

Date: 16 December 2014
Our ref: 136538
Your ref: Somerset Minerals Plan
Main Modifications



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Dear Paul,

Somerset Minerals Plan - Main Modifications

This reply comprises our statutory consultation response under the provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995, Section 28 of the Wildlife and Countryside Act 1981 (as amended), the Environmental Impact Assessment Regulations 2011 and the Conservation of Habitats and Species Regulations 2010 (as amended).

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Thank you for consulting Natural England on the proposed Main Modifications to the pre-submission version of the Somerset Minerals Plan following the Examination in Public hearings. This letter contains our comments on the proposed modifications.

ED53 Schedule of Proposed Main Modifications

Ref	Page	Policy/ Paragraph	Issue	Comment
12	45	NEW PARA 8.6	Habitat of functional importance outside European Sites	We welcome clarification on the importance of functional habitat for mobile qualifying features of European Sites outside the designated boundaries of the sites.
13	48	8.19	Demand for peat and time extensions for permissions	We preferred the inclusion of the text shown in red which has been deleted. We do not believe that the deleted text conflicted with the preceding part of the sentence, but provided additional clarification that demand for peat should not be a reason for extending the duration of peat permissions. We can't see that inclusion of the caveat causes confusion with the purpose of SMP6.
15	49	8.22	Time extensions for peat permissions to reduce harm to European Sites	The proposed revisions relate to Point 2 in our response to the pre-submission plan (Natural England letter of 14 April 2014; our reference: 114587), where we made clear the very limited

15	49	8.22	Time extensions for peat permissions to reduce harm to European Sites	circumstances under which Natural England would support a proposal to swap the durations of peat permissions in order to ensure there would not be an adverse effect on the integrity of European Sites. We believe that the proposed revision largely reflects our advice, but is not necessarily as clear as it could be. We stated in our letter that: <i>“Such an approach must not result in an increase in peat working and should solely seek to amend the time of peat workings by ensuring any working in the SPA and Ramsar site can be restored as soon possible.”</i> The addition of the word “significant” before “net gain” does not clarify the intention as “significant” is not defined. It was not Natural England’s intention that a time extension should result in the removal of <u>more peat</u> from the site, only that there would be a <u>more time</u> to remove peat. We advise that the Council looks again at the specific advice given in our letter of 14 April 2014. We also recommend that wording on the need to assess proposals in relation to the Conservation of Habitats and Species Regulations 2010 (as amended) is included.
16	49	SMP6	Restoration of peat sites for biodiversity gains	We agree strongly with the new emphasis on restoration of peat sites for biodiversity gains, and clarification that water level management and flood risk management projects must not conflict with planned after-use of peat sites for biodiversity conservation.
22	63	10.17	Restoration of peat sites for biodiversity gains	We agree strongly with the new wording that clarifies that water level management and flood risk management projects must not conflict with after-use of peat sites for biodiversity conservation.
29	75	DM1	Mineral development in protected landscapes	We agree with the new wording to emphasise that mineral development proposals in protected landscapes must take account of AONB Management Plans and the Exmoor National Park Local Plan.
30	78	14.10	Biodiversity Offsetting	We welcome clarification that the Council recognises that biodiversity offsetting cannot be considered in relation to the Natura 2000 Network of European Sites and certain other ecologically sensitive sites.
31	80	DM2	Policy: Biodiversity & Geodiversity	We still believe that the wording of the policy is not as clear as it could be. The possibility of mitigation is overemphasised. Unlike other clarifications elsewhere in the document (in particular Para 14.10), the policy itself does not state the limitations of biodiversity offsetting. There is no clarification that the “Habitat Evaluation Procedure” would not be applied to European Sites and certain other ecologically sensitive sites.

31	80	DM2	Policy: Biodiversity & Geodiversity	In our response to the pre-submission plan (Natural England letter of 14 April 2014; our reference: 114587) we made it clear under the final paragraph (Page 4) under Point 5 “Biodiversity and Geodiversity” that “ <i>The reference to a “test of likely significance” should be expanded and amended to clearly outline the requirements of the Habitats Regulations</i> ”. The final paragraph of Policy DM2 should contain a clear reference to Conservation of Habitats and Species Regulations 2010 (as amended), as otherwise the Council’s wording in the policy appears to be disengaged from the legislation and does not reflect its requirements accurately. We will provide wording to the Council if required. It would be advisable to replace the words “ <i>test of likely significance</i> ” with “ <i>Habitats Regulations Assessment</i> ” as a “ <i>test of likely significant effect</i> ” is only the first stage of a HRA. Also, please note that the correct wording is a “ <i>test of likely significant effect</i> ” [on qualifying features of a European Site] not a “ <i>test of likely significance</i> ”.
36	83	NEW PARA 16.6	Monitoring of water quality discharged from peat sites	We agree with the Environment Agency’s advice.
37	84	16.13	Mineral extraction below the water table	We agree with the clarification.

Please contact me if you would like further advice on the issues raised in this letter.

In accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England expects to be consulted on any additional matters as determined by Somerset County Council that may arise as a result of, or are related to, the present plan. This includes alterations to the plan that could affect its impact on the natural environment. Natural England retains its statutory discretion to modify its present advice or opinion in view of any and all such additional matters or any additional information related to this consultation that may come to our attention.

Natural England reminds Somerset County Council of its duty to conserve biodiversity under Section 40(1) of the *Natural Environment & Rural Communities Act 2006*.

Yours sincerely

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Lead contact for Natural England on:

Somerset Levels & Moors Peat Soils Planning Issues