

7.5.4 Where proposals are determined by a district/borough planning authority, the Mineral Planning Authority will work with the relevant authority and/or the promoter to assess the viability and practicability of prior extraction of the minerals resource.

Policy DM 7

Safeguarding Mineral Resources

Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding,⁽¹¹²⁾ where it is demonstrated that either:

1. the mineral is not of economic value or does not exist; or
2. that extraction of the mineral would not be viable or practicable; or
3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or
4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or
5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or
6. it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, non-material amendments to current planning permissions; or
7. it constitutes development on a site allocated in the adopted development plan

Further guidance on the application of this policy will be included in a Supplementary Planning Document.

7.6 Policy DM 8: Safeguarding Minerals Management, Transportation, Production & Waste Management Facilities

7.6.1 It is essential to the delivery of this Plan's minerals and waste strategy that existing facilities⁽¹¹³⁾ used for the management of minerals (including wharves and rail depots) and waste are safeguarded for the future, in order to enable them to continue to be used to produce and transport the minerals needed by society and manage its waste.

112 In this context 'mineral safeguarding' should be taken to mean safeguarding certain minerals identified within a Mineral Safeguarding Area shown in the policies maps in Chapter 9 and allocations in the Minerals Sites Plan.

113 'Existing facilities' are taken as those have permanent planning permission for minerals and waste uses.

7.6.2 Policy DM 8 sets out the circumstances when safeguarded minerals and waste development may be replaced by non waste and minerals uses. This includes ensuring that any replacement facility is at least equivalent to that which it is replacing and it specifies how this should be assessed.

7.6.3 In the case of mineral wharves the factors to be considered include the depths of water at the berth, accessibility of the wharf at various states of the tide, length of the berth, the size and suitability of adjacent land for processing plant, weighbridges and stockpiles, and existing, planned or proposed development that may constrain operations at the replacement site at the required capacity.

7.6.4 There also are circumstances when development proposals in the vicinity of safeguarded facilities will come forward. The need for such development will be weighed against the need to retain the facility and the objectives and policies of the development plan as a whole will need to be considered when determining proposals. Policy DM 8 sets out the circumstances when development may be acceptable in a location proximate to such facilities. The policy recognises that the aim of safeguarding is to avoid development which may impair the effectiveness and acceptability of the infrastructure.

7.6.5 Certain types of development which require a high quality amenity environment (e.g. residential) may not always be compatible with minerals production or waste management activities which are industrial in nature. Policy DM 8 therefore expects the presence of waste and minerals infrastructure to be taken into account in decisions on proposals for non waste and minerals development made in the vicinity of such infrastructure.

Policy DM 8

Safeguarding Minerals Management, Transportation Production & Waste Management Facilities

Planning permission will only be granted for development that is incompatible with safeguarded minerals management, transportation or waste management facilities, where it is demonstrated that either:

1. it constitutes development of the following nature: advertisement applications; reserved matters applications; minor extensions and changes of use and buildings; minor works; and non-material amendments to current planning permissions; or
2. it constitutes development on the site that has been allocated in the adopted development plan; or
3. replacement capacity, of the similar type, is available at a suitable alternative site, which is at least equivalent or better than to that offered by the facility that it is replacing; or
4. it is for a temporary period and will not compromise its potential in the future for minerals transportation; or
5. the facility is not viable or capable of being made viable; or
6. material considerations indicate that the need for development overrides the presumption for safeguarding; or
7. It has been demonstrated that the capacity of the facility to be lost is not required.

Replacement capacity must be at least equivalent in terms of tonnage, accessibility, location in relation to the market, suitability, availability of land for processing and stockpiling of waste and minerals, and:

- in the case of wharves, the size of the berth for dredgers, barges or ships
- in the case of waste facilities, replacement capacity must be at least at an equivalent level of the waste hierarchy and capacity may be less if the development is at a higher level of the hierarchy

There must also be no existing, planned or proposed developments that could constrain the operation of the replacement site at the required capacity.

Planning applications for development within 250m of safeguarded facilities need to demonstrate that impacts, e.g. noise, dust, light and air emissions, that may legitimately arise from the activities taking place at the safeguarded sites would not be experienced to an unacceptable level by occupants of the proposed development and that vehicle access to and from the facility would not be constrained by the development proposed.

Further guidance on the application of this policy will be included in a Supplementary Planning Document.

7.7 Policy DM 9: Prior Extraction of Minerals in Advance of Surface Development

7.7.1 When development is proposed within an MSA, promoters will be encouraged to extract the mineral in advance of the main development. Policy DM 9 aims to manage situations where built development located on a safeguarded mineral resource is to be permitted, so as to avoid the needless sterilisation of economic mineral resources (in accordance with Policy DM 7).

Policy DM 9

Prior Extraction of Minerals in Advance of Surface Development

Planning permission for, or incorporating, mineral extraction in advance of development will be granted where the resources would otherwise be permanently sterilised provided that:

1. the mineral extraction operations are only for a temporary period; and,
2. the proposal will not cause unacceptable adverse impacts to the environment or communities

Where planning permission is granted for the prior extraction of minerals, conditions will be imposed to ensure that the site can be adequately restored to a satisfactory after-use should the main development be delayed or not implemented.

7.8 Policy DM 10: Water Environment

7.8.1 Minerals and waste development can have significant impacts on flooding and water quantity and water quality. In Kent there are many catchments where there is little or no water available for abstraction during dry periods. Pressures are particularly notable in Kent as it is one of the driest parts of England and Wales, coupled with high population density and household water use (see Figure 21). Areas of mineral excavation