

Warwickshire County Council: Minerals Plan Publication Consultation October 2018.

Representation on behalf of the **Mineral Products Association (MPA)**.

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The MPA wish to be kept informed of the progress of the mineral plan and would like to attend the oral part of the examination / EIP in respect of the representations below.

Representation

Key Issues for Minerals in the County

Demand Strategy

Bearing in mind the anticipated growth during the Plan period it cannot be right that the use of backward looking 10-year average sales data is the only criteria that the County are using to determine forward requirements for mineral. Clearly this is not sound as the Council are failing to adequately forecast mineral demand as required by para 207(a) of the NPPF and are not planning positively. The Council are not planning for steady and adequate supply of sand and gravel. Furthermore, the Plan cannot be considered effective as there is no flexibility to allow for additional sand and gravel sites, beyond those allocated, coming forward over the plan period.

Issue 2 – Future Production

The NPPF states (paragraph 203) that it, *'is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs'*. If the anticipated forecasted needs cannot be met within the County or there are concerns regarding deliverability of sand and gravel sites during the Plan period, the Mineral Planning Authority has a duty to cooperate with adjoining authorities to address these issues. The NPPF at paragraph 27 identifies that, *'in order to demonstrate effective and ongoing joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress on cooperating to address these'*. Considering the concerns regarding overall sand and gravel supply within Warwickshire and the doubt over long term continuation of sand and gravel supply particularly from Leicestershire, there should be evidence provided as to how paragraph 203 of the NPPF can be met.

The sand and gravel resource within Warwickshire is generally more scattered and variable in thickness and quality than other parts of the region, but the importance of these minerals will grow in time as other historically relied upon resources in the region decline. In addition, the level of demand from planned development within the County may assist in resources becoming more economical and viable to work. The Planning Authority has indicated lack of interest by industry in minerals in Warwickshire. However, we understand that 32 sites have been submitted for consideration for sand and gravel provision which would indicate interest in minerals development within the County. The recession and economic uncertainty have had significant impacts upon the

industry and having confidence in an upturn in market conditions to warrant the capital expenditure required.

Issue 3 – Mineral Safeguarding and Prior Extraction

The MPA support the principle of safeguarding. However, we believe the Council need to reference the Agent of Change Principle now in the NPPF at para 182 to ensure the plan is in accordance with National Policy and is effective.

Policy MCS1: Supply of Mineral and Materials

The MPA, while supporting the principle of supply from secondary and recycled materials, is concerned that the first paragraph of the policy is not effective and therefore unsound. Recycled aggregates are a function of the economy. When times are good there tends to be demolition providing feedstock from recycling. The reverse is true. The Council cannot with any assurance make the statement that they *will maintain a supply of materials from substitute or secondary and recycled materials* as that will be determined by the market. What the Council can do is ensure appropriate sites and policies exist in the plan to enable such material use.

Suggested Amendments:

The wording of the policy needs to be amended to make it effective;

Proposed Changes (deletions in ~~striketrough~~; new text in **bold**)

Policy MCS 1

Supply of Minerals and Materials

~~The MPA will maintain a supply of materials from substitute or secondary and recycled materials and mineral waste and will take account of this when considering proposals to extract aggregate minerals in the County at sites other than those allocated in Policy SO.~~

The MPA will support the supply of materials from substitute or secondary and secondary and recycled materials and mineral waste.

The MPA will ensure that during the plan period there is a sufficient supply of minerals through Warwickshire's contribution to local and national needs.

The MPA will maintain landbanks of permitted reserves for aggregate minerals and for brick clay. Any planning application for mineral development will be treated on its merits and assessed against all other relevant Development Plan policies, taking into account the guidance in the National Planning Policy Framework and all other material planning considerations.

The MPA will seek to supplement supplies by taking advantage of unplanned opportunities as they arise such as the extraction of known minerals of local, regional, or national importance prior to, or as part of, non-mineral development

Policy MCS2: Sand and Gravel

It is considered that this policy is failing to provide an adequate assessment of future sand and gravel needs as it is effectively relying on a 10-year average of previous sales. The 2016 version of the draft Plan had a figure of 8.022 million tonnes. The current version is proposing 6.525 million tonnes when it is clear that demand nationally has increased. As such the Policy is unsound as it is failing to *plan for a steady and adequate supply of aggregates* as required by paragraph 207 of NPPF.

Justification, Paragraph 8.7

The first sentence of this paragraph which states, is not positively prepared as required by the NPPF and is as such UNSOUND. This statement runs counter to the Plan led planning system and puts in doubt the ability of Warwickshire to provide a steady and adequate supply of aggregates as required by paragraph 207 of the NPPF. The text is also unsound as it is not in accordance with National Policy in terms of the wording of the landbank requirement.

Justification, Paragraph 8.8

The first sentence of this paragraph which states, '*Designation of a site in the local plan does not guarantee that planning permission will be granted*' is not positively prepared as required by the NPPF and is as such UNSOUND. This statement runs counter to the Plan led planning system and puts in doubt the ability of Warwickshire to provide a steady and adequate supply of aggregates as required by paragraph 207 of the NPPF.

Suggested Amendments:

The sentence concerned should be reworded as follows;

Proposed Changes (deletions in ~~striketrough~~; new text in **bold**)

~~Designation of a site in the local plan does not guarantee that planning permission will be granted~~
An allocation of land in the local plan is acceptance in principle that a site is suitable for working subject to satisfying detailed planning considerations.

The remainder of paragraph 8.8 should be deleted.

Policy MCS 3: Crushed Rock

This policy does not reflect properly the NPPF and is UNSOUND.

The words '*will seek to*' dilute the statutory requirement on the mineral planning authority set out by the NPPF.

In addition, the last paragraph of the policy exceeds the requirements of the NPPF and needs to be reworded to properly reflect the NPPF on major development in the designated areas such as AONBs.

Suggested Amendments:

The policy should be reworded as follows;

Proposed Changes (deletions in ~~striketrough~~; new text in **bold**)

Policy MCS 3

Crushed Rock

*The MPA will ensure that there is a steady and adequate supply of crushed rock, taking account of the Council's latest landbank figures, based on the latest published annual monitoring and the latest Local Aggregates Assessment (LAA). The Council will ~~seek to~~ maintain at least a 10-year landbank for crushed rock **throughout the Plan period.***

Proposals for the winning and working of crushed rock will only be supported where the proposal demonstrates that significant operational, transport, environmental and restoration benefits will be provided from working in that location.

~~Proposals for the working of limestone in the Cotswold AONB for crushed rock provision will be refused except in exceptional circumstances and where it can be demonstrated that they are in the public interest.~~

Where development is proposed in the Cotswold AONB and where the development comprises major development due to its scale and the nature, proposals will need to meet the requirements for major development set out in the National Planning Policy Framework.

Policy MCS 5: Safeguarding of Minerals and Minerals Infrastructure

The policy is considered UNSOUND. While the MPA supports the principle of the policy it fails to address the potential of non-mineral development in the proximity of the safeguarded areas which could also impact the future development of mineral and/or associated transport or added value operations.

The PPG references the BGS document *Mineral Safeguarding in England: good practice advice* when guiding local authorities on what steps to take in respect of safeguarding mineral resources.

It is identified as best practice to include buffers within MSAs to guard against proximal development potentially affecting the mineral resource. It is intended by the BGS guidance, and examples of best practice in that guidance that such buffers should be included in the MSA to ensure maximum protection (see Figure 2 and Case Study 3). When considered against NPPF paragraph 144 bullet point 7 which says lpa should “*not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes;*” the national protection accorded to minerals is intended to be within the designated area of an MSA and not outside of it or even adjacent to it. This is because the MSA should contain all minerals of potential economic value and any areas where development is likely to have adverse proximal effects upon it. The concern is that the approach adopted by the Councils will dilute the protection given to minerals by allowing developers to argue that sites outside the MSA do not enjoy the same protection as sites within it even though they are adjacent to it.

Buffers should apply to mineral infrastructure as well.

As such it is considered that the policy is not effective and therefore UNSOUND.

In addition, the *agent of change* principle should be applied to this policy as per para. 182 of the NPPF so that it complies with National Policy and is effective. An explanation of the agent of change principle should be added to the supporting text for this policy

Suggested Amendments:

The policy should be reworded as follows;

Proposed Changes (deletions in ~~strike through~~; new text in **bold**)

Policy MCS 5

Safeguarding of Minerals and Minerals Infrastructure (see also Policy DM10)

*Warwickshire's sand and gravel, crushed rock, brick- making clay resources, cement raw materials and building stone, **and existing mineral operations**, will be safeguarded against needless sterilisation by non-mineral development, unless prior extraction takes place.*

Safeguarded mineral resources are generally defined by Mineral Safeguarding Areas illustrated on the Maps in Appendix 2. In addition, Minerals Infrastructure safeguarded in Warwickshire comprises:

- *permitted and allocated mineral sites;*
- *concrete batching plants;*
- *mortar plants;*
- *asphalt plants;*
- *concrete products plant; and*
- *recycled and secondary aggregate sites*

These mineral infrastructure sites are listed in Appendix 2 and are identified on the proposal map.

Non-mineral development, except for those types of development set out in Appendix 3, shall not normally be permitted if they would unnecessarily sterilise existing and future mineral sites and mineral infrastructure or prejudice their use by creating incompatible land uses nearby.

All existing, and planned, mineral and mineral infrastructure sites and MSAs will have an additional 500m buffer applied to limit proximity impacts from non-mineral development. In addition, the agent of change principle will apply to all non-mineral development and permission will only be granted where adequate mitigation can be provided by the applicant (the agent of change) to reduce any impacts from the existing or proposed adjacent minerals ancillary infrastructure uses to an acceptable level, and the benefits of the proposed use outweigh any safeguarding considerations.

Policy MCS 7: Building Stone

This policy does not correctly reflect the NPPF and is therefore UNSOUND

The NPPF refers to 'small scale' in terms of determining applications, rather than setting policy. In doing so it requires that the 'small scale nature and impact' of such quarries is taken into account.

It is important that you do not limit dimension stone extraction to local markets or the heritage sector. You should note that building stone is not only reserved for 'historic' purposes (repairs and Conservation Areas) and operators should be free to develop new-build markets like any other entrepreneur. That being so, repairs may be a very small part of production. We should be pleased to see recognition that higher production will not be resisted if it contributes to economic development.

An emphasis of policy on local markets or small-scale working is likely to discourage applications. Our members report problems because they are being limited to 'local markets' which reflects the historic circumstances of the industry and the emphasis on heritage end uses. A 'local market' means restricted outlets, low volumes and low turnover/operating profit. This scenario does not allow the operator to invest in the technology and training which is increasingly being required of him, and his low sales forecast means that he will be turned away by his bank manager for loans to keep the business going. This is a serious threat to continuity of security of supply. Conversely, serving wider markets makes it easier to guarantee that stone will also be available to serve the local market. Emphasising local markets and small-scale operations like this is merely descriptive of the traditional character of the industry and should not be prescriptive since it is changing rapidly in the light of regulatory drivers and commercial pressures and must expand in order to survive. We should prefer policy to omit implications that dimension stone production needs to be controlled or curtailed, which we believe is against the spirit and purpose of NPPF.

If the aim of the policy is to reduce environmental (principally landscape) and amenity impacts of extraction, and processing and/or transport, then this should be clarified. The impacts of stone quarries, and the significance and acceptability of these impacts, as for other types of mineral or any other development, will depend on the location, design, operation and management of the quarry, including mitigation.

The NPPF provides specific advice on building stone quarries, stressing the small-scale nature and impact of such operations, and the need for a flexible approach to their working. It also refers to '*small scale extraction of building stone*' specifically in relation to '*relic quarries*'.

Suggested Amendment:

The policy needs to be redrafted as follows to make it more positive and to properly reflect the NPPF.

Proposed Changes (deletions in ~~striketrough~~; new text in **bold**)

Policy MCS 7

Building Stone

The MPA will support the extraction of building stone ~~from small-scale quarries~~ where it can be demonstrated:

- a. there is a need for the material; and*
- b. there are no suitable, viable and more sustainable alternative sources available; and*

- c. the scale, extent and location of the proposed quarrying are such that adverse impacts upon the environment and amenity can be avoided or adequately mitigated; and
 - d. it will positively contribute towards the maintenance of the historic built environment and will encourage local distinctiveness and good quality design **in place making**; and
 - e. any working of minerals for non-building stone purposes will not prejudice the ability to satisfactorily achieve previously approved or acceptable in principle proposals for future site restoration that accord with
- f) the incidental production of building stone in association with the working of crushed rock**

Policy DM1; Protection and enhancement of environmental assets and landscapes

The final paragraph of this policy needs amending to properly reflect the requirements of NPPF.

Policy DM1

Protection and enhancement of environmental assets and landscapes

Mineral development should protect, conserve, and where possible enhance, environmental assets and landscapes (the natural environment) by ensuring that there are no unacceptable adverse impacts upon:

- a. the quality and character of the landscape;
- b. natural resources (including water, air and soil resources);
- c. biodiversity;
- d. geodiversity.

Mineral development proposals should demonstrate that nature conservation sites, species, and habitats (an indicative list of sites, species, and habitats is contained in Table 9.1) of international and national importance will be preserved or conserved and, where possible, enhanced. The level of protection to be afforded to the asset will be commensurate with its designation and significance. Any mineral development proposals which would have adverse effects on the integrity of any European Site (Natura 2000 sites) (either alone or in combination with other plans and projects) will not be permitted unless:

- a. there are no alternative solutions; and
- b. there are imperative reasons of overriding public interest; and
- c. adequate compensatory measures can be taken to ensure the overall coherence of Natura 2000 is protected.

Proposals should also maintain or, where possible, enhance biodiversity and recognised sites, species, and habitats (an indicative list of sites, species, and habitats is contained in the table below) of sub-regional or local importance. The level of protection to be afforded to the asset will be commensurate with its level of importance and contribution to wider ecological or geological/geomorphological networks.

Planning permission will not be granted for mineral development which will result in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the mineral development in that location clearly outweigh the loss.

Mineral development proposals will be supported where they deliver a net gain in biodiversity and contribute to establishing a coherent and resilient ecological network subject to compliance with other policies in the development plan.

~~*Planning permission for major minerals development in a designated AONB will be refused except in exceptional circumstances and where it can be demonstrated that it is in public interest.*~~

Where development is proposed in the Cotswold AONB and where the development comprises major development due to its scale and the nature, proposals will need to meet the requirements for major development set out in the National Planning Policy Framework.

Policy DM8; Aviation Safeguarding

This policy is not effective and is as such UNSOUND.

The policy is currently too widely drawn and needs to better reflect the supporting text if it to be an effective and reasonable policy.

Suggested Amendment:

The Policy needs to be redrafted as follows;

Proposed Changes (deletions in ~~striketrough~~; new text in **bold**)

Policy DM8

Aviation Safeguarding

~~*Planning permission will not be granted for mineral development proposals where they would have an unacceptable adverse impact on aviation safety.*~~

Mineral development within the safeguarding areas of airports or aerodromes will only be permitted where it can be demonstrated that the development and associated operations and restoration would not constitute a significant hazard to air traffic.

Policy DM 10; Mineral Safeguarding (see also Policy MCS 5)

The policy while supported needs adjusting to make it effective and compliant with National Policy

Proposed Changes (deletions in ~~striketrough~~; new text in **bold**)

Policy DM10

Mineral Safeguarding (see also Policy MCS 10)

*Non-mineral development, except for those types of development set out in Appendix 3, will not be permitted if it would needlessly sterilise ~~important~~ mineral resources or would prejudice or jeopardise the use of existing **or planned** mineral sites or existing and future mineral infrastructure unless:*

- a. the prospective developer has produced evidence prior to the determination of the planning application that clearly demonstrates that the mineral concerned is no longer of any value, or potential value or the minerals infrastructure is no longer needed; or*
- b. it would be inappropriate to extract mineral resources at that location, with regard to the other policies in the Plan: or*
- c. it can be clearly demonstrated that the mineral will be extracted prior to the development taking place; or*
- d. the non-mineral development is of a temporary nature and can be completed and the site restored before the mineral needs to be extracted; or*
- e. the merits of the development clearly outweigh the need for safeguarding.*

In all cases the 'agent of change principle 'will be applied to the proposed development that impacts existing or planned mineral sites or resources and mineral infrastructure.

Proposals for the extraction of minerals prior to, or as part of, non-mineral development will be supported where:

- a. it is practicable and will not result in the approved non-mineral development being incapable of implementation and development; and*
- b. it is environmentally feasible; and*
- c. it can be carried out without any unacceptable adverse impacts; and*
- d. it can be carried out within a reasonable timescale: and*
- e. proposals are submitted which clearly demonstrate that the site will be restored should the approved non-mineral development be delayed or not implemented.*

Policy DM12: Overall Assessment of Proposals

This policy has not been positively prepared as required by the NPPF at paragraph 157 and as such is UNSOUND.

Development management policies on specific topics/issues should require impacts to be avoided, minimised, mitigated and as last resort compensated for. It is unnecessary to have this policy which has the effect of acting as a catch all which could be used to frustrate development.

Suggested Amendments:

Policy DM12 should be deleted in full as should the supporting text in paragraph 9.139.

The MPA wish to be kept informed of the progress of the mineral plan and would like to attend the oral part of the examination/EiP in respect of the representations above.

M E North

7/12/2018