

15 February 2013

Review of Planning Practice Guidance  
Department for Communities and Local Government  
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Dear Sirs

### Review of Planning Practice Guidance

Thank you for giving the Minerals Products Association the opportunity to comment on the External Review of Government Planning Practice Guidance.

The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the recent addition of The British Precast Concrete Federation (BPCF) and the British Association of Reinforcement (BAR), it has a growing membership of 450 companies and is the sectoral voice for mineral products. MPA membership is made up of the vast majority of independent SME companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of GB cement production, 90% of aggregates production and 95% of asphalt and ready-mixed concrete production and 70% of precast concrete production. Each year the industry supplies £9 billion of materials and services to the £120 billion construction and other sectors. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

MPA members are amongst the most significant users of the planning system in the UK. They rely upon proper functioning of the system to enable them to deliver materials that are vital to the economy and quality of life of the nation and hence for the achievement of sustainable development.

The MPA is therefore disappointed that neither we, nor any representatives of the minerals sector, were involved as “Practitioners” during this, the initial stage of the Review. We consider that to be a significant omission by the Practitioner’s Group.

The MPA also believe that considerable uncertainty has been introduced into the system by a “blurring of the edges” of what constitutes planning policy, as opposed to planning guidance or practice guidance. Despite the name, the National Planning Policy Framework is being treated in decision-making as guidance, rather than policy. A recent minerals appeal decision (APP/Z1585/A/12/2176050) is a prime example of that.

In the Report, the Review Team believe that guidance should be whittled down to that which is “essential”. The MPA would suggest that if a statement is essential to the effective functioning of the planning system, it needs to be afforded the weight that goes with policy, not guidance.

It is the view of our members that the planning system is the only regulatory process that will deliver sustainable development because it makes decisions on the basis of a balance of interests. Anything which increases the effectiveness of the system must therefore be supported. For mineral operators, the primacy of the planning permission has been and continues to be seriously eroded by other, often unnecessary permitting processes. The MPA considers that matter to be a far greater threat to the effectiveness of the planning system than any issue there may be with the volume or currency of practice guidance.

The Taylor Review should be aware of changes proposed to the EU Environmental Impact Assessment Directive and the potential impact these could have on the operation of the planning and permitting system for complex proposals such as mineral extraction. This review of the Directive coincides with the current consultation on the extension of the regime for dealing with Nationally Significant Infrastructure proposals that has been introduced to address the complexity and difficulty of dealing with major planning applications.

There is now a proposal to introduce a “one stop shop” approach to deal collectively with the planning and environmental regulation systems for NSI projects. It should be recognised that this complexity and difficulty arises for all development that is required to engage with these processes, not just NSI projects.

It is issues such as this that are the most serious difficulty being encountered by the minerals industry. It has reached the point where mineral operators will only engage with the planning system on a business-critical, “needs must” basis; the overall regulatory system has become just too complex, time consuming and costly to justify doing otherwise. It is essential that the Taylor Review recognises this.

Already there is a direct conflict between the operation of the planning system and the environmental regulation system in the way that they treat the use of inert material for the restoration of quarries. This conflict will be compounded by the proposed introduction of a new groundwater abstraction licencing regime for mineral extraction that will be separate to, and conflict with, permitted quarry operations that already meet regulatory requirements through the planning process. The introduction of this regime will directly conflict with the Government’s aim of streamlining and freeing-up the planning process.

It is a fundamental flaw of the present regulatory regime that the planning permission is not treated as the primary development consent. Once planning permission has been granted, further environmental regulation should only be required to deal with matters that have not been covered by the planning permission. Furthermore, environmental regulation should be implemented so as to facilitate the implementation of the development permitted, not to conflict with it or to frustrate it altogether. It is only by recognising and addressing issues such as this and the role that practice guidance may play

in dealing with them, that the Taylor Review can significantly improve the operation of the planning system.

Notwithstanding that position, our responses to the Consultation questions are as follows:

**1. Do you agree with the recommendations of the Review Group overall?**

NO - not in their entirety:

As far as our members are concerned, the remaining planning practice guidance that relates specifically to minerals is not unfit-for-purpose. There is a balance to be struck between the ease of access that comes with brevity and the proper functioning of guidance to ensure that decision-making is consistent and the range of issues which has to be covered when making those decisions is minimised.

**2. Do you agree with the proposed recommendations for a much reduced set of essential practice guidance in the format recommended? (Recommendations 1, 2, 3, 5, 6)**

Notwithstanding earlier comments about the fitness for purpose of existing guidance and exercising caution in seeking brevity; the MPA agrees with much that is recommended but with certain reservations. Active management and updating should acknowledge that plan-making and decision making can be a lengthy process. If the guidance on which those processes are based is changed too frequently it will erode confidence and discourage investment in development. A balance will need to be struck.

**3. Do you agree that standards for future Government Planning Practice Guidance should be implemented by the Chief Planner in DCLG, but with decisions on what to include within guidance still taken by Ministers? (Recommendation 4)**

Yes. If guidance is to be briefer it is important that it should be given the weight of ministerial approval.

**4. While access to all planning guidance online will be free of charge, do you think it would be appropriate to offer planning professionals an additional service involving immediate notification of every revision to the guidance, and to make a small charge for this service? (Recommendation 6)**

Government should use every endeavour to ensure that everyone, including planning professionals, is aware when revisions to guidance are published. The MPA believe that is in the interests of Government and all planning professionals. We do not believe that a charge should be made for a service which is in the interests of all but if use of the service is not obligatory and revisions are still published on the website in a timely manner, then the MPA do not feel in a position to object.

**5. Do you agree that the new web based resource should be clearly identified as the unique source of Government Planning Practice Guidance? (Recommendations 7-9)**

Yes

**6. Do you agree with the recommended timescales for cancellation of guidance and new/revised guidance being put in place? (Recommendations 10-13)**

No. Extant mineral planning is largely fit-for-purpose and should not be reviewed hastily to fit in with an arbitrary timescale. The timescales set for the onerous task of reducing the length of guidance without reducing its effectiveness, seem unrealistic.

7. Do you agree with the recommendations for cancellation of existing guidance documents? Are there specific, essential elements of current guidance material that should in your view be retained and considered for inclusion in the revised guidance set? (Recommendations 14 - 16)

NO. The MPA believes that Planning and Minerals: Practice Guidance (2006) must remain until the principles it embodies are transferred to new guidance. It should therefore be moved to Annex C to join the other extant mineral-related guidance.

8. Do you agree with the recommended priority list for new/revised guidance? (Recommendations 17-18)

YES

9. Are there any further points you would like to make in response to the Review Group's Report? Do you have additional ideas to improve and/or streamline planning practice guidance?

The MPA would be happy to work with the Review Team to ensure that the distinct issues associated with mineral working are taken fully into account in the streamlining process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Hobden', with a small dot at the end.

**Ken Hobden**  
**Director of Planning**