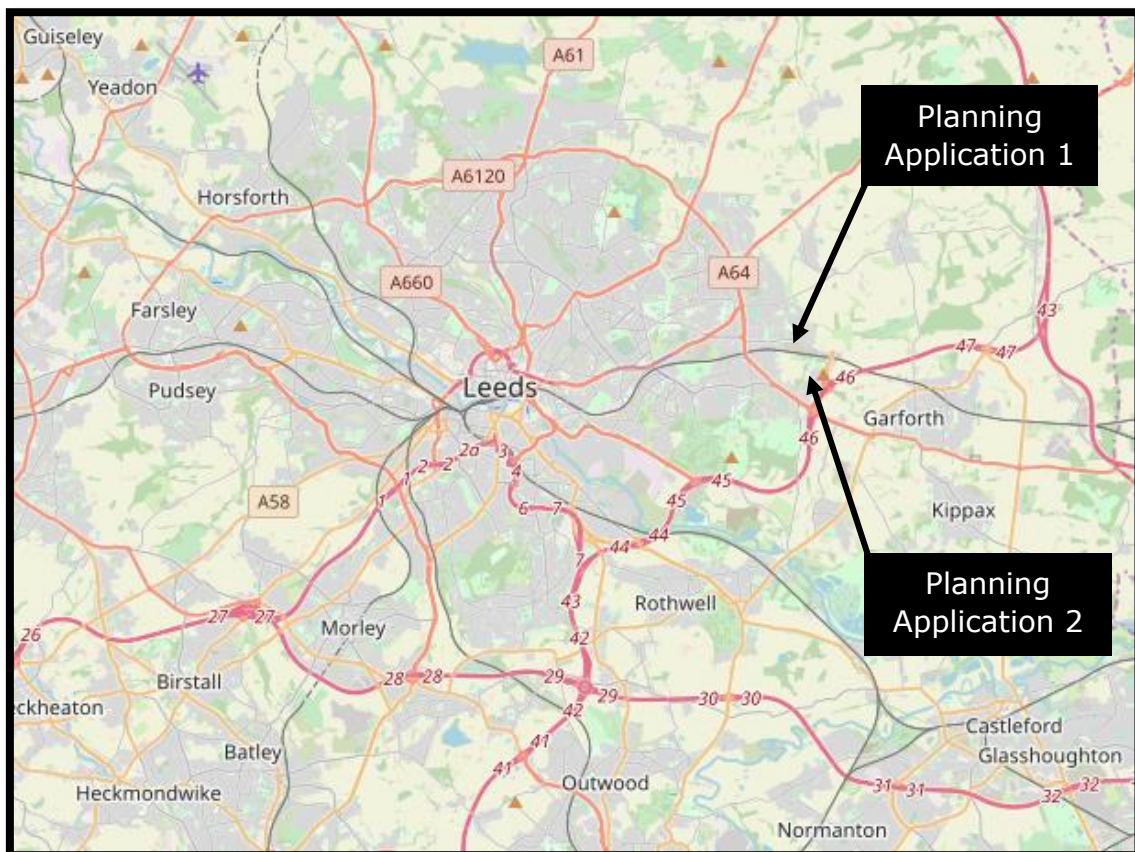
Overall using a combination of a review of the outline, full residential, mixed use and hybrid planning applications registered by Leeds City Council, the list of consultation requests received by The Coal Authority from Leeds City

Council and discussions with Planning Officers at Leeds City Council, two planning applications were selected.

Planning application 1 - A former factory site in East Leeds which was proposed to be redeveloped for housing. This brownfield site is located within the mineral safeguarding area for coal.

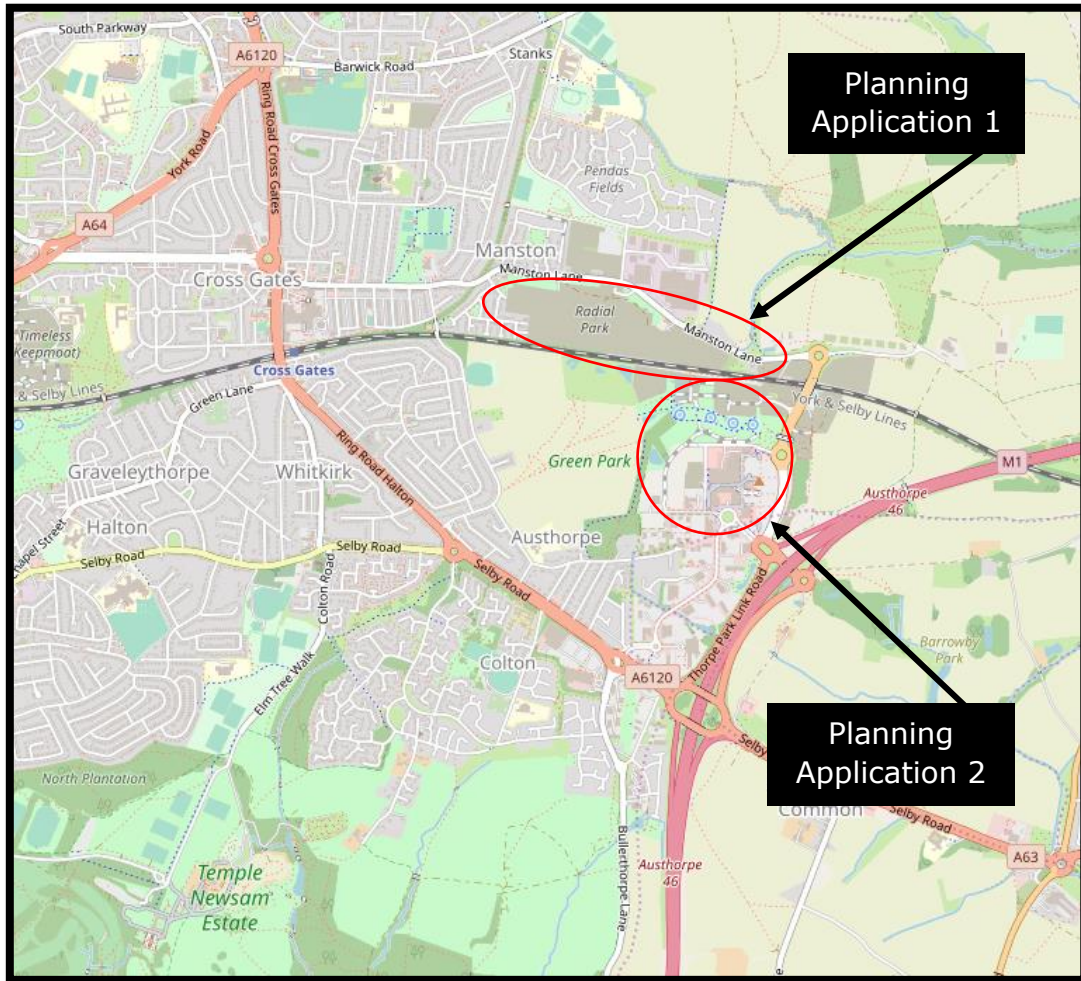
Planning application 2 - A strategic mixed-use development site in East Leeds. This greenfield site is located within the mineral safeguarding area for coal.

Figure 7.2 Planning Application Case Study Locations

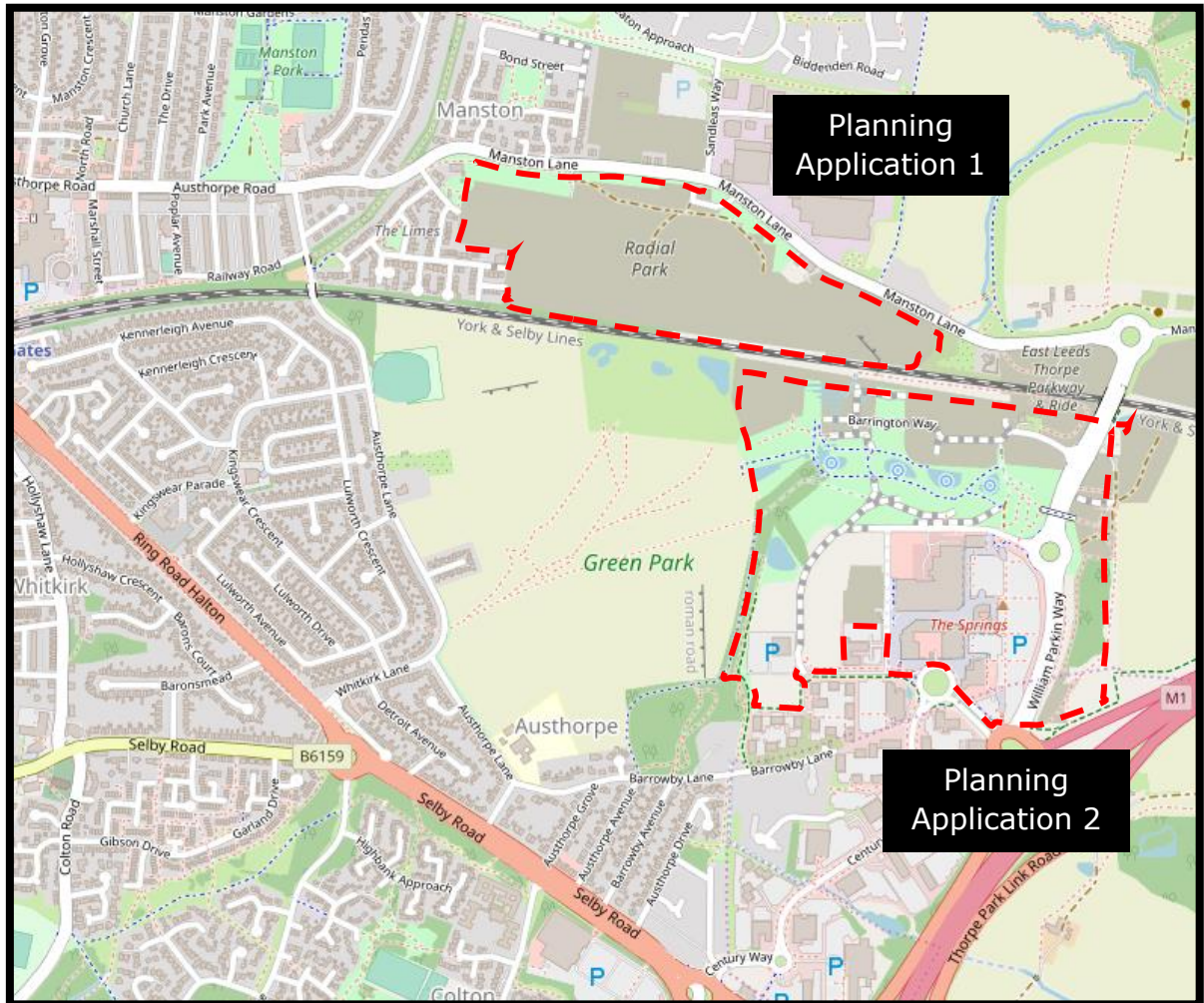


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Figure 7.3 Planning Application Case Study Locations



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Figure 7.4 Planning Application Case Study Locations

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7.4 Planning Application 1 – Brownfield Site

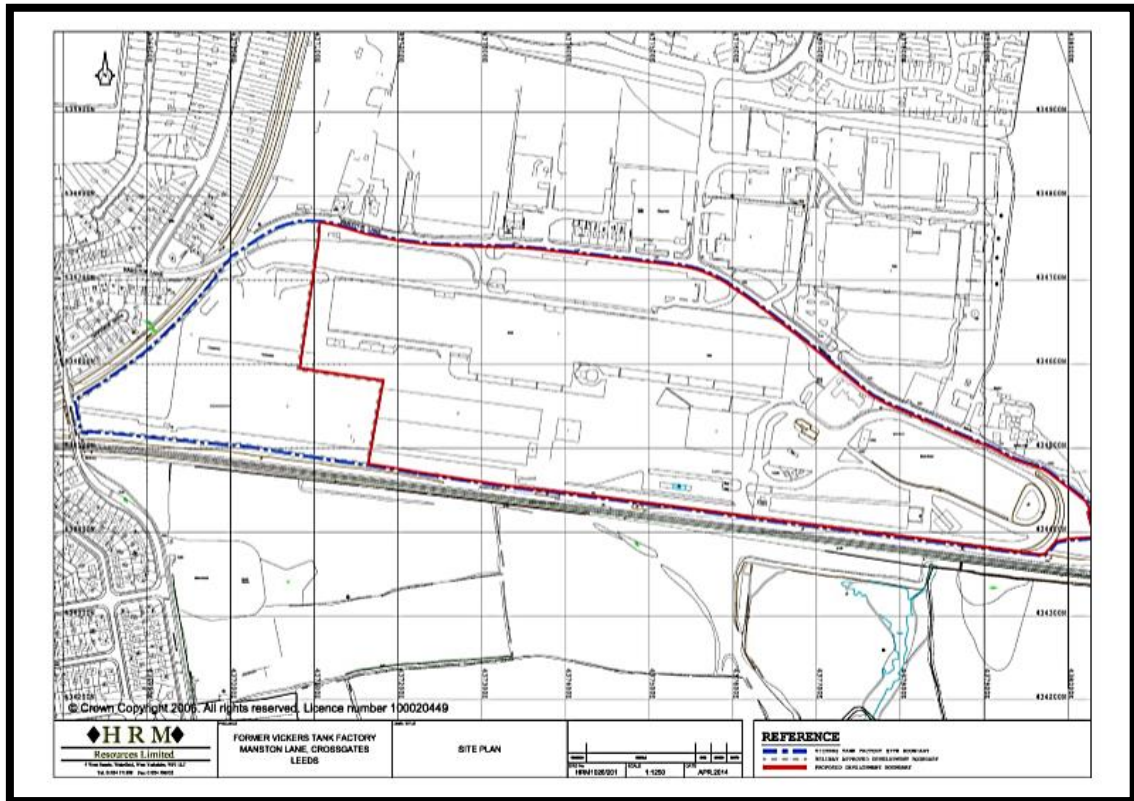
The first planning application is the redevelopment of a large former factory site for 485 dwellings in East Leeds. It lies on the eastern edge of one of four strategic priority areas for regeneration and redevelopment under Core Strategy Spatial Policy 4 (LCC, 2014a).

The Regeneration Priority Programme Area for East Leeds is seeking significant investment. There are large areas of vacant brownfield land and one of Europe's largest concentrations of Council-owned housing which does not comply with modern standards. There is a well-defined need for comprehensive intervention to improve the overall area and change the existing negative perceptions. This site offers the potential to help to deliver new housing to meet local needs, diversifying the housing tenure together with improved green space and employment and training opportunities (LCC, 2014a).

7.4.1 Background

The application site, illustrated in **Figures 7.2-7.4**, is located around 7 kilometres to the east of Leeds City Centre and within a former industrial area containing a variety of factories.

It is the site of the former Vickers tank factory and covers approximately 21 hectares. It contains a range of buildings together with a substantial amount of hard standing for both vehicle parking and tank test tracks. The site lies within LS15 postcode and the Crossgates and Whinmoor Ward.

Figure 7.5 Site Location Plan

(source: <https://publicaccess.leeds.gov.uk/online-applications>)

The planning history indicates the site has been in a heavy industrial use since 1915 when the first Royal Ordnance Factory was built. In 1986 the private company of Vickers arrived to build the Challenger Tank and the factory was closed in 1999 (Leeds Engine, 2016). In 2002 planning permission was granted to use the site and existing buildings for storage and distribution (LCC planning permission 32/374/01/FU).

The character of the northern side of Manston Lane is predominantly industrial, derived from the former factory buildings, including building tanks (Vickers) and buses (Optare); cable manufacturing (Draker UK Ltd) and producing ice cream (Richmond). According to the Minerals Planning Officer over the past 10-20 years these factory operations have either closed or relocated. At the time of the planning application, only the land to the north-east of the Vickers factory remained in a commercial use. New housing

developments in this area in the last 10 years have introduced a change to the prevailing character of this area. The former industrial character is giving way to a more residential character. The land to the north and west of the Vickers factory has planning permission for residential development. To the south of Manston Lane there is open space and the Thorpe Park Business Park area (LCC Minerals Planning Officer, 2014).

7.4.2 The proposal

The proposal comprises two distinct parts: site preparation works and then redevelopment.

The site preparation works included the prior extraction of coal, demolition of existing buildings, removal of hard standing, mine shafts and other below ground structures and re-instatement of ground. The redevelopment proposal included up to 385 dwellings, retail development, associated site access, landscaping and site works with full details provided for an additional 100 dwellings with site access, public open space and landscaping.

The site contains coal, firstly this is known because it lies within the coal resource plans produced by The Coal Authority and which were used as part of the evidence base for Policy Minerals 3 (The Coal Authority, 2008b; LCC, 2010f; LCC, 2013). Secondly, pre-application site investigations revealed that approximately 11.8 hectares (60%) of the 21-hectare site contained surface extractable coal. The coal was good quality according to the company who had undertaken the pre-application site investigations. One particular seam, the Middleton Main, was an average of 1.8 metres thick, this was considered to be economically attractive to be extracted (HRM Resources, 2014).

Finally, there was further evidence that the coal was accessible was due to the instability of the site; The Coal Authority records indicated that there were mine entries and voids underneath the very surface of the site. This confirmed that there had been coal extracted from the surface in the past.

A range of supporting information in addition to the standard application form, certificates of ownership and plans was required. In relation to coal there was a report on the site investigations that had been undertaken prior to the pre-application discussions with the Council together with a detailed remediation strategy to address the presence of coal, land instability, contamination and the demolition of existing structures in order to prepare the site for redevelopment.

The coal extraction proposal would be phased to remove approximately 3,000 tonnes of coal in 55 lorry trips per week over a 50-week period to remove the 150,000 tonnes of coal. Once the coal extraction had taken place the development platform with finished site levels would be created for the subsequent residential development end use of the site (HRM Resources, 2014).

The timeline of key stages

<i>Stage</i>	<i>Date</i>
Pre-Application	October 2013 – February 2014
Planning applications submitted, validated and registered	April 2014
Consultations	First round – May 2014 Second round– December 2014 Third round – June 2015
Decision	May 2016

Pre-Application

The applicants were professionally represented and approached the City Council for two-stage pre-application discussions. The first meeting in October 2013 focussed upon the principle of the redevelopment of the site including very general planning issues and ideas for potential development uses. The Planning Case Officer confirmed that it was at this stage that the site characteristics, relevant adopted policies and the presence of coal within

the adopted mineral safeguarding areas was highlighted to the applicant's agents. However, as they were professionally represented, "*this information wasn't new and we just confirmed it to them.*" The second meeting was to agree the scope of the planning application, the Council's information requirements and the likely timeline for the determination process (LCC Planning Case Officer, 2014).

At this stage, however, the Council and the applicant agreed that the overall proposal would need two separate planning applications. A minerals application for the remediation works because of the scale of the proposed coal extraction it would not be considered as incidental; and a full planning application for the redevelopment scheme for housing. Both planning applications would be submitted at the same time (LCC Planning Case Officer, 2014).

At the Pre-Application stage, the applicants had undertaken pre-application consultation with the local community in order to meet the requirements for major proposals in accordance with the adopted Leeds City Council Statement of Community Involvement (LCC, 2007).

The objectives of the pre-application community engagement programme were to:

- "To publicise the proposals and explain local benefits to the Crossgates area to the local community prior to the submission of a planning application.
- To allow adequate opportunity for the community to consider, understand and comment on the developments proposed.
- To demonstrate how the comments have been acknowledged and incorporated where possible in the proposals."

The programme comprised of creating and distributing within the local area of Crossgates surrounding the site a total of 4,205 leaflets on the 23 January 2014. The leaflet served several purposes: providing information about the

scheme, advertising the public exhibition, asking a series of questions on the main themes of the overall proposal and providing contact details for people to send any comments.

The public exhibition was held on the 6 February 2014 in a social club near to the site and it was attended by representatives from the applicant's project team. According to the Applicant's Statement of Community Involvement, the attendance was relatively low with only 261 individuals, which was only 6.2% of the overall number of leaflets distributed (Turley Statement of Community Involvement, 2014).

A questionnaire was made available setting out 8 questions to help focus people on aspects of the proposal together with an opportunity at the end to add any other comments. These questions were the same as those contained within the information leaflet. Importantly for this research, question 7 asked a direct question "Do you agree that the coal should be removed from the site, if not, why not?" Question 8 was an open question which was designed to follow on from question 7 for those people who had said "no" and find out why (Turley, 2014).

Out of the 173 questionnaire respondents, only 95 agreed that coal should be removed; 27 disagreeing; 4 providing a general comment and the remaining 47 were a nil response. Of those 27 which disagreed that coal should be removed, they cited disruption; dust and noise pollution; building subsidence and extra traffic. Interestingly, several responded by indicating that they had inadequate knowledge of coal extraction and questioned what alternative methods of extraction are there. Some also considered that the coal extraction would spoil the local area. The Key Summary stated that "the proposal to remediate the site and extract coal is supported" (Turley, 2014: paragraph 5.22). However, this is drawn from only 95 positive responses to the question which represented approximately 54% of the questionnaires received. Statistically this is not particularly significant and it is perhaps rather generous to say that the extraction of coal is supported (Turley, 2014).

Whilst pre-application discussions with a local planning authority are confidential until an application is registered, it is the practice of Leeds City Council to allow pre-application presentations to be made to the City Plans Panel at a public meeting. This proposal was a large development of 21 hectares, suggesting over 300 houses, in a part of Leeds which was identified by the Core Strategy as a Regeneration Priority Programme Area as such was now attracting a number of developers. For example, housing was being constructed on land to the north and to the west. As other development was underway in the surrounding area, Planning Case Officers felt it was sensitive and they were mindful of the local concern that might be generated as one officer commented that "*there is an existing local residents' group and they are likely to be scrutinising the proposal.*" (LCC Planning Case Officer, 2014).

Two presentations to the elected members were provided by the applicant's agents, which was one more than the minimum requirement in accordance with the adopted LCCSCI. Firstly, to the East Leeds Area Committee on the 11 February 2014 and then to the City Plans Panel on the 13 February 2014. The format was the same at both meetings, a power point presentation outlining the overall scheme, incorporating both the remediation and the residential proposals, was given by the applicant's agent and then Members were given time to ask questions (LCC, 2014b).

To assist members Officers had prepared a Pre-Application Report which set out the proposal and asked a series of questions designed to guide and focus Members on 7 key planning issues, the questions were devised by Officers. The issues were: principle of development (remediation and residential development); urban design; affordable housing; drainage; amenity; ecology; and planning obligations. For this research the relevant question related to the principle of development (LCC, 2014b).

Planning application submission

Both planning applications were submitted and registered in May 2014.

Public consultation

As both planning applications were submitted at the same time, the statutory consultation procedures were followed at a similar time which gave consultees the opportunity to comment on both proposals. The original 21-day statutory consultation period ran from the 9 – 30 May 2014. A site notice was posted on the 16 May 2016 and advertised in the Yorkshire Evening Post, 29 May 2016 edition.

This first consultation period generated numerous pieces of correspondence from the interested parties, predominately those living near to the application site. A standardised letter had been replicated and signed by 248 individuals; 1 petition with 31 signatories was received; 31 letters/emails from individuals and several representations from the Resident's Association were also submitted. There was only 1 letter of support.

Of the statutory consultees there were no objections in principle. The Coal Authority was in support of both the remediation works (including the removal of coal) and redevelopment. The Environment Agency had no comments subject to conditions relating to water quality and conditions, Network Rail and English Heritage had no comments and the Highway Authority were still considering the application.

Of the non-statutory consultees, only the Council's Environmental Health Officer requested further information regarding noise and potential odour from the decontamination practices on site. This was not unusual since planning conditions can be used to control the activities on site including noise, monitoring, lighting, operational hours, odour prevention and statement of construction practice. The Planning Policy Officer confirmed that there were no objections in principle to the remediation and prior extraction of coal, as it was in accordance with the adopted development plan policies and was supported by The Coal Authority.

In June 2014, a Position Statement Report was prepared by Officers for the City Plans Panel meeting. It was supported by the application plans,

photographs and drawings which were displayed at the meeting. Members had visited the site on the morning of the meeting. The Position Statement Report set out where the application had reached in terms of the submitted proposal, the responses from interested parties, statutory and non-statutory consultees, relevant planning policies and finally issues to consider. The 'issues to consider' section of the report provided some interesting commentary and posed a series of questions (LCC, 2014c).

In relation to this research and the issue of the principle of development the report asked members 'do you agree that this approach to remediation makes better use of resources?' This was a leading question. However, Members did ask for an independent viability assessment to be provided by the applicant to help them understand the economics of the proposed coal extraction. They felt that "the case had not been made for the economic viability of coal extraction." The Position Statement Report did indicate that the alternative to coal extraction would be through cement-based grouting for 24 months and around 44,000 HGV trips. This clearly demonstrates that it was the remediation method that was the focus, and not the removal of coal because the redevelopment of the site would sterilise the coal resource. (LCC, 2014c).

Throughout the remainder of 2014 and to August 2015, Planning Case Officers continued to discuss the proposals with the applicant's agent. Further information was prepared and submitted on noise, landscaping, contamination and method statement (for the breaking up the concrete sections). These additional pieces of information were subject to publicity and further public consultation in December 2014 and May/June 2015.

Overall, the consultation periods when combined gave 9 weeks for comments to be submitted to Leeds City Council. A total of 2,919 pieces of correspondence were received from local residents, together with responses from the statutory consultees, such as The Coal Authority, Environment Agency, and internal Leeds City Council Officers, such as Planning Policy, Contaminated Land, Environmental Health, and Trees.

The decision

In September 2015, the Officer Report with recommendation for the grant of planning permission with conditions was presented to the City Plans Panel. The report was introduced by the East Deputy Area Planning Manager and the context for the wider area was illustrated. The Minerals Officer then presented the details of the application and also used a series of photographs showing coal extraction works which had been taking place on development sites in Leeds and the wider region (LCC, 2015).

The report noted that the highway arrangements and the relationship with the Manston Lane Link Road was the reason that the application had not progressed to decision earlier. It confirmed that “the works would not begin until the Manston Lane Link Road [MLLR] has been built and in use so that all heavy goods traffic enters the site and departs from the east.” (LCC, 2015).

Prior to the public speaking, the Chair invited the local MP, Mr Burgon, to speak. It was recorded in the minutes of the meeting that “he and local residents were insistent that no work should occur until the MLLR was in place.” The Chair allowed 5 minutes for public speaking; this was a slightly longer period than the usual 3 minutes because of the level of interest that the proposal had generated.

The Chair of the Residents Association spoke summarising his points which were already set out in writing and duly submitted. The applicant’s agent then spoke to reinforce the key points of the proposal. In relation to this research there was no mention of the presence of the adopted mineral safeguarding area for coal but more about the fact that “an experienced company” had prepared the method of working to ensure the coal could be extracted sensitively.

There were questions from the members to the applicant’s agent, particularly in relation to the concerns of the residents relating to noise, visual impact, tree protection. Members questioned officers, on similar lines, to establish what aspects could be subject to a planning condition. The Minerals Planning

Officer was recorded as saying that “as a minerals application, planning conditions could be attached to all activities on site....as such, the minerals application afforded the LPA more control.” (LCC, 2015b).

It was noted that the volume of objections was significant. Members questioned Officers on the role of the objections in the decision-making process and in particular the weight which had been given to them. Members seemed to want a clearer breakdown of the issues contained in the objections and how these had been addressed. It was the Head of Planning Services that responded, he seemed to accept that this was an exceptional application in generating such interest. “There had been a few applications which had attracted more representations; that the Panel considerations had gone into considerable detail on a range of issues and that whilst there were some conditions to be reworded, the impression should not be given to the local community that their concerns and comment had not been addressed.” (LCC, 2015c, Item 36).

7.4.3 Analysis of Planning Application 1

How well was mineral safeguarding understood?

The mineral safeguarding policy was not specifically identified, but the presence of coal was discussed. It was apparent that the price of coal at the time was sufficient that it presented an opportunity for the development scheme. The ability to remove and sell the coal would generate some money. This was confirmed by the Planning Case Officer that “*the applicants were aware of the presence of coal so they had already included it within the application as it was more financially viable at the time to remove the coal and it had the extra benefit of dealing with the unstable land.*” (LCC Planning Case Officer, 2014).

This choice by the applicant illustrates that it was not Policy Minerals 3 that led to the decision by the applicant to seek to remove the coal prior to the development, but rather what the coal itself and also its legacy of unstable land could mean for the development proposal. As the site contained areas

of land instability due to past mining activity the easiest and more cost-effective method of addressing the instability was to remove the remnant coal rather than pump concrete into the site to stabilise the ground.

As the driver behind the reasons for prior extraction was financial this meant that there was an additional reason for coal extraction, and it was not just for the compliance with Policy Minerals 3.

Members of the City Plans Panel were consistent with their colleague Members during the policy formulation process, as set out in chapter 6, in that they did not favour coal extraction. They wanted their own financial viability assessment on the coal extraction. It was perhaps interesting that the redevelopment proposal, although subject to a separate application, was not necessarily at the fore front of their minds. The need for housing growth is a national priority and this scheme would deliver some 485 dwellings and would therefore make a positive contribution to the housing supply in Leeds. The remediation works were necessary as the proposed end use development was residential. Consequently, the remediation standards are higher than they would be for an alternative use such as business or retail. This was a sustainable location and brownfield land, both factors did not appear to be overtly recognised by Members as benefits of the scheme.

Members appeared to largely follow and articulate the views of the local resident's association at the meeting. This could be for several potential reasons, not least the fact that members of the resident's association were attending the meeting and as such it would publicly demonstrate that the Members had listened to the local people.

This is further supported by the fact that Members did question the Planning Case Officer and Minerals Planning Officer about how much weight they had given to the representations received in their professional assessment. It is also likely that the Members were thinking about their own election prospects, this would have been most relevant for those Members of the City Plans Panel who represented the local area which was receiving this proposal. This was a significant development scheme and there could be a chance that ward

seats could be lost if an unpopular proposal could not be sufficiently justified and if approved, defended clearly enough.

The local residents were initially focused upon the number of houses proposed, and as such focussed their attention towards the accompanying application. However, once they had made significant representations in that regard, they reviewed the overall proposal again and now they turned their attention to coal. The local residents' association was the prominent voice within the community. The representations were very detailed, one was around 100 pages in length, they had clearly undertaken some of their own personal research.

One representation from a local resident during the pre-application consultation event stated that they 'did not having the technical knowledge to comment on the coal extraction.' However, the residents' association had used Wikipedia according to their representation to establish some information and knowledge of coal extraction. This is also evident through their assumption that the coal extraction would be an 'opencast' operation. Although the planning application documentation referred to prior extraction, it could be suggested that this term was not familiar to members or residents, and consequently they viewed it as a coal extraction proposal. Some members and local people would have experienced coal extraction before which may have informed their position.

To what extent, and how was mineral safeguarding as a policy principle taken into account?

The only evidence that mineral safeguarding as a policy principle was identified was during the pre-application consultation where the applicant was seeking views as to whether the coal should be extracted as part of the proposal. The people attending the consultation event may or may not be the same people that submitted comments to the City Council on the subsequent planning application.

At the pre-application discussion stage, the applicant had effectively already taken the decision that they would prefer to extract the coal rather than undertake extensive stabilisation works. The Planning Case Officer said "*Policy Minerals 3 didn't really get discussed other than it would be a policy that the application would be considered against.*" (LCC Planning Case Officer, 2014). This illustrates that the potential conflict that could have arisen whereby the Planning Case Officer would be advising the applicant that their site would be subject to Policy Minerals 3 and there would need to be a demonstration of whether the coal within the site could be removed prior to development. However, this did not arise in this case.

The extent therefore that mineral safeguarding in its purest sense, was taken into account explicitly was limited. However, the outcome of the application was clearly focussed upon the extraction of coal, albeit for stabilisation purposes, did achieve the objective that the coal was not necessarily sterilised by new development. If this application is analysed in terms of process the issue of mineral safeguarding is somewhat hidden from view. However, by looking at the outcome, then the mineral has not been sterilised by non-mineral development because it has been removed prior to the development of housing.

Both planning applications were approved in May 2016 as they were in accordance with the contents of the adopted development plan. There were a number of planning conditions imposed on the mineral planning permission to manage the impacts of the coal extraction, i.e. hours of working, dust, noise and other amenity issues.

7.5 Planning Application 2 – Greenfield Site

7.5.1 Background

The second planning application (reference 12/03886/OT), as illustrated in **Figures 7.2-7.4**, was seeking to change elements of a previously approved scheme on one parcel of undeveloped land within the existing Thorpe Park Business Park in East Leeds.

The Thorpe Park Business Park has been a long-term aspiration by the Council and allocated in the Leeds UDP Review in 2006 under Policies E4:6 and E18:2 for employment land with a preference for office use. The overall allocation is approximately 63 hectares and involves 37 parcels of land which are in the ownership of 26 different individuals including Leeds City Council and there are 4 separate options agreed with developers.

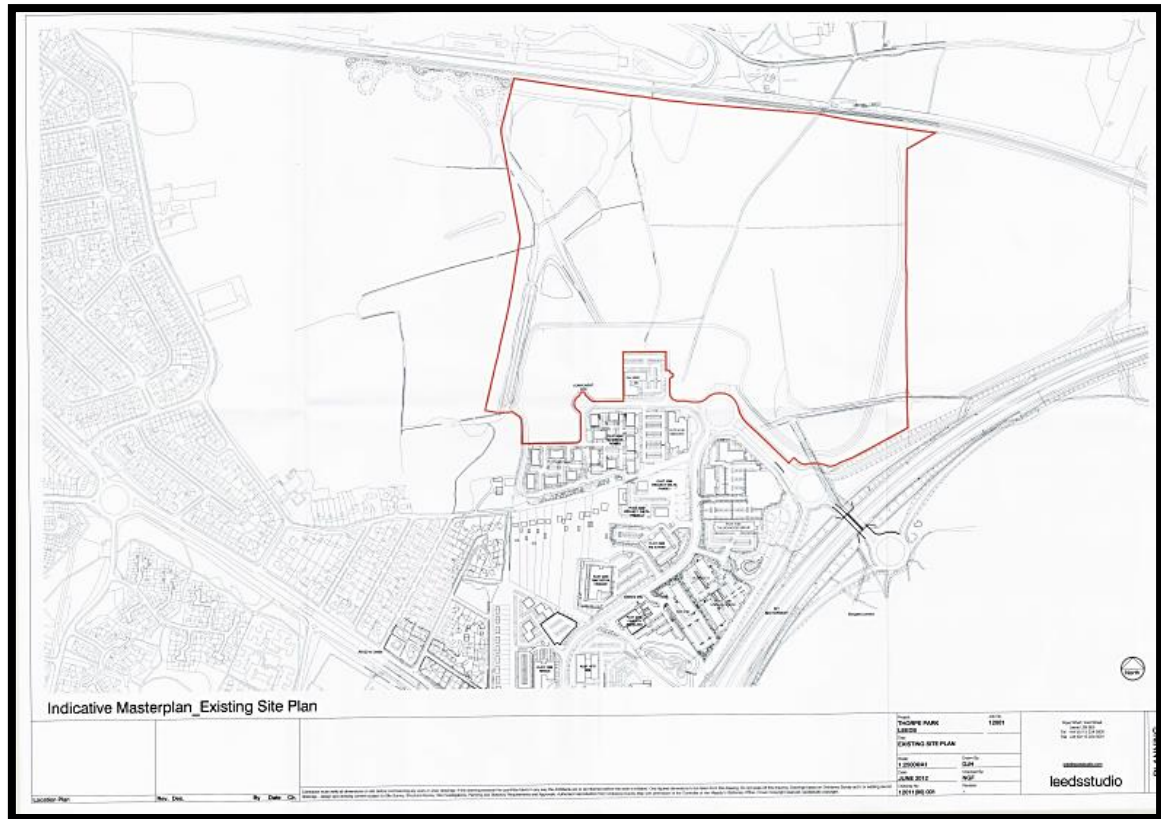
There is an extensive planning history for this site which includes the original outline planning permission, followed by 35 reserved matters applications, 4 section 73 applications to vary/remove a planning condition and 13 other applications. Planning permission was originally granted in October 1995 (32/199/94/OT) for a business park, green park and access to roads. Since the approval of the relevant reserved matters under this outline permission, some development has taken place. However, a series of subsequent planning permissions have been seeking to change the mix of development uses and in particular increase the available floor space for office use. By 2012 only about half of the allocation had been constructed.

7.5.2 The proposal

The description of development as stated on the application form was "Outline Planning Application for mixed use development comprising offices (business park) (B1A), (B) and (C), retail and bar/restaurant (A1, A2, A3, A4 and A5), hotel (C1), leisure facilities (D1, D2), multi-storey car park, together with internal roads, car parking, landscaping and drainage." The application site,

illustrated in **Figure 7.6**, lies approximately 8.5km east of the City Centre and about 0.7 km north-west of junction 46 of the M1.

Figure 7.6 Site Location Plan



(source: <https://publicaccess.leeds.gov.uk/online-applications>)

The application site is vacant agricultural land in the northern portion of the existing allocation. It lies to the south of Manston Lane which has been gradually changing character from an industrial area to more residential. To the west of the site lies Green Park, which is 47 hectares of protected open space within the UDP Review 2006 (Policy N5) and Austhorpe Lane. To the south lies the A63 Selby Road and the rest of the Thorpe Park site allocation. To the east lies the M1, junction 46. Within the wider area, the established residential areas of Cross Gates lie to the west and Garforth to the east.

The application site and the allocation itself contains coal and is therefore within the adopted mineral safeguarding area for coal. Notwithstanding the

existing planning permissions, given that the site has not been built out would suggest that there is a potential viability issue or that it would not be a form of development that would suit modern uses. This was confirmed in the application's Statement of Community Involvement which indicated that the last five years has seen an enormous change in the global economy and attracting new occupiers has become much more difficult. The needs of business occupiers have also changed since Thorpe Park in its current form was conceived and the consented scheme agreed (Carmargue, 2012).

As such, given the planning history of the site as a whole, the issue of mineral safeguarding and coal resources will be a 'new' issue for any planning applications in this area. This application has therefore been chosen because it will help to understand how 'new' issues are incorporated into the decision-making process. The timeline is summarised in **Table 7.2**.

Table 7.2
The timeline of key stages of the outline planning application

Stage	Date
Pre-Application	Initial contact in November 2011 with the Council and more structured public pre-application May – July 2012
Planning applications submitted, validated and registered	September 2012
Consultations	First - October- November 2012 Second - August-September 2013
Decision	March 2014

Pre application stage

The applicant was professionally represented and as a consequence of the scale of the proposal, the detailed planning history of the site and the change in planning policies (namely the emerging Core Strategy and new National Planning Policy Framework) lengthy pre-application discussions with the

Council were undertaken prior to the pre-application consultation stage with the public.

The Planning Case Officer at the time agreed between the Council and the applicant's agent as to the scope of the application and the information requirements. As part of the pre-application discussions on the policy context the Planning Case Officer advised the applicant's agent that the site contained coal resources and the emerging NRW-DPD had a policy requirement to establish mineral safeguarding areas for coal and as such coal will be a matter to be addressed in the application (LCC Planning Case Officer, 2014).

The application site had also in the past been subjected to some coal mining activity which had left an environmental legacy on the site. The site was within the Development High Risk Area (15% of the overall UK coalfield area) as defined by The Coal Authority where coal mining risks are present at shallow depth which are likely to affect new development (The Coal Authority, 2011). As such one of the pieces of supporting information required for the determination of this application was a Coal Mining Risk Assessment. The Planning Case Officer recalled that this did generate some further discussion about the contents of the report and whether the whole issue of 'coal' could be incorporated into this one report (LCC Planning Case Officer, 2014).

Consultation

The Coal Authority as a statutory consultee made comments on the outline application and having reviewed the Coal Mining Report produced by Buro Happold as the site contained coal resources and parts had previously been extracted it was therefore an area of land instability.

The consultation response stated that "The Coal Mining Risk Assessment correctly identifies that the application site has been subject to past coal mining activity and contains residual shallow coal resources that could be viably extracted. The Coal Authority is particularly pleased to note that the remediation options within the outline mitigation strategy include considering

the removal of any remnant shallow coal by excavation during bulk earthworks where viable.” (The Coal Authority, 2012).

From a review of the consultation responses to this application The Coal Authority provided the only response on coal resource and land instability. The issue did not get mentioned in any other consultation responses to the proposal.

The determination

It was not disputed between any parties that there was coal in the site and its presence needed to be addressed within the application. Given the scale and complexity of issues with the application the Planning Case Officer had to decide what the key issues were with the application.

This was a systematic process of looking at policy compliance and representations and applying professional judgement and local experience of what issues need to be addressed. There also needed to be consideration as to whether further information was required before the decision could be made or whether it was a technical detail that could be appropriately addressed through a suitable planning condition (LCC Planning Case Officer, 2014).

The planning application included a Coal Mining Assessment which set out the details of the coal within the site alongside an assessment of the land instability within the site and explaining how the instability could be appropriately mitigated and remediated. Section 7 of the Coal Mining Assessment report identified the emerging planning policy context as it was at the time of the report, namely the NRW-DPD 2010 version. It was acknowledged therefore that mineral safeguarding and avoiding unnecessary sterilisation of the coal resource was an important planning consideration. The proposed coal extraction would therefore comply with the national and emerging local policy requirement.

However, it was identified that there would still be some sterilisation as not all of the coal would be removed. It stated "there is a comparatively minor degree of sterilisation (11,960 m² over 13/14 buildings) ... It is worthy of note that the shallow mineral likely to be sterilised is unlikely to be of economic value ... otherwise it could be extracted." (Buro Happold, 2012:28).

What is interesting is that The Coal Authority chose to specifically focus on the land instability in their consultation response for this planning application. Given that the Coal Mining Assessment proposed to extract the coal from within the site, both the remnant coal that was causing the land instability but also the intact/virgin coal, it was perhaps not necessary for their consultation response to provide a specific comment about mineral safeguarding and the need to avoid sterilisation with reference to national planning policy.

Having regard to the number of consultations received by the Coal Authority each year, approximately 10,000, it would not have been reasonable to expect them to both know and therefore quote the relevant local planning policies as they are also an organisation which operates across the three planning systems of England, Scotland and Wales (The Coal Authority, 2014).

The Minerals Planning Officer remarked that "*avoiding the sterilisation of coal only became an issue when the mineral safeguarding area was adopted, even though this part of Leeds has always contained coal resources, it was just not considered before Policy Minerals 3 came along. The involvement and comments of the Coal Authority as a statutory consultee were important in getting more awareness of this issue.*" (LCC Minerals Planning Officer, 2014).

As a consequence of the scale of the proposal and the number of technical reports that accompanied the planning application, the Planning Case Officer aimed to focus the attention of Members on key issues of dispute since "*where an issue has been identified and there is a mitigation or strategy for addressing the issue which accords with adopted policy, the main decision to be made is what type of planning condition is required, either a standard or pre-commencement one.*" (LCC Planning Case Officer, 2014).

The Minerals Planning Officer recalled that *"because of the consultation response from The Coal Authority we decided to just get the coal extracted using a planning condition as it was a way of dealing with the unstable land within the site that had to be addressed in any case."* (LCC Minerals Planning Officer, 2014).

The decision

The City Plans Panel made the decision in March 2014. Outline planning permission was granted subject to 51 planning conditions, number 39 was related to coal. Some of the 51 planning conditions formed 'reserved matters' for which a further application and approval was required, whilst others, like No 39 was a single issue, technical matter which needed to be 'discharged' by a specific application. The planning condition was imposed in order to accord with local policy requirements contained in the adopted NRW-DPD and also the NPPF as a material consideration.

This approach was very different to that taken by the previous planning application case study.

Planning Condition No 39

"Prior to the commencement of each phase, a report to demonstrate that the opportunity to recover any coal present within each phase boundary has been considered, shall be submitted to and approved in writing by the Local Planning Authority. The report shall set out whether any coal present should be removed prior to or during development unless:

- a. It can be shown that it is not economically viable to do so, or
- b. It is not environmentally acceptable to do so, or
- c. The need for the development outweighs the need to extract the coal, or
- d. The coal will not be sterilised by the development.

If the approved report recommends that coal is present and should be removed, an implementation strategy shall be submitted to and approved in writing by the Local Planning Authority. Subsequent actions or works shall then be carried out in accordance with the approved implementation strategy."

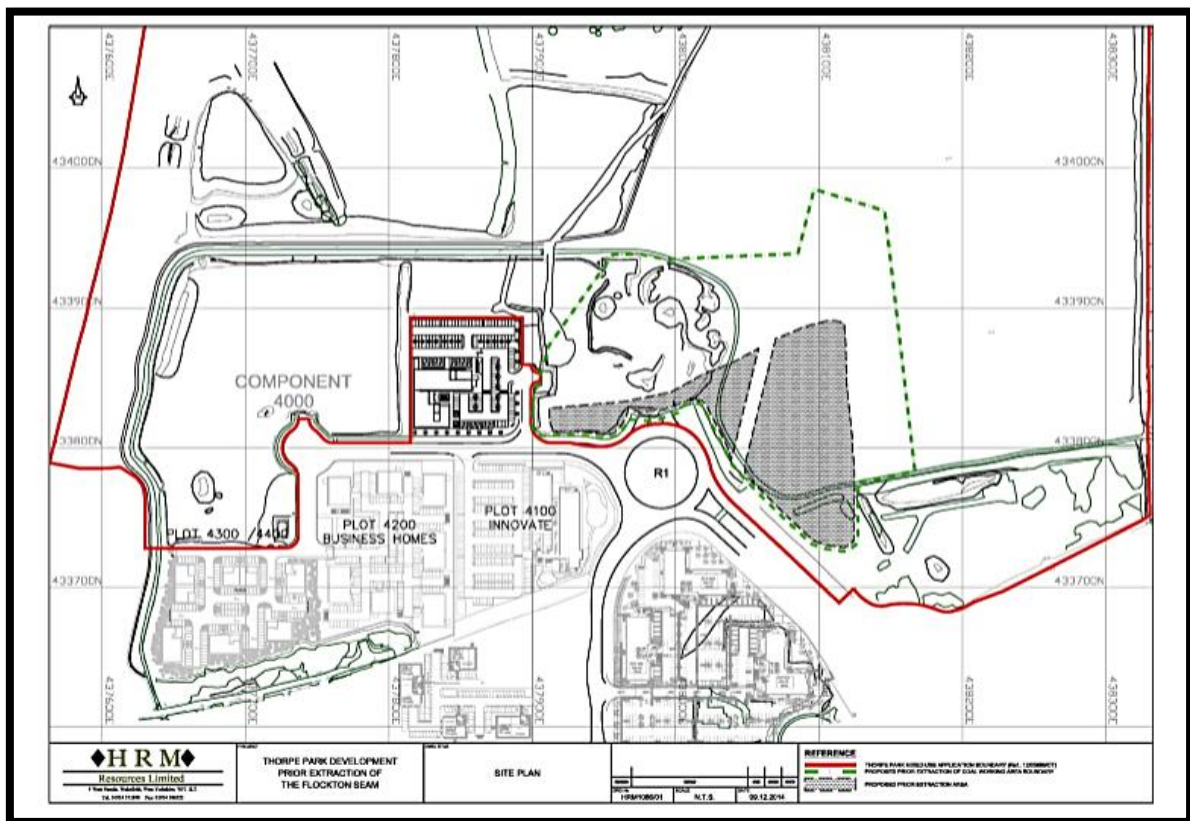
Discharge of condition application

An application to discharge a planning condition is not a planning permission in its own right, it is simply a technical matter or detail which has to be approved. Since a discharge of condition cannot revisit the principle of the development and only provides details of a particular aspect, the lack of a requirement for public consultation by local planning authorities can often lead to tension as the public cannot comment (Harwood, 2016). A local planning authority may consult if they choose, but in practice this often limited to seeking a response from the relevant technical consultee. As such in this case, The Coal Authority.

In December 2014, an application, reference 15/00056/COND, was submitted to obtain approval of details reserved by condition 39. It comprised the application form, covering letter and a report by HRM Resources Limited setting out the proposed prior extraction of coal on the site.

From the application covering letter the agent was seeking a partial discharge of planning condition 39 in that it only covered one phase of the development which was approved under the original outline planning permission (Zerum Consult, 2014).

Figure 7.7 Area proposed for prior extraction of coal (grey) within part of the Thorpe Park Business Park



(source: <https://publicaccess.leeds.gov.uk/online-applications>)

The HRM Resources Report confirmed that during site investigations the Flockton Thick Coal seam was present and estimated to be around 2 – 3.2 metres thick. Site investigations also revealed past coal mine workings at shallow depth within the application site. These would not have been unexpected given the presence of the shallow and thick coal seam near the surface. The presence of coal at such a shallow depth from the surface would

have encouraged people in the past to dig from the surface to access the coal in an informal manner. Over time the voids created by this informal extraction have been filled in with materials blown by the wind and eventually grass has grown over the surface but the void remains below. The report suggested that approximately 17,000 tonnes of coal could be extracted over a period of 6 weeks. The end development following prior extraction was for a combination of buildings for mixed use and retail units together with surface car parking (HRM Resources, 2014).

Technical consultation

As a discharge of condition application there is no requirement for public consultation (Harwood, 2016). The Planning Case Officer chose to consult The Coal Authority and also the Minerals Planning Officer.

The Coal Authority response indicated that it was satisfied that the proposal would address the instability but also the method of prior extraction was to be supported because it also avoided the unnecessary sterilisation of coal resources (The Coal Authority, 2015c).

The Minerals Planning Officer made various detailed comments about the plans and slope angles, as such there was a more considered response about the working methods.

From the in-principle support by the Coal Authority and the detailed comments on the working methods, the Planning Case Officer indicated that the information and comments were sufficient to enable a decision to be made on the application (LCC Planning Case Officer, 2014).

The determination

An application to discharge condition is a delegated matter within Leeds City Council, in common with other Councils, as such it was determined by Planning Officers, rather than by the elected Members on City Plans Panel or

the North and East Leeds Area Committee (LCC Minerals Planning Officer, 2014).

The outline permission allowed the extraction of incidental coal and in principle, the extraction of any additional underlying coal. However, a separate permission for the extraction of coal over and above that defined as incidental is required.

Given the small area as a proportion of the whole Thorpe Park Business Park, this was deemed to be an incidental coal extraction proposal by Leeds City Council according to the Minerals Planning Officer. This determination was made internally by the Minerals Planning Officer under delegated powers as part of the Council's constitution (LCC, 2016).

The decision

Condition 39 was discharged in August 2015.

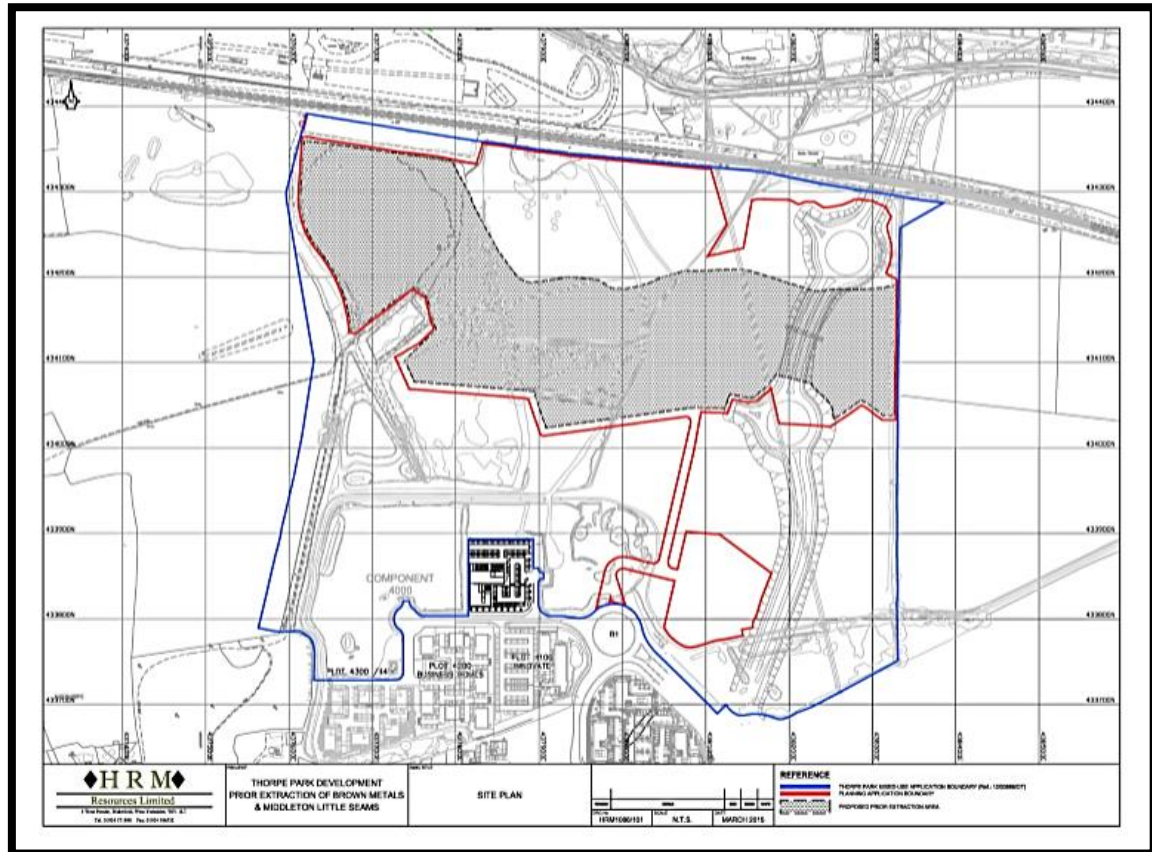
Coal extraction planning application

Whilst permission had already been granted (outline and discharge of condition) had in principle allowed the extraction of coal. The scale of the proposal and the location within the mineral safeguarding area for coal meant that *"anything more than incidental coal extraction would require a separate mineral planning permission."* (LCC Mineral Planning Officer, 2014).

In addition to the discharge of condition 39 application for part of the site, in March 2015 a mineral planning application was submitted for the extraction of coal on the western and eastern phases of Thorpe Park Business Park. The site area was 12.5 hectares, as shown in **Figure 7.8**. The coal extraction programme on this phase was to remove the Brown Metals and Middleton Little seams expected to produce estimated 160,000 tonnes by removing 4,000 tonnes per week to a depth of 30 metres over a 40-week period. Given the scale of this work it was considered by Planning Case Officers to be too

large an application to discharge condition 39. It was taken forward as a bespoke mineral application of its own.

Figure 7.8 Application boundary (red) for the extraction of coal



(source: <https://publicaccess.leeds.gov.uk/online-applications/>)

Consultation

As a planning application, as opposed to an application to discharge a condition, there was a statutory consultation period.

A total of nineteen consultation requests were issued to a wide variety of statutory and non-statutory consultees. The majority who responded had “no objection subject to the imposition of conditions” whilst a number did not respond at all, including the Health and Safety Executive and Highways England (LCC, 2015d).

From the application case file and the interview with the Planning Case Officer, this proposal generated only one response from the public/local resident (LCC Planning Case Officer, 2014).

The established Residents Association submitted a detailed representation to the Council. They were objecting to the principle of coal extraction by arguing that there was no need for coal. They also referred to the interrelationship with the development activity anticipated at this neighbouring site Vickers Tank Factory site (Planning Application 1 in this research). They raised concerns about the delay that the coal extraction activity would cause for both the non-mineral development but also the Manston Lane Link Road (Residents Association, 2015). The general amenity concerns about noise, dust etc. were also cited as tend to be typical with mineral extraction proposals.

The determination

The Planning Case Officer had to decide what the key issues were with the application. This was a systematic process of looking at policy compliance and representations and applying professional judgement and local experience of what issues need to be addressed. There also needed to be consideration as to whether further information was required before the decision could be made or whether it was a technical detail that could be appropriately addressed through a suitable planning condition (LCC Planning Case Officer, 2014).

The decision

Planning permission was granted in September 2015 with 41 individual planning conditions.

Section 73 application

In March 2016, the agent's coal mining advisor contacted Leeds City Council to discuss the need to amend the coal extraction part of the approved

development. They were concerned that the falling price of coal was likely to have a negative effect on the economic viability for the extraction operations and consequently their ability to continue to comply with condition 39 and the planning permission granted in September for coal extraction.

When planning permission is granted it is a legal requirement that the approved development is undertaken in accordance with the terms of the permission. However, new issues can arise which could affect the delivery of the development in accordance with the approved planning permission. A judgement needs to be made by the applicant and the Planning Case Officer as to whether the proposed amendments are so fundamental that it would require a new planning application to be submitted; or alternatively whether the existing permission could be amended (DCLG, PPG 2014: Paragraph: 001).

An application under section 73 of the Town and Country Planning Act 1990 allows an amendment to a planning condition (DCLG, PPG 2014: Paragraph: 013).

In June 2016, a section 73 application, reference 16/03759/FU, to vary condition 2 from planning permission 15/01743/FU was submitted. The application was seeking the amendment of approved coal extraction plans in order to reduce the amount of coal to be extracted. The agent confirmed that this was “principally in response to the falling value of coal as a commodity, rendering the large-scale extraction previously planned as no longer economically viable” due to the market economics surrounding coal (Section 73 Application Covering Letter, 2016).

The proposed coal extraction would therefore reduce from the previously approved 160,000 tonnes to only 41,000 tonnes. Coal would only be extracted under the residential area, previously identified for business use but the layout and mix of uses had been changed several times since the original approval, and only to a depth of 20 metres rather than the 30 metres as approved.

Consultation

A section 73 application could be viewed, like a discharge of condition, as a technical application (Harwood, 2016). However, consultation is required to be undertaken. The majority of technical and specialist statutory and non-statutory consultees offered no specific objection, with some reiterating their previous comments seeking specific conditions. There was no public/local response. The internal response from Planning Policy requested further information to ensure compliance with Policy Minerals 3 (LCC, 2016b).

The determination

From the Planning Case Officer Report, it was evident that the same 'key issues' were used as for the application to discharge of condition 39. This illustrates a degree of consistency in assessment. However, in this application the Planning Case Officer had to decide what weight they should give to the financial considerations regarding the viability of the coal extraction proposal. Clearly, it would not be in the interests of good planning to refuse the application simply because it was not proposing to remove as much of the coal as previously approved. The UK planning system contains flexibility and decision makers need to balance factors, such as financial considerations as a material consideration (LCC, 2016c).

The Planning Case Officer in determining this application, having regard to the requirements of the adopted Policy Minerals 3 on safeguarding minerals and taking into account representations made, undertook a balance to arrive at the decision that the proposal should be approved subject to conditions.

The decision

The application was approved on the 9 December 2016, subject to 46 planning conditions. Some of the conditions, once again were pre-commencement conditions and were discharged on 9 August 2017, under application reference 17/02614/COND. The mineral extraction operations commenced on 30 August 2017 (LCC, 2017:12).

7.5.3 Analysis of Planning Application 2

How well was mineral safeguarding understood in the planning application?

In this second planning application, the site already had a planning history and an extant consent for development dating back to 1995. Consequently, through the passage of time and the change in national and local policy on minerals during the lifetime of this site it was interesting to see how the planning process took account of these changes.

This site had a series of planning applications from 2012 seeking to alter the scale and mix of development to ensure it would be attractive to the modern market. The outline planning permission granted in 2014 was followed later in 2014 to discharge the condition for prior extraction and then in 2015 and 2016 with applications seeking to amend the coal extraction schemes.

Policy Minerals 3 was directly relevant to all of these planning applications because of the site being located within the mineral safeguarding area for coal. However, as it was not disputed that the adopted development plan required that coal would not be unnecessarily sterilised by non-mineral development there was limited discussion about Policy Minerals 3 in its own right. Although it was relevant, it did not appear to have been a driving factor. The applicant's motivation regarding coal was to remove it because it was a more viable option to address the unstable land areas within the site.

The Planning Case Officer understood that in accordance with planning law, all planning applications are determined in line with the adopted development plan unless material considerations indicated otherwise.

However, what this second case study does illustrate is that the planning system has to be able to be flexible and respond to changing circumstances. For coal as an energy mineral there is often a daily price change for the value of coal per tonne. This dynamic nature of the value of the mineral can therefore lead to more or less extraction.

In this case, the fall in the price of coal led to the need for the submission of a section 73 application to vary the condition regarding the amount of coal to be extracted. The fall in the price of coal together with government policy towards a low carbon economy which would see coal fired power stations closing in the short term all indicate the short termism impacts on the consideration of minerals. The application appears not to have generated interest from local residents, despite the application have a very clear description of development. This lack of interest could be explained by reference to the scale and location of the site in relation to areas of existing residential development. It could also be explained by the complexity of the planning history.

To what extent, and how was mineral safeguarding as a policy principle taken into account?

The principle of mineral safeguarding appeared not be overtly taken into account. The Planning Case Officer confirmed that mineral safeguarding as "*another factor in the determination process*". (LCC Planning Case Officer, 2014).

However, following the Coal Mining Assessment Report and the response from the Coal Authority it was evident that this was therefore seen as a technical matter which could be addressed through the use of a planning condition. The planning condition identified that the prior extraction of coal would be needed as the site was within the adopted mineral safeguarding area for coal.

This approach is interesting as it could be seen as an unexpected condition when the principle of the development has been established through the granting of the planning permission. The need for a post-decision submission of further information could affect the viability of the proposal. The applicant would have a range of options at this point, they could comply with the condition, they could choose to develop without compliance and risk being pursued for planning enforcement action. They could submit an application to vary, remove or not comply with the condition. Finally, they could choose

not to develop the site, however, this is strategic site and part of a much larger allocation.

Like the situation in the first case study planning application, the outcome was that prior extraction of the coal would take place and this would mean that some of the coal within the site was not sterilised. There appeared to be no further discussion of mineral safeguarding beyond the technical compliance with adopted policies, in both the Core Strategy and the Natural Resources and Waste development plan documents. The policy principle was taken into account by the applicants because it suited their proposals and the site constraints. It was not seemingly taken into account because it was a policy requirement or indeed because it was a mineral of national importance.

The original planning application was submitted to change the mix of uses on the previously approved scheme. The decision contained condition 39 for the extraction of coal. This planning condition was the mechanism chosen by the City Council in this case to ensure that the non-mineral development would not sterilise coal resources within the site. However, as coal is subject to market forces and the price varies, so does the viability of its extraction.

The applicant originally intended to remove some 160,000 tonnes of coal but approximately 6 months later the viability for implementation of the permission was being questioned by the applicant. Following a conversation with the City Council, a section 73 application was submitted to reduce the coal extraction, as required by condition 39, down significantly to approximately 41,000 tonnes or about a quarter of the scale of the original permitted scheme. The costs associated with the extraction process during 2015 would have been covered by the value of the coal. However, the price of coal was falling during 2015 and into 2016 which adversely affected the viability of the extraction. It was deemed significant enough for the applicant to reduce the coal extraction proposal by 75%.

The City Council was seeking to strike a balance between maintaining policy compliance but also ensure that schemes remained viable, particularly important for strategic schemes such as Thorpe Park. The decision was taken

to accept that the price of coal had fallen, although there appeared to be no evidence, beyond the simple statement that the price of coal had fallen, presented by either the applicant or The Coal Authority, to support the application.

The application was subsequently approved for a variation to the original coal extraction plans. The coal that was to be extracted under this latest permission was limited to only those parts of the site which were subject to instability. There would be no prior extraction of unworked, virgin coal. It could be argued therefore that the mineral safeguarding policy for this planning application has failed as the rest of the site will sterilise the unworked, virgin coal.

7.6 Chapter summary

This chapter has taken the adopted policy for safeguarding coal and sought to explore how it was used in practice with the selection of two specific sites. The planning applications were selected following a search of both the on-line public access planning register of Leeds City Council and the consultations received by the Coal Authority for a period of 24 months. This was conducted prior to the fieldwork interviews in order that a general discussion of potential planning applications could be explored with the Planning Case Officers and Minerals Planning Officer at Leeds City Council.

Two development sites within the adopted mineral safeguarding area for coal were selected, firstly a brownfield site seeking redevelopment and secondly a phase of a long-standing strategic site for a business park on a greenfield site. Each case study was presented with brief description of the proposal and then through the use of document analysis and interviews it enabled an analysis of how the adopted policy for safeguarding coal was used in the determination of each planning application. The analysis focussed upon how well the principle of mineral safeguarding was understood by those parties involved and therefore enabling the extent to which the policy requirement to safeguard coal featured in the decision-making process.

The key findings and implications for coal safeguarding policy implementation arising from both planning applications can be grouped into procedural, consultation and determination themes.

7.6.1 Procedural issues

The influence of Policy Minerals 3

In accordance with section 70 of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Policy Minerals 3 was an adopted policy in the development plan and relevant to both planning applications as both application sites were located within the defined mineral safeguarding area for surface coal.

The Planning Case Officers confirmed that whilst this was a relevant policy during the discussions with the applicants in both development schemes, there was little discussion about Policy Minerals 3. It was agreed that the policy was relevant but the focus of the applicants was on the need for stabilising the site. Whilst the extraction of coal was complying with the policy it was for other reasons rather than safeguarding the mineral itself. This demonstrates that the principle of mineral safeguarding appears not to have been considered in detail within either planning application. For the second site of Thorpe Park, there was originally going to be much more coal extraction within the site, including into parts of the site where there were no recorded instability issues. This would have demonstrated that the coal was being considered in its own right. However, as the market for coal as a mineral had declined since the planning permission was granted, and has continued to do so, the coal extraction proposal was reduced significantly and re-focused upon the areas where there was land instability.

Both applications therefore clearly demonstrate that the extraction of coal was included within the application as a remediation mechanism rather than simply because coal was a nationally important mineral which was to be

safeguarded from unnecessary sterilisation. The outcome, assuming both applications will be implemented as approved and no variations to either planning permission are sought, will mean that some of the coal has been safeguarded from unnecessary sterilisation having been extracted. However, it can only be judged as a partial success since in the case of the second planning application at the site of Thorpe Park there was much more coal which was available but it was the external factors, market conditions, which affected the decision-making process.

Consultations were undertaken with both the internal Planning Policy section and also with The Coal Authority. The Planning Policy Officer and Minerals Officer had been consulted internally on both the proposals. They were pleased that the policy was being used, since *"getting Planning Case Officers to understand Policy Minerals 3 was a real challenge."* (LCC Planning Policy Officer, 2014).

The Coal Authority responses were always supportive of the extraction of coal. That is perhaps not unsurprising since licensing coal extraction was a fundamental reason for the existence of the organisation. The Coal Authority response to the section 73 application was very simple "the applicant has provided adequate information to demonstrate that the current market for coal makes the degree of extraction previously approved no longer viable." (The Coal Authority, 2016). There was no objection or indeed any disappointment expressed by The Coal Authority that there would be less coal removed from the site.

It was perhaps surprising that The Coal Authority did not offer any evidence regarding the viability of coal extraction. The information submitted by the applicant did not explain or demonstrate to a reader how the viability was affected. It did not set out the price of coal or provide any other general comment other than agree with the simple statement made by the applicant.

From the evidence available from the Department of Business, Energy and Industrial Strategy and Office of National Statistics in the form of quarterly statistics illustrate the price paid per tonne by the power stations. "In real

terms, over the last year the price of coal for power stations has decreased by 16 per cent and the price of gas has decreased by 29 per cent” (BEIS - ONS, 2016).

Whilst this does not indicate the price per tonne for extraction, it can be assumed that the price coal is sold for will incorporate the costs of its extraction. The statistics show that between 2015 and 2016 there has been a 14.1% decrease in the cost of coal and over the last 5 years there has been an average of a 27.4% decrease on the price of coal per tonne. The falling price of coal therefore means it is less profitable to extract coal as the costs of the investment required for machinery, workforce and meeting regulatory compliance requirements will impact on the profit margin. This type of evidence could have been included by the applicant to justify their proposal.

Whilst the Coal Authority similarly could have offered the information and include it in their consultation response, it would not be reasonable or appropriate for a statutory consultee to help an applicant gain permission. Furthermore, the Coal Authority is prevented by primary legislation from offering any positive assistance to applicants seeking to extract coal as a consequence of its role as a licensing authority for coal mining (The Coal Industry Act 1994). This also demonstrates that there is a fine line and role for a statutory consultee in providing an expert view, but not doing the applicant’s work for them.

Description of development

The description of development is an important part of a planning application, not only is it then the legal definition of what has been permitted but also it is the headline for what the application is about and therefore needs to be clear to any interested parties. The description of development is likely to influence whether someone chooses to comment on a planning application.

For local residents in the first planning application, the term ‘prior extraction’ was used. Whilst there had been pre-application consultation undertaken by the applicant, including setting out details of the coal proposals initially there

appeared to be little interest in coal. It could be suggested that it was the term "prior extraction" which was not understood. There was some evidence of this by the fact that some of the consultation responses indicated that they did not feel suitably knowledgeable to comment. However, it could also have been the case that local residents were aware that the coal resources were present so it was not a surprise that they were going to be extracted.

The initial consultation responses submitted by local residents to the council were predominately focussed upon the quantum of housing proposed and the relationship with previously approved road improvement scheme which at the time had not be implemented. After the initial consultation period, there were responses regarding the coal extraction being submitted by local residents, predominantly generated by the local resident's association.

One response suggested that they were unable to comment on the coal extraction as they did not know enough about the subject. The Resident's Association submitted several consultation responses to the first planning application, but regarding the coal extraction there were limited comments until towards the end of one of the consultation periods. They had clearly undertaken some research into the topic of coal, using Wikipedia to explore the topic of opencast coal mining. Nowhere in the application documents or the pre-application consultation material was there any reference to the extraction of coal using opencast coal mining methods or opencast coal mining. This illustrates once again that terminology can be a barrier to understanding and from there misunderstanding.

For the second site, there were no consultation responses initially regarding the coal extraction within the outline planning application. The site is more detached from existing residential areas and therefore does not have neighbours unlike the site in planning application one. The same Residents' Association did submit comments in response to the minerals planning application to extract coal in that they questioned the need for the coal extraction when the government's strategy was to phase coal out of power generation.

7.6.2 Consultation

Pre-application reaction to coal extraction

In both cases pre-application consultation was required by Leeds City Council Statement of Community Involvement. The responses to the pre-application stage were limited, indeed comments were made by local people that they did not feel they had sufficient knowledge to comment on the coal extraction. It cannot be assumed that there was no interest in the coal at this stage, but more likely is that the materials produced for the consultation did not provide sufficient detail for people to feel confident enough to write about the issue.

What was the level of public interest in coal?

It was evident that there was little interest initially in the coal extraction for either proposal. The first planning application, for the Vickers Tank site redevelopment, generated slightly more interest than the second site at Thorpe Park application. However, the Resident's Association, submitted some comments.

From the geographical proximity of the Vickers Tank site redevelopment to the existing residential area, in particular those houses to the west of the site which had recently been completed and purchased, the interest in coal seemed to lie in the extraction process. There were no specific responses on the issue of safeguarding of coal, other than a representation later in the process, which began to question the need to extract coal as a fossil fuel. This was an interesting point as local people can often be accused of not seeing the bigger picture, but clearly there was some awareness of the Government's intentions of the transition to the lower carbon economy and the closure of the coal fired power stations.

The lack of public interest in the second site of Thorpe Park could be attributed to the scale and complexity of the planning history of the site, particularly the numerous proposals which were focused upon changing the mix of uses.

However, there was no ambiguity over the proposal to extract the coal since that was the description of the development on the minerals application form. Another reason could have been because of the location of the site, more remote and removed from residential areas. There were no specific neighbours to the Thorpe park application site from which to generate representations.

How did the role of The Coal Authority influence the decision-making process?

The Coal Authority was a statutory consultee to both planning applications and indeed responded to all consultations. The Planning Case Officer remarked that the views of the statutory consultees were important, particularly on topics where there is technical evidence requiring review. "The Coal Authority is now responding to planning applications and their advice is useful in the decision-making process." (LCC Planning Case Officer, 2014).

The Coal Authority response to the reduction of the approved coal extraction requirement at Thorpe Park was however not very detailed. It lacked evidence to support its recommendation to the City Council. It is therefore questionable as to the value of their response in the process at this stage. On a simple level the response of 'no comment' at least would give the City Council some comfort in that the proposal was acceptable and therefore they need not get into a debate with the applicant over the merits of the proposal and seek the prior extraction of more coal.

It could be suggested that the present government's policy approach to removing coal from the energy mix does potentially leave The Coal Authority without part of its reason for existence. It has a role in providing advice on the areas of past mining, and as such, those areas where instability exists but as to the presence of coal resources, this could simply be a geological matter which falls to the government funded Natural Educational Research Council body, the British Geological Survey (BGS). It is to be noted that the BGS has often been commissioned by MPAs to define their mineral safeguarding areas for them and as such if proven sound at the independent

examinations of local development plans could therefore ensure that mineral safeguarding areas are correctly defined.

7.6.3 Determination

How easy was Policy Minerals 3 to implement in practice?

From the two planning applications, it would appear that it was easy to implement since neither application was overly concerned with the principle of mineral safeguarding. The policy was used to assess the amenity concerns of the extraction process, but it did not appear that it was the presence of Policy Minerals 3 that led the applicants to seek the prior extraction of coal in the first instance.

Were there competing priorities which affected the position of Policy Minerals 3 in the process?

In both planning applications, there was a need to address instability within the site as a result of past coal extraction. This did at least provide an opportunity for a conversation about minerals and coal within the application. The extraction of coal was only undertaken because it was more financially attractive to the applicant than the alternative of stabilising the site with grout. This illustrates that the principle of mineral safeguarding and the avoidance of sterilisation of minerals was secondary to the delivery of the development. Without the means to stabilise the site then there would not be a safe enough platform to build upon. The Thorpe Park application very clearly illustrated that the price of coal had a significant impact on the viability of the coal extraction proposals. The reduction of some 75% from the original proposal is significant.

The following chapter will conclude this research.

CHAPTER 8 CONCLUSIONS

The purpose of this concluding chapter is to draw together key findings from the research, explaining the main contribution to knowledge, and presenting some thoughts on directions for future research.

Meeting the research aim and objectives

The aim of this thesis was to examine the implications of the national planning policy requirement to safeguard coal resources meant for local planning policy and decision making in the period from 2011 to 2014.

Minerals planning is generally an under-researched field. It is fundamentally about resource management. Minerals are essential to the delivery of many forms of built development, products, or energy production. Therefore, the planning system has to ensure continuity of supplies to meet the needs of today's society whilst also conserving and safeguarding resources for the future. The potential tensions between the needs of today and the unknown needs of the future is therefore a very interesting challenge for the planning system. This means that safeguarding is a curious planning policy tool and worthy of exploring in practice.

Coal is an interesting mineral which has played a significant role in the socio-economic history of Great Britain since the industrial revolution. Communities have been formed and expanded as a consequence of the presence and mining of coal resources. However, the gradual decline of the coal industry, together with the influence of Government economic and energy policies, has led to socio-economic changes in many coalfield communities. The socio-economic history provides an emotional perspective of coal and therefore influences how people perceive it as a mineral resource. This has implications for the local planning processes in planning for coal.

Underpinning this aim were a series of five questions:

1. How did the mineral planning authorities respond to the mineral safeguarding policy requirement?
2. How did the local policy for safeguarding coal vary between different mineral planning authorities and why?
3. Was the local policy on coal safeguarding contentious in the context of the development plan as a whole and/or within the suite of minerals policies?
4. What does this research tell us about minerals planning in general?
5. What does this research reveal about the context for decision making and priorities within the planning system?

A review of mineral development plans across the coalfield areas of England in **chapter 5** enabled me to understand how mineral planning authorities had responded to the mineral safeguarding policy requirement. The findings in **chapter 5** demonstrated that there was no single approach at the local level. This part of the research was therefore very valuable to present a contemporary context, albeit at a point in time, which highlighted the different approaches being pursued.

From this research I could then establish a series of criteria to help me choose a specific mineral planning authority, Leeds City Council, to explore in more detail in **chapter 6** the challenges facing local planning policy makers in incorporating the national planning policy requirement to safeguard coal resources.

The adoption of the mineral safeguarding policy for coal in Leeds could have been the end of the research programme. However, I wanted to take the research deeper as often research tends to focus upon either policies and

policy making, or the implementation and use of policy in practice in the day-to-day decision making on individual planning applications. Rarely is an opportunity taken to investigate both elements. This research takes such an opportunity. **Chapter 7** describes and analyses the use of the adopted policy in two planning applications on sites within Leeds.

The research methodology, as set out in **chapter 4**, incorporated several of the usual research methods, including document analysis accompanied by telephone survey style interviews with all 75 coalfield mineral planning authorities and then also a series of semi-structured interviews with key participants.

Findings and contribution to knowledge

The research has generated a range of insights, including how national policy is interpreted at a local level; the difficulties of planning for the long term; the tensions and conflicts involved in implementing policies in day-to-day decision making on planning applications; and how the specialist area of minerals planning integrates into mainstream planning considerations.

The main substantive findings relate to:

1. The conceptualisation of planning for coal safeguarding and more generally planning for minerals as a distinctive, potentially contested and spatially differentiated area of planning practice.
2. The different reasons why coal safeguarding was difficult for local authorities, including reflections on the tensions between coal safeguarding and other NPPF policies, notably increased housing delivery.
3. Processes of structure and agency in local planning processes.
4. Reflections on the changing context for local planning in England following the publication of the NPPF.

Finding 1 – Coal safeguarding and minerals planning is distinctive, contested and spatially differentiated

This research has examined a topic which was previously under-researched. It is therefore one of a handful of academic studies of minerals planning, but certainly in relation to coal.

Minerals are not insignificant, as **chapter 2** demonstrated, there are a wide range of minerals and uses of minerals which therefore makes the topic fascinating to study but also highly relevant when thinking about resource management and sustainable development. Minerals are more significant now than ever before. There is a need to protect and conserve resources, through the safeguarding process, but also exploit resources in the course of development.

The safeguarding of resources is challenging because the future is largely unknown. There is also pressure from other policy objectives, for example the need to increase the number of homes which creates conflict in both policy making and decision making on individual development schemes. For coal, the argument that as a fossil fuel it is now largely irrelevant and redundant may have some validity as a consequence of Government energy policy since 2015 effectively diminishing the market for coal as an energy source. However, the essence of sustainable development is about intergenerational equity and therefore allowing future generations to determine their own destiny, using the science and technology that they will develop. Planning for the future is inherently uncertain, but based upon evidence, science and opportunity, the planning system looks ahead.

As **chapters 2** and **3** demonstrated, minerals planning is a distinctive specialist area of the planning system, principally because it has a forward planning and development management function built around a single topic. It is spatially different to other topics in the planning system because of the fundamental key principle that you can only extract and/or conserve minerals where they are found in the ground. This also makes it quite distinctive because there is very limited ability to choose the location of extraction.

Other forms of development are more footloose and have more flexibility in regard to location.

As **chapter 3** illustrated, prior to the National Planning Policy Framework (NPPF) in 2012, minerals planning policy and practice was set out in its own separate series of Minerals Planning Guidance/Minerals Policy Statements. This served to reinforce the perception that minerals planning was a distinct specialism. Although the NPPF has brought minerals planning into the suite of national planning policies, it has been included at the end of the document. This slightly diminishes this positive step forward. The NPPF does however indicate that all local planning authorities have a role to play in the safeguarding of minerals. Although it might be considered semantics since district, county and unitary councils are all 'local planning authorities' in the widest sense that they have a local level role in the planning system; it does still help to bring minerals closer to other planning topics such as housing, economy, retail, biodiversity and nature conservation.

The specialism is preserved however since the majority of county councils and unitary councils engaged with during this research still tended to have a separate minerals team, or at the very least a designated Mineral Planning Officer.

In **chapters 6** and **7**, Leeds City Council, as a unitary authority, had a specific Minerals Planning Officer (geologist) who assisted with the minerals matters in the local planning policy documents; acted as an internal consultee for planning applications where mineral matters were raised in non-mineral development scheme; and finally, was occasionally the Planning Case Officer for some minerals applications. This demonstrates that the administrative structure of a planning authority also serves to reinforce that minerals planning is a distinct, specialist area of planning.

As a consequence of the fact that minerals can only be mined and/or conserved where they are found; together with the often separate administrative structures for minerals policy and decision-making, this gives minerals planning a sense of mystique and an expectation of a highly technical area of planning. The expectations around the amount of

knowledge of working practices (for example as mathematical slope stability calculations), details about chemical composition of minerals, and for some minerals the need for explosives and blasting, and restoration specifications, are to a degree perfectly valid because to determine mineral extraction planning applications there are a range of technical supporting documents which need to be understood in order to reach a balanced and impartial decision.

This could be further explained by the need to conceptualise and understand the detail of mineral applications. Most forms of new built development are above ground and requires the decision maker and other interested parties to understand the proposal. For example, a large building, whether used for residential or commercial activities, requires a decision maker to consider aspects such as design, bulk, massing, size, and appearance, irrespective of what actual use takes place.

By contrast, minerals development is a below ground activity which is not so easy to illustrate on plans. Proposed buildings can be illustrated on elevational plans. However, a surface mine cannot have elevations, but instead proposals rely upon contour plans and cross sections to help illustrate the extent of the proposed void. These types of drawings are more technical in nature and therefore are not so readily understood.

However, the technical nature of mineral planning applications and mineral working practices do not mean that minerals planning is a complex subject area. It can be effectively explained, particularly through the local planning policy making process.

For coal more specifically as **chapter 3** explained, coal decision making continued to operate at the national level, unlike for other minerals or forms of development which were under the control of the mineral and local planning authorities respectively. Coal was only brought into the control of mineral planning authorities in the 1980s. Following some transitional arrangements relating to prior approval it only fully became under the control of mineral planning authorities by the end of the 1980s.

Coal is not a scarce resource. It is geographically concentrated within those areas where economic regeneration is a local policy priority. It is still the case that for those areas where the coal industry played a significant role in the local economy but has since declined or ceased, the need to safeguard the coal as a resource for future generations does in fact create conflict with the regeneration needs of those communities which were once dependent upon coal. For some people within coalfield communities there is still an emotional attachment to coal as it was a central part of their work and social lives.

However, as the coal industry has almost gone within England, the need for new development and redevelopment in coalfield areas is therefore a strong driver for change. The need to safeguard coal, therefore has the potential to prevent development. This is accentuated by the national priority to significantly boost the supply of homes. For those areas with at least 50% of their area containing coal resources, the need to safeguard coal resources, in theory, could prevent development in at least half of their administrative area. This therefore demonstrates that these two national planning policy requirements, the need to increase housing development and safeguard coal resources, are diametrically opposed and therefore generate conflict and tough decisions have to be made. Coal is predominately found in areas where regeneration is needed. The planning system therefore somehow needs to reconcile the need to safeguard the coal alongside the need for new development or regeneration, particularly housing-led regeneration. The policy requirement to safeguard coal resources could therefore deter development, as it can be viewed as a constraint on the delivery of development.

However, as the two planning applications examined in **chapter 7** demonstrate, coal is still a valuable mineral and as such can, if given the opportunity and strategic project planning, potentially generate income for a developer.

Coal is however, more vulnerable than other minerals to market economics because of the high investment costs required for the extraction process, not

least the costs of the some of the machinery and the availability of cheaper imported coal. As the Thorpe Park development in **chapter 7** illustrated, as a direct consequence of the fall in the price of coal, a revised scheme for the coal extraction had to be pursued. This illustrates that the English planning system, as examined in **chapter 3**, does have sufficient flexibility to accommodate changing needs and priorities. For the coal resources within the Thorpe Park development site, more coal will now be sterilised as a direct consequence of market economics. This shows that the planning system can only guide and shape future development areas and individual proposals so far. Market economics, including profit margins, ultimately determine whether the development is delivered.

Another challenge is that coal is a fossil fuel and therefore a contributor to climate change. Recent Government policy has made it clear that all coal fired power stations will close by 2025, as such this intervention in the market for coal is significant and there is now no substantive market for coal (BEIS, 2017). Through the research fieldwork, several practitioners highlighted that interested parties often asked 'why do we, or should we, still safeguard coal?' The most frequent response to the question was because it is a nationally and locally important mineral which is recognised in national planning policy. This therefore demonstrates that the NPPF has a significant influence on local decision making.

This should not prevent coal being safeguarded because safeguarding coal resources is the mechanism to enable future generations the opportunity, if they wish, to access coal. If the coal has not been safeguarded today then it could deny future generations the opportunity to use it and potentially exploit its energy using technology which has yet to be developed.

As **chapter 6** demonstrated the requirement to safeguard coal was an important local policy issue. However, as **chapter 7** revealed, it was not the policy principle of safeguarding the coal which was the most important factor in the development schemes. In both planning applications the need to stabilise the land for development was seen as a more important primary consideration, such that the fact that the remediation strategy of removing

coal from the site also enabled another policy requirement to be satisfied, was generally seen to be a positive compliance.

It could be argued that the thesis calls into question the need for coal safeguarding, especially as it might complicate more pressing priorities in planning. Safeguarding coal resources could be seen as becoming less relevant because a safeguarding policy requires the assessment of whether to prior extract the coal before other development or sterilise it. However, it could also be argued that safeguard coal resources is still a valid policy approach because safeguarding is about protecting for future generations and future need for coal is uncertain and safeguarding does not need to impose undue costs if it is incorporated into strategic planning. Perhaps the key point is that there now needs to be an assessment and reflection on whether or not to safeguard together with how and where to do effectively.

Notwithstanding the macro-context of climate change and economic markets for coal, the impact of policy examined in this PhD will only be fully evaluated over a longer time period. Whilst Sabatier (1999) suggested that policy analysis needed at least a decade from which to assess the effectiveness of the policy, the current mineral safeguarding policy requirement has been established since MPS1 in 2006 (DCLG MPS1, 2006). Planning authorities already have established monitoring regimes to collect data on the effectiveness of their policies as this is primarily to inform their own development plan review process. However, the data, if collated, analysed and returned to the Ministry of Housing, Communities and Local Government would be useful to inform the review of national policy. This feedback loop does not presently formally exist unless a specific research project is commissioned by central government into a particular policy topic. As such without the feedback loop, the need to safeguard coal through the planning system is likely to be under threat by external factors such as energy policy, climate change and political direction.

Finding 2 - Safeguarding coal as a mineral resource for future generations was difficult for mineral planning authorities

As **chapter 2** illustrated, the geographical extent of the coalfield in England is significant. Coal resources exist within seven of the nine English administrative regions. Coal was important to the growth and development of the country in the Industrial Revolution and subsequently throughout the twentieth century. It also was a significant employer and as a consequence there has been a strong correlation between many of the larger urban conurbations, other large towns and cities and the coalfield.

As **chapter 3** went on to explain, in Wales for example, a study by the British Geological Survey found that 50% of the surface coalfield lay underneath existing settlements. By contrast, other minerals, such as limestone is predominantly found in upland areas of England which tends to correlate more closely with protected areas, including National Parks and Areas of Outstanding Natural Beauty. As growth and development is largely focussed upon the regeneration and expansion of existing settlements it is much more likely that coal as a mineral would underlie these areas than it would for other minerals, with perhaps the exception of sand and gravel.

Mineral safeguarding is a challenging policy requirement to implement at the local level because it is designed to ensure that mineral resources are protected for future generations. However, the typical plan period for a local plan is 15 years whereas mineral safeguarding is a much longer period of time, in fact it is undefined. Minerals planning is one aspect of the planning system and as such as a topic area it has to be balanced against local priorities such as delivering housing and jobs. Economic and social development often forms the basis of the spatial strategy of local plans. There is an inherent tension between balancing today's needs for economic and social development with the conservation of mineral resources for the future generations.

These tensions and balancing requirements were drawn out through the findings in **chapter 5**. The analysis demonstrated that in terms of a starting point for defining a coal safeguarding area there were two main approaches, namely either policy-led or implementation-led.

Some MPAs were seeking to take a policy-led approach by focussing upon the need to satisfy the national policy requirement with limited evidence of their thinking as to how the policy would be used in decision making once adopted. Others were taking a more implementation-led approach to the formulation of policy. These MPAs were creating a comprehensive policy requirement using geographical exclusions and more locally determined sifting methods; in effect they were thinking beyond the creation of a satisfactory local policy which would be in conformity with the national planning policy requirement. Their local approach, using one or more of the typical filtering methods such as thresholds, criterion or geographical areas, also demonstrated their thinking about how to implement the policy in day-to-day decision making.

However, it was evident that neither approach provided a simple or perfect solution. Planning is often about trying to ensure that the policies are appropriate but can be implemented. The analysis revealed that in terms of the implementation criteria, only South Tyneside Council actually based their threshold criteria upon a comprehensive and robust evidence base rationale. In the case of other MPAs implementation thresholds were more subjective, based upon professional judgement, rather than definitive evidence.

There is not, and should not be, a one-size-fits-all approach. The extensive study into the national context did demonstrate a wide variation in approaches across the 75 coalfield MPAs.

Whilst there is a single national requirement for safeguarding coal resources, as **chapter 5** clearly demonstrates the local planning policy approaches were not all the same. In itself this is not a wholly unexpected finding. What was interesting, however, is how groups of mineral planning authorities had been discussing the approach to ensure that they were consistent with others, particularly their neighbours and even within their wider administrative

region. This was seen in the policy approaches being pursued by the planning authorities in the north-east of England. This was important not only for the duty-to-cooperate requirement in the independent examination stage of the development plan making process, but also so that they did not inadvertently influence developers. If a planning policy context is perceived as being more onerous in a local authority area it will dissuade inward investment by developers with proposals that are more footloose in seeking out locations where it is easier to obtain planning permission. This also shows that mineral safeguarding policies can create tensions with pro-development policies for housing and economic development.

As **chapter 3** explored, the safeguarding of coal generates conflict, some of which is based upon a person's own experience, mainly of mineral extraction practices; and/or their observations on it as a type of development and the legacy that it leaves on the environment. This was demonstrated through the responses from the interviews conducted for both the national review in **chapter 5** and also in **chapter 6** for the formulation of Leeds local planning policy.

The interviewees' experience of minerals therefore influenced their own position and perspective for safeguarding. A notable comment was made by St Helens Council in that the very notion of illustrating a Mineral Safeguarding Area for coal in a plan, no matter how well the supporting text was written to explain the role and purpose of the coal MSA, was simply too sensitive an issue for local politicians due to the legacy and experience of past coal mining activity in that area.

Another notable example was Calderdale Council which removed environmental designations from their MSA on the basis that extraction would not be acceptable in those areas. Whilst this may be the case today, this illustrates the difficulty of safeguarding being a longer-term concept. As an example, some future need for coal might outweigh, in importance, habitat protection for species which could potentially be re-located. Equally, technological advancements in future may enable coal to be exploited without

harming the environmental designations. The Calderdale example also demonstrates that because prior extraction is a potential consequence of defining a MSA it overtly influenced their policy formulation as the value they placed upon protecting the environmental designations was given greater weight. This is why national policy is a simple, but nebulous, expression of a principle to be followed.

Stepping back from this it is clear that the planning system at the time of research had a pro-development approach but also a protectionist approach in relation to land designated as Green Belt; mineral resources; designated heritage assets. In the context of this research, it is the tension between safeguarding resources, and facilitating housing development. The local policy making approach therefore has to pick a way through that balances the competing agendas.

The perversity of the requirement to safeguard coal is that the national policy requirement seeks the prior extraction of the coal to avoid it becoming unnecessarily sterilised by new built development. The act of removing the coal before development therefore achieves the national and local policy requirement of avoiding the coal being sterilised. However, what happens to the coal when it is removed? The Government policy announcement of the closure of the coal fired power stations has taken away the main market for any coal that is removed from the ground (BEIS, 2017). However, without some form of required action in a mineral safeguarding policy its role and purpose are diminished.

As one of a significant number of planning issues, this research also illustrates the challenge for the planning system in how there can be a policy requirement to safeguard something for the longer term whilst trying to address the needs of today. If the need to safeguard coal was so important the policy response would be to prevent any form of development that would sterilise it. However, the planning system has to balance a number of issues at the same time and reach some form of acceptable compromise, often referred to as a planning balance. It is simply not possible to accurately

predict with any certainty how a land use or a mineral may be used in the future.

The research found that in the determination of the two major planning applications, it was not solely as a result of the adopted policy requirement to safeguard coal resources that the coal was safeguarded (albeit prior extracted to avoid it being sterilised by non-mineral development). There were other planning issues which were part of the determination process. For the developer there was an opportunity to increase the financial viability of the proposal as a result of removing the coal which could be sold to generate some additional income. There was also the need for the development to be built on safe and stable land. In the past some coal had been removed from the sites which had left voids underneath the surface. Land stability is another planning consideration which feeds into the determination process. For the Council they were mindful of the need for regeneration in East Leeds which would contribute to their overall growth aspirations. However, it was clear that the determination process would ensure local policy requirements were satisfied. It was not therefore the case that development would be pursued at all costs.

This research therefore demonstrates that the determination of a planning application has to balance a variety of competing factors. The findings illustrate that the safeguarding of coal was a local (and national) requirement and in both applications the prior extraction of some coal did therefore prevent its unnecessary sterilisation by non-mineral development. However, the need to ensure that the development platform for the two major schemes was safe and stable was also another requirement to be satisfied by the developer and Council. Furthermore, the Council was mindful of their need for regeneration, but planning decisions are open to public scrutiny and as such positively working with the developer in each case to reach a position where approval could be recommended illustrates the role of professional judgement in the determination of planning applications (Greed, 1996).

It was evident that in the second planning application site external factors, namely the price of coal, influenced the delivery of the scheme as originally approved. The price of coal had fallen which led to the developer having to return to the Council and the planning process to amend their approved scheme. In the end some coal was extracted prior to commencement of the development scheme. However, as it was only a proportion of the coal extraction that was originally envisaged some coal was left in the ground and sterilised by new development. Accordingly, the planning system and those engaged within the sector have to be sufficiently flexible to changing circumstances (Healey et al, 1988). This is exactly why there is discretion in our planning system as opposed to a more prescriptive and regulatory based zoning planning system, like in Europe and the USA (Booth, 1999).

Finding 3 – Structure, agency and policy implementation in the local planning processes

In **chapter 3** the literature on policy implementation and structuration theory was examined to provide a framework for exploring the role of agents in structural contexts. The discretionary nature of the planning system and the role and influence of national planning policy, underpinned by a legislative framework, leads to a certain degree of flexibility in policy implementation, albeit subject to the regulatory and institutional structures of planning (and the ways in which those structures and issues such as flexibility are perceived). Structuration theory and the literature on structure and agency helps to interrogate and contextualise the findings from practice.

The policy implementation literature reviewed the evolution of three main phases or generations of theory, each with certain characteristics. In the first generation of Pressman and Wildavsky (1973) and Bardach (1977) whereby policy implementation was seen as a linear process that policy makers could exercise their control to a second generation which was more refined whereby implementation was seen as a trade-off between policy makers, implementer and local actors in a bargaining style approach. The second generation was largely led by Berman (1978); Elmore (1979); Lipsky (1980) and Mazmanian

and Sabatier (1983) and two models to assist with policy analysis were established, namely 'top-down' and 'bottom-up'. Finally, the third generation, offered a more implementer centred approach, suggested by Barrett and Fudge (1981), Barrett and Hill (1984), further developed by Winter (2006); Linder and Peters (1990); Howlett (1991). This is relevant to planning because policy is established by central government but the implementation is reliant upon the actors and networks across the local government to deliver the outcomes.

The findings of this research follow a starting point of the 'top-down' approach to policy implementation analysis because the mineral safeguarding policy requirement is set out in the NPPF by central government as explained in **chapter 3**. By following the approach of Mazmanian and Sabatier (1981) this research set out to explore what the policy set out to achieve and then examine what happened in practice to evaluate the performance and effectiveness of the policy. This was firstly examined across the coalfield as a whole through the analysis of the implementation approaches used by coalfield mineral planning authorities and then secondly through a more detailed examination of the case study of Leeds City Council. The findings from the national review of coalfield development plans in **chapter 5** very clearly revealed that there was no single approach to implementing the national mineral safeguarding policy at the local level. There were in fact several approaches which could be identified, including the use of geographical methods to define and re-define the spatial extent of the safeguarding area; the use of specific size thresholds and/or categories of development proposals from which the safeguarding policy requirement could be included or excluded from the decision-making process, but also some approaches used a combination of the two methods. This illustrates the common theme running through all of the policy implementation literature which is a concern about what happens on the ground and 'what happens between policy expectations and (perceived) policy results" (Ferman, 1990:39).

The results of the national review in **chapter 5** also demonstrate the increasing importance of flexibility within the planning system as a whole. As **chapter 3** had revealed, the planning system has been shifting towards a position to where it currently rests, in that the NPPF sets out policy principles and it is deliberately a 'framework' and as such is designed to leave the interpretation and therefore the implementation to the local actors to work out the details and resolve potential conflicts in practice.

This research has focussed upon one particular national policy requirement, but the findings could potentially translate across other policy areas, for example housing supply. In the current NPPF, the government objective is to significantly boost housing and identify and maintain a five-year supply of deliverable housing sites (MHCLG NPPF, 2019, paragraphs 59, 65, 73). However, since the abolition of the regional planning tier which used to calculate the housing requirements for individual planning authorities, now each individual planning authorities have to use the evidence from strategic housing land availability assessments and local housing need assessments (using a standardised national method) to ensure their development plan contains sufficient housing sites to meet the needs of a range of groups in society.

The findings of the national review also demonstrates that the national policy to safeguard coal resources is overly optimistic and to a degree, quite vague. At the beginning of this research, coal was still very much part of the energy mix and therefore safeguarding it, in principle at the time was not an overly optimistic policy. However, as energy policy has evolved to diminish and almost completely remove coal from the energy mix together with the increasing concerns about climate change, it might now be considered to be an overly optimistic policy. However, until the NPPF is amended it remains a national policy requirement. Given this starting point and, taking another one of the factors for the implementation gap by Hudson et al (2019), the findings of the national review in **chapter 5** do indeed demonstrate how implementing a policy in a dispersed governance structure leads to variations in practice. Furthermore, within the findings of the case study set out in

chapters 6 and **7**, the differences of opinion, understanding and knowledge further illustrate the top-down nature of national policy and the detachment and remoteness of it and the rest of central government is, in the words of Michael Lipsky in 1980, from those 'street level bureaucrats' who are tasked with translating the policy into practice and using it in day-to-day decision making. This finding is supported by the argument of Hunter and Marks (2002:6) who observed that: "Policy failure or an implementation gap can occur when policy imposed from the centre with no thought given to how it might be perceived or received at local level." This is perhaps why further guidance was required to help the implementation of the policy, see A Guide to Mineral Safeguarding (McEvoy et al, 2007) which was updated and revised in 2010/11 (Wrighton, et al 2011).

Coal has always been a controversial mineral, largely arising from its socio-economic and political history as explained in **chapter 2**. This was re-confirmed by some of the participants in the national review in **chapter 5**, who said that coal was still controversial and therefore safeguarding coal was not an easy topic to promote in emerging development plans. Furthermore, the detailed findings within **chapters 6** and **7** also demonstrated that within Leeds, coal does remain a controversial topic. Consequently, to implement the national requirement to safeguard coal involved considerable policy work. It was evident that initially there was a misplaced level of confidence in technical knowledge such that safeguarding was interpreted by a professional from a geological perspective, rather than from a planning perspective. This knowledge gap did however, lead to a more collaborative and deliberative approach with a range of stakeholders at multiple levels that in the end did establish some common ground in terms of an agreed interpretation of what the national policy requirement was seeking, together with a range of policy options which would satisfy the requirement. This reflects a theme in the more recent policy implementation literature which seeks a more collaborative and deliberative approach (Ansell et al, 2017). Moreover, it will also have inevitably developed the skills of those involved, since collaborative working requires a much wider skill set according to Williams (2012).

The findings from the national review in **chapter 5** also revealed that there was in fact a degree of trade-off between policy makers, implementer and local actors in a bargaining style approach, whereby those development plans which were submitted for independent examination had reached a reasonably settled consensus in that coal was safeguarded in some form and therefore would meet the test of soundness and consistency with national policy. Furthermore, within the case study in **chapters 6 and 7**, it was clear that in addition to the detailed consultation responses to emerging local policy, the refinement of a local coal safeguarding policy had taken place. This follows some of the thinking by Berman (1978); Elmore (1979); Lipsky (1980) and Mazmanian and Sabatier (1983) in the second generation or phase of policy implementation, albeit in that literature, the 'policy makers' are acknowledged as being central government and who do not directly engage with individual development plans because they are represented in practice by their agencies, which in this research is The Coal Authority. The pro-active work of the representatives of The Coal Authority demonstrated "negotiation, bargaining and compromise" as described by Barrett and Hill (1984) in order to assist with the implementation of the national policy requirement to safeguard coal resources. Furthermore, without The Coal Authority being the advocate for coal in the planning system, it would be likely that the topic may have been overlooked by some local actors. This was clearly illustrated in **chapter 5** by one mineral planning authority in the south west of England who was not aware that their area contained coal resources and that there was any requirement for safeguarding. These findings are supported by the views of Braithwaite et al (2018) and Allcock et al (2015) who suggested that policy implementation will yield different results as a consequence of who is involved and the structures that they operate within. As such the findings in **chapter 5** in particular reveal the variations in approach for the local policy on safeguarding coal.

The planning system can be viewed as a relationship between structure and agency. How actors interpret, understand, and therefore respond to their structural context informs further actions and responses. How individual actors engage with each other, the language they use, their chosen actions,

all have an influence to a degree on how the planning system operates. This is as a consequence of the individual actors shaping the local policy in relation to the unique circumstances and other competing pressures within an area. For example, the need for regeneration to address economic and social conditions. Whilst there are some national actors, such as The Coal Authority, Mineral Products Association, The Confederation of UK Coal Producers who engage in the local plan making process, they are working within the structure and tailoring their consultation responses to the emerging local policy within each development plan document. This illustrates that national actors cannot simply use a standard representation to convey their message to each and every coalfield development plan document. What is interesting in this research is that some of the representations made to the emerging local planning policy on mineral and coal safeguarding in Leeds in **chapter 6** relied heavily on the NPPF which in effect simply reinforced the established 'top down' policy structure. However, as the development plan preparation process progressed and the local policy on safeguarding evolved, the national actors tailored their responses to the individual circumstances and local characteristics identified to gain the greatest degree of influence. This follows on from the work of Hay (2002), in that the responses individual actors make are based upon their perception of policy options which are presented to them and their room for manoeuvre, which is then tested in practice. Consequently, the findings reinforce the point that policy implementation is that "policy action-dialectic involving negotiation and bargaining between those seeking to put policy into effect and those upon whom action depends" (Barrett, 2004:20).

Flexibility for local variation was demonstrated in **chapter 7** in that although the local safeguarding policy had evolved through the development plan process and as such there was a degree of consensus by those involved by the time of adoption; further local guidance to assist with the use and application of the adopted policy in the decision-making process in relation to individual planning applications was in fact still needed. As such, the findings from the case study of Leeds demonstrate that actors can influence the policy making process but it is only ever within the overall broad structure of an

established process, which is the structure of the planning system. One of the most important findings is the need for on-going involvement in the planning system and therefore success relies upon the 'implementation chain' (Birkland, 2015).

The empirical **chapters 5, 6 and 7** demonstrate that The Coal Authority as one of the key national actors appears to have helped to ensure that the majority of the surface coal resources were safeguarded in local development plans, whilst respecting that policies still need to be locally distinctive. Accordingly, it can therefore be argued that the findings have shown that there was not so much of an 'implementation gap' since the majority of coalfield development plans contained some local interpretation of the national policy requirement to safeguard coal resources; but it is more nuanced and in fact demonstrates a new theoretical perspective in the form of 'implementation filling in.' This 'implementation filling in' highlights that it is the role of the actors who engage in the local policy process who perform the 'filling in'. The actors therefore make things work in practice, through "negotiation, bargaining and compromise," ensure that the local coal safeguarding policy is consistent with the national planning policy requirement (Barrett and Hill, 1984: 238).

Finding 4 – Reflections on the changing context for local planning in England following the publication of the NPPF

This research helps us to understand a post-NPPF planning context. The Government chose to slim down national planning policy into a single key document published in March 2012. This did provide for a more focussed policy direction for planning topics. However, much of the previous detail and guidance set out in PPG/PPS and MPG/MPS was temporarily removed, until the on-line Planning Practice Guidance (PPG) was launched in March 2014. The NPPF, even with the supporting PPG, still leaves some ambiguity.

The NPPF cannot, and indeed should not, be expected to provide all of the detail regarding implementation, otherwise this would undermine the focussed direction of policy topics, which was the key driver for the creation

of a single document. However, one logic of the NPPF is that its ambiguity therefore means that the detail needs to be addressed at the local, rather than national level. This is exactly its purpose because this enables flexibility and discretion in the planning system. This is a benefit as it allows different local policy approaches to respond to local needs, which is important because not everywhere shares exactly the same characteristics.

However, the disbenefit of flexibility and discretion is that they do lead to inconsistency and conflict between local planning authority approaches. Whilst this can be argued to be consistent with the approach of decision-making being on a case-by-case basis and upon the evidence presented within each case; the ambiguity is often left to planning appeals and ultimately the Courts to clarify the meaning and significance of key policy areas, particularly housing land supply.

This research using coal safeguarding does shed some light upon the impact that the NPPF has had on the planning system since 2012. The national policy direction for mineral safeguarding is clear as this research has shown. It is a requirement for nationally and locally important minerals to be safeguarded and mineral safeguarding areas should be shown in local plans in England.

This research has demonstrated that the requirement to safeguard has filtered through into the mineral local plans to the extent that the majority contain a mineral safeguarding policy for coal. Even those areas with limited quantity and potentially poor-quality coal have a coal safeguarding policy. Without the NPPF it could be argued that coal safeguarding would not have been included in those local plans. Coal would have been safeguarded only in those areas where the coal industry was most interested in extraction, thereby returning to the time when minerals planning for coal was only about coal extraction and not about the safeguarding of the resource.

In formulating local policy on safeguarding coal, this research illustrated that the dominant driver was compliance with national policy to overcome objections from consultees; and the need to seek to persuade elected members to approve the development plan for consultation periods (and ultimately adoption as Council policy) in order to be found to be in conformity

with national policy at the examination stage. It is not disputed that this could be argued to be the same for other areas of planning, but I find that this is as a direct consequence of the dominant role of nationally expressed planning policy requirements.

The decision-making process on individual planning applications also illustrated this influence of national planning policy, not least because the local policy complied with it, but also because it represents a material planning consideration in the decision-making process (Cullingworth et al, 2015). The planning authority is seeking developments which can be supported by the development plan. The sole objective of the promoter of a development scheme is seeking planning permission. In this research the applicants for planning permission (the developers) were open to opportunities where they would be beneficial to the development as a whole, i.e., prior extraction addressed a land instability issue as well as removing the coal generated some income. This means that policy making and policy implementation is influenced by other factors. As such the planning system is aiming for certainty but is often creating uncertainty at the same time.

National planning policy is seeking to lead the planning system by setting out specific requirements on a range of topics. For some topics, such as housing delivery, there is a lot more detail around the expectations for local planning authorities; others like mineral safeguarding have less detail but there are also other topics, such as biodiversity, where national policy sets out little more than aspirations.

This research also highlights how the increasing complexity of the planning system, with competing demands, needs and aspirations, will lead to difficult choices having to be made. The planning system tries to balance competing demands but with the aim of seeking compromise it can result in a less than satisfactory outcome for all. The question for the planning system is therefore how can we build in the necessary flexibility into the policy making and decision-making processes and procedures to allow for national policy changes and other external factors; whilst ensuring development is

sustainable and thereby not compromising the ability of future generations to meet their needs (WCED, 1987).

The planning system is essentially the land use facilitator for the government policy. Actions by all other government departments will potentially have a land use implication, for example, the Ministry of Defence land disposal programme to generate best value revenue and ultimately capital receipts for HM Treasury (MoD, 2016). Disposing of the land is a relatively straightforward process under land and contract law. However, it is reliant upon the planning system to assess future development potential and 'hope value' which in turn influences the land value. The planning system therefore has to predict future development strategies in order to effectively forward plan (Sheppard et al, 2017).

The flexibility of the planning system was demonstrated in **chapter 7** whereby the decision maker was able to determine the weight to be given to different considerations. The need for regeneration and redevelopment was given significant weight in both of the planning application sites, however policy compliance was still pursued in both because it was part of the development plan. Planning law dictates that decisions are made in accordance with the development plan unless material considerations indicate otherwise (Harwood, 2016; Sheppard et al, 2017).

The fundamental issue with the NPPF is that despite the Government's desire for simplicity it does not help local actors balance the inherently competing factors. For example, the Government's desire to significantly increase house building sits somewhat uncomfortably against a wide range of protectionist policies, such as Green Belt, designated heritage assets, and flood risk. It requires weight and planning judgement to be applied.

On one hand it provides some more detailed and structured approach to the policy topic. For example, flood risk has a very structured and sequential approach. Similarly, Green Belt policy is clear that the development is inappropriate unless it can meet one of the defined exceptions. That is not to say that there is no room for doubt or alternative interpretations, because that will always exist within a flexible and discretionary system, like in the

case of mineral safeguarding, the NPPF can still be interpreted in different ways. However, it would be more challenging for a local planning policy to take a diametrically opposed approach to the NPPF as a whole simply because it would not pass the tests of soundness and being in conformity with the NPPF at the independent examination stage of the local plan making process.

The NPPF is a political document. The abolition of the regional planning tier effectively removed the place where strategic direction and interpretation was to be had. This strategic level previously gave greater clarity on topics within the larger than local scale, but smaller than national scale.

Reconciling conflicts is replicated throughout all levels of the planning system. First of all, the NPPF does not help to reconcile competing policies. The local level policy making process makes some attempt at reconciliation, often through the allocation of land, but generally does not fully resolve matters. This leaves reconciling conflict and making the ultimate decision to the planning application stage where some topics, like housing delivery numbers, are assessed and re-assessed through the determination of an individual planning application. This approach therefore does not help provide certainty.

The NPPF has a strong influence on all parts of the planning system. The influence can be conceptualised as an ever-tightening noose. For the local plan making process, it influences the way it is prepared, the content of representations submitted by participants, and the need to demonstrate conformity at the independent examination stage otherwise it will not be found sound. This means that the NPPF can therefore formally stop a local plan from being adopted.

For the determination of planning applications, the NPPF is a material consideration, in principle second position behind the adopted development plan thus adhering to the primacy of the development plan according to s38(6) PCPA 2004. However, where a decision maker finds a development plan policy is not in conformity with the NPPF, it begins to influence the decision-making process on the individual planning application. It is most well observed where the local planning authority cannot demonstrate a

deliverable five-year housing land supply. Simplistically, the NPPF outweighs the local plan and the planning application is determined in line with the presumption in favour of sustainable development contained within the NPPF. Whilst this is a stronger influence, the presumption in favour of sustainable development can still be defeated if there are any policies within the NPPF which indicate that permission should be refused for the proposal.

However, a more recent and potentially significant influence of the NPPF can be seen in the Housing Delivery Test. This creates an even greater influence for the NPPF over local decision making. If the local planning authority cannot demonstrate sufficient housing delivery, then they can be required to take various actions. If delivery fails to meet the transitional threshold (which changes each year), then the presumption in favour of sustainable development would automatically apply.

What this therefore illustrates is that the NPPF starts out as a material consideration but it has an underlying strength and controlling influence on the planning system.

The alternative world could be where the NPPF is transformed into a National Spatial Plan which could potentially provide greater certainty. It would therefore provide the direction on how the present Conservative Government would achieve their manifesto commitment of levelling up the socio-economic disparities across the country. However, that is another topic outside the scope of this research.

Opportunities for further research

From the literature review it is clear that minerals planning provides a fascinating area to study, particularly the conflicts it generates. Minerals planning is a microcosm of the planning system. Although acknowledged as a specialist area of planning, the safeguarding of coal within planning for minerals contains many of the same challenges that the rest of the planning system has to reconcile. For example, the tension between the delivery of mineral supply for today's needs but also conserve resources for future needs. This is the same as delivering the housing and economic development needs

for the present and immediate future population but without compromising the protection of the countryside, Green Belt, areas with nature conservation interest, designated heritage assets or locating development in areas of flood risk without appropriate mitigation measures.

Minerals planning has a forward planning dimension as well as a day-to-day decision-making dimension, this is the same structure for the wider planning system. However, despite the acknowledged specialism of minerals as a topic, which is generally reinforced by the structures created, such as separate minerals planning teams, all planning topics are interlinked. Consequently, minerals planning cannot be wholly separated from the other planning topics.

Further coalfield mineral safeguarding research

It is clear from the empirical findings of the national review in **chapter 5** that there are variations in the local policy approaches to mineral safeguarding. As such this means that there are opportunities for further research, firstly for the coalfield areas, but also then beyond into other minerals.

It was demonstrated in **chapter 5** that methods of implementation included exclusion of spatial areas (be that existing urban areas or other existing designations) or even thresholds based upon spatial areas. This is contrasted by those mineral planning authorities which chose to exclude categories of development. There is something potentially interesting in this as it would offer an insight into the approach to policy making beyond mineral safeguarding. There could be some potentially interesting evidence which might assist policy making as a discipline, in terms of effectiveness of using spatial aspects to focus a policy or thresholds or criteria.

This research examined the Leeds City Council area but there are other coalfield areas which could be explored in terms of practice within the geographical administrative regions. Would the challenges facing the planning practice of coal safeguarding be replicated in other cities across the coalfield, particularly where regeneration and growth is a key issue?

This could be broadened to explore whether there are differences between regions in the attitudes to mineral safeguarding balanced against economic regeneration. This would provide an insight into a contemporary challenge for planning issues in England. It could therefore more clearly illustrate the challenges that formulating a single national policy document, such as the NPPF, experience. The findings of this line of inquiry could therefore help to formulate potentially a more regionally focused national policy document which clearly recognised the differences between regions. The rich diversity of issues between regions would also be likely to offer an insight into whether a national spatial plan could assist the planning system. It could certainly help the robust evidence base of local circumstances which is a key requirement for local planning authorities to achieve a sound development plan.

Further mineral safeguarding research

This research has focused upon the English coalfields, but what of the approaches to policy implementation for other minerals. Would it be the case that the national policy requirement for mineral safeguarding for other minerals would produce similar findings?

The safeguarding policy principle could be taken still further to a national level by exploring whether the mineral safeguarding approaches in our respective nations within the UK produce similar findings. Are there any lessons to learn from Northern Ireland, Scotland and Wales? For example, does the mineral safeguarding requirement in Wales experience the same challenges as England, particularly as in Wales, the Welsh Government has prepared National Mineral Safeguarding Plans (excluding coal). These set out what minerals are to be safeguarded and where they are found in Wales. This approach could potentially diminish much of the time and effort spent on the definition of an evidence base for mineral safeguarding within each individual planning authority.

Further minerals planning research

Minerals planning is a fascinating area of planning and as such there could be a variety of other research opportunities. Given that the NPPF in 2012 chose to define minerals of national and local importance, there should be a review and more thorough assessment of the minerals that are included within the list. The Government had an opportunity to change the list in July 2018 when the revised NPPF was published and again in February 2019 when the latest and current NPPF was issued. Whilst there are a number of minerals included within the list, there are many others which are found in the UK that were not included. The NPPF has never indicated the rationale behind the list. Consequently, it would seem reasonable to re-assess the contents of the list as to the reasons why each mineral has been included.

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SURVEYS and INTERVIEWS

Organisation	National Review Survey	Interview
Barnsley Metropolitan Borough Council	✓	Planning Officer
Bath and North East Somerset Council	✓	
Birmingham City Council	✓	
Blackburn with Darwen Borough Council	✓	Policy Officer
Bolton Borough Council	✓	Planning Officer
Bradford City & District Council	✓	
Bristol City Council	✓	
Bury Metropolitan Borough Council	✓	
Calderdale Metropolitan Borough Council	✓	Planning Officer
Cheshire East Council	✓	
Cheshire West & Chester Council	✓	
Coventry City Council	✓	
Cumbria County Council	✓	
Darlington Borough Council	✓	
Derby City Council	✓	
Derbyshire County Council	✓	
Devon County Council	✓	
Doncaster Metropolitan Borough Council	✓	
Dudley Metropolitan Borough Council	✓	Planning Officer
Durham County Council	✓	
East Riding of Yorkshire Council	✓	
Gateshead Metropolitan Borough Council	✓	
Gloucestershire County Council	✓	
Halton Borough Council	✓	
Hartlepool Borough Council	✓	
Herefordshire City & District Council	✓	
Kent County Council	✓	
Kirklees Metropolitan Borough Council	✓	
Knowsley Metropolitan Borough Council	✓	
Lake District National Park Authority	✓	
Lancashire County Council	✓	
Leeds City Council	✓	Planning Policy Officer; Minerals Planning Officer; Planning Policy Officers (2)
Leicestershire County Council	✓	
Liverpool City Council	✓	
Manchester City Council	✓	
Newcastle upon Tyne City Council	✓	Planning Policy Officer
North Lincolnshire Council	✓	
North Somerset Council	✓	Policy Officer
North Tyneside Council	✓	Planning Policy Officer
Northumberland County Council	✓	
Northumberland National Park Authority	✓	Planning Officer
North York Moors National Park Authority	✓	
North Yorkshire County Council	✓	
Nottingham City Council	✓	
Nottinghamshire County Council	✓	

Organisation	National Review Survey	Interview
Oldham Metropolitan Borough Council	✓	
Peak District National Park Authority	✓	Planning Officer
Redcar & Cleveland Borough Council	✓	
Rochdale Metropolitan Borough Council	✓	
Rotherham Metropolitan Borough Council	✓	
Salford City Council	✓	
Sandwell Metropolitan Borough Council	✓	Planning Officer
Sheffield City Council	✓	Planning Officers (2)
Shropshire County Council	✓	
Solihull Metropolitan Borough Council	✓	
Somerset County Council	✓	
South Gloucestershire Council	✓	
South Tyneside Council	✓	Planning Policy Officer
St Helens Council	✓	Planning Policy Officer
Staffordshire County Council	✓	
Stockport Metropolitan Borough Council	✓	
Stoke on Trent City Council	✓	Planning Officer
Sunderland City Council	✓	
Tameside Metropolitan Borough Council	✓	
Telford & Wrekin Metropolitan Borough Council	✓	
Trafford Metropolitan Borough Council	✓	
Wakefield Metropolitan District Council	✓	
Walsall Metropolitan Borough Council	✓	Planning Officer
Warrington Borough Council	✓	
Warwickshire County Council	✓	
Wigan Metropolitan Borough Council	✓	
Worcestershire County Council	✓	
Wolverhampton City Council	✓	Planning Officer
York City Council	✓	
Yorkshire Dales National Park Authority	✓	
British Geological Survey (BGS)		Minerals Planning Geologist; Minerals Policy Advisor
Planning Officers Society (POS)		Minerals Representatives (2)
Mineral Products Association (MPA)		Coal Representative
Confederation of UK Coal Producers (CoalPro)		Director General
Planning Inspectorate		Planning Inspector
Department for Communities and Local Government (DCLG)		Team Leader (Minerals and Waste Planning); Policy Advisor (Minerals and Waste Planning)
The Coal Authority		Planning Liaison Managers (2); Policy Advisor
Department for Energy and Climate Change (DECC)		Policy Advisor (Coal Liabilities Unit)
The Confederation of British Industry (CBI) Minerals Group		Minerals Group Representative (2)