

Environmental Assessment (Scotland) Act 2005**Strategic Environmental Assessment (SEA) Screening Determination****Supplementary Guidance (SG) – Minerals (Including Restoration Bonds)****Table of Contents of Screening Determination****1. Introduction****2. Record of SEA Determination and Publicity Requirement****3. SEA Screening Report**

- ◆ Cover Note
- ◆ Key facts
- ◆ Likely Significance of Effects on the Environment
- ◆ Summary of Environmental Effects

4. Responses from Consultation Authorities

- ◆ Scottish Government SEA Gateway Response
- ◆ Scottish Environment Protection Agency Response
- ◆ Historic Environment Scotland Response
- ◆ Scottish Natural Heritage Response

5. Appendices

- ◆ Appendix 1 - Supplementary Guidance (SG) – Minerals (Including Restoration Bonds)
- ◆ Appendix 2 - Statutory Notice

1. Introduction

This statement sets out West Lothian Council's determination under Regulation 10(1) of the Environmental Assessment (Scotland) Act 2005 on whether or not a Strategic Environmental Assessment (SEA) is required for Supplementary Guidance (SG) - Minerals.

Screening is the first stage in the SEA process. The purpose of screening is to establish whether or not a Plan, Programme or Strategies (PPS) will have significant environmental effects. Screening takes the form of a formal submission, where the responsible authority (the Council) seeks the views of the following Consultation Authorities on whether a PPS is likely to have significant environmental effects and therefore whether a SEA is required:

- ◆ Historic Environment Scotland (HES)
- ◆ Scottish Environmental Protection Agency (SEPA), and
- ◆ Scottish Natural Heritage (SNH)

As well as consulting the above bodies, responsible authorities are required to take into account the criteria set out in Schedule 2 of the 2005 Act when determining whether or not the plan is likely to have significant effects. The details of this process are contained within the Screening Report.

If the responsible authority and the consultation authorities agree that the plan or programme is unlikely to have significant environmental effects, the responsible authority is required to make a determination to that effect under section 8(1) of the 2005 Act.

2. Record of SEA Determination and Publicity Requirements

Title of Plan, Programme or Strategy:	Supplementary Guidance (SG) – Minerals (Including Restoration Bonds)
Responsible Authority:	West Lothian Council

Record of SEA Determination:

In accordance with section 9(1) of the 2005 Act, West Lothian Council submitted to the Consultation Authorities a screening report summarising its views as to whether West Lothian Local Development Plan Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) will have significant environmental effects.

In formally determining under Section 8(1) of the Act whether a SEA is required, the Council has taken into account the views of the three Consultation Authorities; Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland which were issued through the SEA Gateway on 7 November 2019.

West Lothian Council and the Consultation Authorities are in agreement that the West Lothian Local Development Plan Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) is not likely to have significant environmental effects and the Council has therefore determined that an SEA will not be required for the plan under Regulation 13(1) of the 2005 Act.

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	No
Scottish Environment Protection Agency	No
Scottish Natural Heritage	No
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	No

Formal Determination	Statement of Reason
7 November 2019	<p>West Lothian Council's reasoning for determining that there are no overall likelihood of significant environmental effects is as follows:</p> <p>West Lothian Council has prepared a local development plan to replace the West Lothian Local Plan 2009 (WLLP 2009) in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) etc. Act 2006.</p>

	<p>The new West Lothian Local Development Plan (LDP) was adopted on 4 September 2018 and is consistent with the Strategic Development Plan for Edinburgh and South East Scotland (SDP).</p> <p>The LDP focuses on providing for, and managing, future land use change across the council area in line with SESplan SDP requirements. The LDP comprises a development strategy for the period to 2024 and a detailed policy framework to guide future land use in a way which best reflects the SDP vision, strategic aims and objectives.</p> <p>The West Lothian Local Development Plan Supplementary Guidance (SG) - Minerals (Including Restoration Bonds) sets out a framework that West Lothian Council will use to assess planning applications for minerals development in West Lothian. The role of the West Lothian Local Development Plan Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) is simply to provide further information and detail in respect of minerals policies that are already set out in the adopted West Lothian Local Development Plan which was subject of a full Strategic Environmental Assessment (SEA). The SEA was reviewed in the Post Adoption Strategic Environmental Assessment.</p>
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Publicity Requirements for the Determination:	
<p>In accordance with section 10(1) of the Environmental Assessment (Scotland) Act 2005, within 28 days of the determination having been made, the Council will send a copy of the formal determination and related statement of reasons (prepared in accordance with section 8(2)(b) to the Scottish Government SEA Gateway and the three Consultation Authorities.</p> <p>In accordance with section 10(2) of the 2005 Act, within 14 days of the determination having been made, a copy of the determination, along with the Screening Report, shall be provided for inspection by the public at West Lothian Council’s principal office at the West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF or on request from wlldp@westlothian.gov.uk.</p>	
<p>The determination shall also be published in the West Lothian Courier and Linlithgow Journal & Gazette newspapers to notify the public and will be available to view at www.westlothian.gov.uk from 9 January 2020. A copy of the statutory notice is provided as Appendix 2.</p>	
Signature:	Craig McCorrison, Head of Planning, Economic Development & Regeneration
Date:	26 November 2019

3. SEA Screening Report

Cover Note

Part 1

To:

SEA.Gateway@gov.scot

or

SEA Gateway
Scottish Government
2-H (South)
Victoria Quay
Edinburgh
EH6 6QQ

Part 2

An SEA Screening Report is attached for the plan, programme or strategy (PPS) entitled:

Supplementary Guidance (SG) – Minerals (Including Restoration Bonds)

The Responsible Authority is:

West Lothian Council

Complete Part 3 or 4 or 5

Part 3

Screening is required by the Environmental Assessment (Scotland) Act 2005. Our view is that:

An SEA is required because the PPS falls under the scope of Section 5 (3) of the Act and is likely to have significant environmental effects.

An SEA is required because the PPS falls under the scope of Section 5(4) of the Act and is likely to have significant environmental effects.

An SEA is not required because the PPS is unlikely to have significant environmental effects.

Part 4

The PPS does not require a SEA under the Act. However we wish to carry out a SEA on a voluntary basis. We accept that because the SEA is voluntary the Statutory 28 days timescale for views from the Consultation Authorities cannot be guaranteed.

Part 5

None of the above apply. We have prepared this screening report because:

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Part 6

Contact Name: Fiona McBrierty

Job Title: Development Planning & Environment Manager

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Contact email: fiona.mcbrierty@westlothian.gov.uk

Part 7

Signature: Fiona McBrierty

Date: 26 November 2019

Key Facts

West Lothian Council has undertaken screening of Supplementary Guidance (SG) - Minerals (Including Restoration Bonds) with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005.

The Screening Report has been submitted to the Scottish Government SEA Gateway, setting out the views of West Lothian Council on the likelihood of the significant environmental effects of Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005 and the potential for requiring a SEA.

Responsible Authority:	West Lothian Council
Title of PPS:	Supplementary Guidance (SG) – Minerals (Including Restoration Bonds)

<p>Purpose of PPS:</p>	<p>The purpose of this Supplementary Guidance (SG) is to support Local Development Plan Policies MRW1 (Minerals Resources and Safeguarding), MRW2 (Supporting Principles for Mineral Extraction), MRW3 (Impediments to Mineral Extraction), MRW4 (Restoration of Mineral Extraction Sites) and MRW5 (Unconventional Gas Extraction-Including Hydraulic Fracturing (Fracking)).</p> <p>In particular, this SG further defines the terms used in the policies and explains and interprets other matters necessary for the implementation of the policy; provides general planning criteria applicable to all sites and cases and design guidance.</p>
<p>What promoted the PPS: (e.g. a legislative, regulatory or administrative provision)</p>	<p>Supplementary Planning Guidance (SPG) relating to minerals was produced to support Policies MRW1, MRW2, MRW3, MRW4 AND MRW5 of the West Lothian Local Plan (2009).</p> <p>West Lothian Council adopted the West Lothian Local Development Plan on 4 September 2018 after Scottish Ministers confirmed the council could do so. It now forms part of the Development Plan for West Lothian along with the Strategic Development Plan (SDP) for Edinburgh and South-east Scotland.</p> <p>The Council has a programme to prepare a suite of new guidance to support the recently adopted West Lothian Local Development Plan,</p> <p>Specifically, Supplementary Guidance – Minerals (Including Restoration Bonds) has been written with the intention of becoming statutory supplementary guidance (SG). SG becomes part of the development plan, giving it the same weight in decision making as the LDP. It has already been subject to consultation but will require to be approved by Scottish Ministers prior to its adoption.</p>
<p>PPS Subject: (e.g. transport)</p>	<p>The policies are integral to the strategic spatial land use strategy which applies across West Lothian. In terms of this SG they are particularly associated with minerals development, economic development and development in the countryside.</p>
<p>Period covered by the PPS:</p>	<p>Anticipated date of adoption January 2020 onwards.</p>

<p>Frequency of updates:</p>	<p>Supplementary Guidance will ordinarily be reviewed and updated every 5 years, but sooner if circumstances require. However, it should be noted that the Planning (Scotland) Act 2019 removes requirements to prepare Supplementary Guidance.</p>
<p>Area Covered by the PPS:</p>	<p>This SG covers the West Lothian Local Development Plan area. It applies specifically to proposals for mineral extraction.</p>
<p>Summary of nature/content of PPS:</p>	<p>A Local Development Plan (LDP) is prepared by the local planning authority, in this case West Lothian Council. It sets out a local interpretation of the requirements of national and strategic policy. In particular it must conform to the approved Strategic Development Plan (SDP) which has been prepared by the strategic planning authority (SESplan) and its purpose is to implement requirements on a more detailed site-specific basis than exists within the SDP.</p> <p>The LDP comprises a written statement detailing a spatial strategy, including policies and proposals together with a Proposals Map.</p> <p>LDP's are intended to provide the vision and strategy for how communities will grow and develop in the future and also to provide certainty for communities and prospective investors about where development should take place and where it should not. LDP's also identify the supporting infrastructure required for growth and set out detailed policies and proposals which are the basis for decision making on future planning applications.</p> <p>Policies MRW1 (Minerals Resources and Safeguarding), MRW2 (Supporting Principles for Mineral Extraction), MRW3 (Impediments to Mineral Extraction), MRW4 (Restoration of Mineral Extraction Sites) and MRW5 (Unconventional Gas Extraction-Including Hydraulic Fracturing (Fracking) seek to set out those matters which developers are required to consider and take into account in proposals for minerals development in West Lothian, including the restoration of sites and set out the circumstances in which new development may be supported. The SG defines terms used in these policies and further explains how the policies should be implemented.</p>

	<p>These circumstances can be broadly summarised as:</p> <p><i>Protection of minerals from development which could prevent or jeopardise extraction of minerals of economic or conservation value;</i></p> <p><i>Impediments to mineral extraction are set out;</i></p> <p><i>Requirements for restoration are set out;</i></p> <p><i>Support, in certain circumstances, for proposals for surface coal mining, the extraction of minerals, construction minerals, silica sandstone, building stone and onshore gas and oil, (including associated infrastructure).</i></p>
Are there any plan objectives?	No
Copy of PPS attached	Yes
Date:	26 November 2019

Likely Significance of Effects on the Environment
<p>The Council has considered the likely significance of effects on the environment of the Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005. The screening was undertaken with references to the criteria in Schedule 2 of the 2005 Act and is set out in Table 1 (below).</p>

Table 1: Likely Significance of Effects on the Environment

Criteria for determining the likely significance of effects on the environment <i>[The paragraph numbers in the table 1(a), 1(b), 2(a), 2(b) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005.]</i>	Likely to have significant environmental effects? (Yes / No)	Summary of significant environmental effects (negative and positive)
The characteristics of plans and programme		
1(a): The degree to which the PPS sets a framework for the projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	No	<p>The adopted Local Development Plan sets a framework for assessing applications for minerals development and restoration of sites. The SG contributes to that assessment framework.</p> <p>The SG is aimed at minerals operators who may have an interest in developing sites within West Lothian as well as third parties</p>

		who may have an interest in minerals proposals and provides information on the factors to be considered when proposing minerals extraction and aftercare of sites.
1(b): The degree to which the PPS influences other PPS including those in the hierarchy.	No	<p>The SG Minerals (Including Restoration Bonds) although in itself new, is essentially a refresh and an update of previous Supplementary Planning Guidance (SPG) which supported the now superseded West Lothian Local Plan.</p> <p>The SG provides background guidance to policy within the adopted Local Development Plan and does not seek to directly influence other programmes and strategies.</p> <p>The SG sets out detailed criteria to assist the development and assessment of proposals for minerals development across the plan area and specifically supports policies MRW1 (Minerals Resources and Safeguarding), MRW2 (Supporting Principles for Mineral Extraction), MRW3 (Impediments to Mineral Extraction), MRW4 (Restoration of Mineral Extraction Sites) and MRW5 (Unconventional Gas Extraction-Including Hydraulic Fracturing (Fracking)). It is at the same time consistent with the wider objectives of the overarching West Lothian Local Development Plan which has itself already undergone SEA.</p>

<p>1(c): The relevance of the PPS for the integration of environmental considerations in particular with a view to promoting sustainable development.</p>	<p>No</p>	<p>Minerals development is governed by geology and the location of deposits. The council is required through national planning policy to safeguard the silica sandstone quarry at Levenseat, south of Fauldhouse which is is safeguarded as a nationally important mineral resource.</p> <p>Sustainability is a core element of the spatial strategy and sustainable development is a fundamental concept in the West Lothian Local Development Plan. The SG will serve to re-inforce this.</p> <p>The general premise of policies that govern minerals development and restoration of sites is that minerals development will only be permitted in specific circumstances, which the Supplementary Guidance assists in further defining.</p> <p>The SG is not site specific, it covers the entire West Lothian Council area and all planning applications for minerals development will require to be assessed against the SG and will be taken into account when decisions are made.</p>
<p>1(d): Environmental problems relevant to the PPS</p>	<p>No</p>	<p>The West Lothian Local Development Plan has regard to the multitude of environmental issues which have the potential to affect the countryside of West Lothian.</p> <p>The SG is one of many which are designed to help protect and safeguard its environmental assets whilst allowing for mineral extraction within a specific set of circumstances.</p> <p>No negative environmental consequences are foreseen as being directly attributable to the SG.</p>
<p>1(e): The relevance of the PPS for the implementation of Community legislation on the environment (for example PPS linked to waste management or water protection)</p>	<p>No</p>	<p>None identified. The SG does not introduce any new policy considerations and would not be directly relevant to this issue. If applicable, this would be considered in the assessment of individual planning applications.</p>

The characteristics of the effects and the area likely to be effected		
2(a): The probability, duration frequency and reversibility of the effects	No	There are no significant environmental effects that can be attributed to the SG. Any consequences of development authorised by Policies MRW1 (Minerals Resources and Safeguarding), MRW2 (Supporting Principles for Mineral Extraction), MRW3 (Impediments to Mineral Extraction), MRW4 (Restoration of Mineral Extraction Sites) and MRW5 (Unconventional Gas Extraction-Including Hydraulic Fracturing (Fracking)) can be avoided/mitigated/ minimised by application of other environmental protection policies within the Local Development Plan and adherence to the SG.
2(b): The cumulative nature of the effects	No	<p>The accumulation of minerals development in rural locations, or across the plan area, could have cumulative effects, for example in terms of landscape impact and traffic movement.</p> <p>A key purpose of the SG is however to promote and secure sustainable development and encourage best practice and thereby reduce and minimise any significant adverse effects on the environment in cumulative terms. Adherence to the SG should, if anything, have a positive effect on the environment of West Lothian.</p>
2(c): Trans-boundary nature of the effects (i.e. environmental effects on other EU Members States	No	Trans boundary effects have been identified at North and South Lanarkshire. However the SG is in itself unlikely to have significant environmental impact beyond West Lothian, but that is not to diminish the positive value of the policy in a local context.
2(d): The risks to human health or the environment (for example due to accidents)	No	The SG will have a benign effect and will contribute to more sustainable development and which can only be beneficial to human health and wellbeing. Proposals will in any event be assessed in detail as and when planning applications are submitted.
2(e): The magnitude and spatial extent of the effects (geographical area and size of population likely to be affected)	No	There are no significant effects identified. The SG only applies to development proposals set out in the SG and within the administrative area of West Lothian and its effect is invariably constrained.

<p>2(f): The value and vulnerability of the area likely to be affected due to:</p> <p>(i) Special natural characteristics or cultural heritage</p> <p>(ii) Exceeded environmental quality standards or limit values;</p> <p><u>or</u></p> <p>(iii) Intensive land use</p>	<p>No</p>	<p>The SG seeks to assist in the control of mineral development and will have only positive effect in the West Lothian area.</p> <p>The overarching SEA for the LDP has previously considered any potential significant environmental effects and provided mitigation measures where necessary.</p> <p>It is considered that adherence to the requirements of the SG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.</p>
<p>2(g) The effects on areas or landscapes which have a recognised national, Community or international protection status.</p>	<p>No</p>	<p>Any development will need to comply with the development plan which includes a range of policies to ensure the cumulative impact of different (or the same) types of development do not adversely affect designated landscapes and the principal landscape character/type of the area. There will be no adverse implications for the PPS.</p> <p>The overarching SEA for the LDP has previously considered potential effects. It is considered that adherence to the requirements of the SG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.</p>

Summary of Environmental Effects
<p>The Council has considered the likely significance of effects on the environment of the Supplementary Guidance (SG) - Minerals (Including Restoration Bonds) and these are set out below.</p>
<p>Table 2: Summary of Environmental Effects</p> <p>Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) supports policies MRW1 (Minerals Resources and Safeguarding), MRW2 (Supporting Principles for Mineral Extraction), MRW3 (Impediments to Mineral Extraction), MRW4 (Restoration of Mineral Extraction Sites) and MRW5 (Unconventional Gas Extraction-Including Hydraulic Fracturing (Fracking) of the adopted West Lothian Local Development by providing further guidance and detail on the circumstances in which minerals development will be permitted within the West Lothian Local Development Plan area and setting out general planning criteria to be applied in decision-making.</p> <p>The West Lothian Local Development Plan has itself already undergone an extensive SEA examining its policies, proposals and land use allocations. They demonstrate West Lothian</p>

Council's commitment to sustainability and sustainable development and the addition of Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) is considered to strengthen and re-inforce this position.

The Supplementary Guidance forms part of a framework for assessing applications for minerals development. Minerals development could potentially have significant environmental effects, depending on its design and location in relation to sensitive receptors within the environment. Unchecked, the proliferation of minerals development could have cumulative impacts, arising for example, from increased vehicular movements, loss of habitat and visual intrusion. Policies seek to manage minerals development and set out the circumstances where minerals development may be acceptable and these are set out in the Supplementary Guidance. Furthermore, the specific policies referenced and guidance will not be applied in isolation; there are other environmental protection policies included in the West Lothian Local Development Plan which will additionally be applied in the assessment of planning applications.

The council considers it unlikely that the supporting Supplementary Guidance (SG) - Minerals (Including Restoration Bonds) will, in itself, have any significant environmental effects as it will provide only information for decision makers, the public and other stakeholders and serve as a management tool in relation to development affecting the character, qualities, threats, opportunities and constraints within West Lothian.

Overall, it is considered that the Supplementary Guidance (SG) - Minerals (Including Restoration Bonds) is a qualifying plan or programme that will not have significant environmental effects and that, as part of a wider policy framework, significant environmental effects arising from minerals development permitted under the terms of the adopted Local Development Plan and associated Supplementary Guidance will be avoided. It is for this reason that West Lothian Council believes that Supplementary Guidance (SG) – Minerals (Including Restoration Bonds) does not require a Strategic Environmental Assessment. However, should a particular instance arise where adherence to the SG was considered to be potentially detrimental to the environment, the Development Management process would be expected to have regard to such matters and to apply appropriate and proportionate mitigation measures through planning conditions on any planning permissions released by the Council.

4. Responses from Consultation Authorities

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	No
Scottish Environment Protection Agency	No
Scottish Natural Heritage	No
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	No

- SEA GATEWAY
- SEPA
- HISTORIC ENVIRONMENT SCOTLAND
- SCOTTISH NATURAL HERITAGE

5. Appendices

Appendix 1 - Supplementary Guidance (SG) – Minerals (Including Restoration Bonds)

Appendix 2 - Statutory Notice