

Derbyshire and Derby Minerals Local Plan Spring 2018 Consultation

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

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The MPA has the following comments;

Chapter 2 – Spatial Context.

Under the subheading *Mineral Resources* (para 2.28 – 2.32) no mention is made of building stone amongst the list of minerals extracted in Derbyshire. This oversight needs to be rectified please.

We welcome the recognition the extractive industry plays in its contribution to the local and wider economy under the subheading *Contribution to the Local Economy*.

Chapter 3 – Vision and Objectives

Under *The Vision* section and specifically the section the *Protection of the Peak District National Park* which states in part *assisting in achieving a progressive reduction of minerals obtained from sites in the Peak Park* is not consistent with National Planning Policy Framework (NPPF) and is therefore UNSOUND.

Notwithstanding The Peak District National Park (PDNP) Core Strategy, which predates NPPF, seeks to reduce mineral extraction from the National Park and is in our view unsound in the present policy climate, does not allow DCC to produce unsoundness into their own Plan.

There is no National Policy basis for such an approach, which in affect is a policy of managed retreat for minerals from the PDNP, and would make the plan unsound . NPPF paragraph 144 (bullet 2) states;

***as far as is practical*** (emphasis added), provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage sites, Scheduled Monuments and Conservation Areas;

In the event a mineral development is proposed, and is considered major development, then it will be tested against paragraph 116 of NPPF otherwise known as the '*major development test*'.

There is not a blanket restriction on future mineral development in National Parks nor should paragraph 144 be seen as justifying a policy of managed retreat of mineral

development from the National Park areas as some would have it. The words ‘as far as practical’ are key as the words reflect the fact that minerals can only be worked where they occur, and it may not be viable or practical or viable to provide for or extract minerals from outside the National Parks and ensures that finite workable mineral resources are not sterilised in the interests of sustainable development.

Furthermore, such a restriction would be against the requirements of paragraph 28 of NPPF which requires local plans to support the rural economy.

In addition to NPPF paragraph 28 and, we refer to the *English National Parks and the Broads: UK Government Vision and Circular 2010*. This aims to capture the statutory purposes and duty of the Authorities in a modern vision (paragraph 11). The Circular has specific guidance on minerals and states that the Parks are a vital source of minerals that society and the economy need, recognising that quarrying provides employment. It advises that the need for minerals, the impacts of extraction on people and the environment should be managed in an integrated way (paragraph 141).

The Circular also states that the Parks’ socio-economic duty has been given added weight by the Taylor report and the Rural Advocate’s report on the potential of rural England. It continues: -

*“Both reports point to the need to accommodate growth, development and investment in all rural areas at an appropriate scale and form. This should **not be interpreted as meaning that development cannot be accommodated**; (emphasis added) rather, it means that additional and concerted efforts are required to ensure communities, planners and business have clear consistent advice regarding the acceptable forms development might take, so that the Park communities are places where people can live and work by maintaining sustainable livelihoods.”* (Paragraph 70)

It is important to note that the PDNP Core Strategy, which DCC appears to be basing this part of its Vision, predates the current NPPF being adopted in 2011 and is overdue for review as required by PPG ID: 12-008-20140306. Furthermore, The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017, regulation 4 “*Review of local development documents*” states that reviews of local plans must be completed every five years, starting with the date of adoption of the local plan. This regulation came into force on 6 April 2018.

There is an argument in this case that NPPF should take precedent over the Core Strategy. Notwithstanding this DCC approach is UNSOUND and it is suggested this part of the vision is deleted.

## The Objectives

In respect of *Objective 4- Safeguarding Mineral Resources and Facilities* while welcomed, should include the principle of the *agent of change* introduced in the NPPF revision currently out for consultation. It is felt that this will assist District Councils dealing with non-mineral development near or on mineral safeguarded areas as well as DCC in respect on mineral infrastructure.

The revised draft NPPF at paragraph 180 states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses and facilities should not have unreasonable restrictions placed on them because of development permitted after they were established. The paragraph goes on to confirm that where an existing business or community facility has effects that could be deemed a statutory nuisance in the light of new development in its vicinity (including changes of use), the applicant (or 'agent of change') should be required to secure suitable mitigation before the development has been completed.

The principle of *agent of change* has recently been put forward in the London Plan as follows;

- *The Agent of Change principle places the responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive development.*
- *Reflecting the Agent of Change principle to ensure measures do not add unduly to the costs and administrative burdens on existing noise-generating uses*

## Objective 7 – Protecting the PDNP

This objective is considered UNSOUND for the reasons expressed above in respect of the Plans proposed Vision, in respect of seeking a reduction in mineral extraction from the Peak Park. The last sentence of this objective should be deleted.

## Policy SMP2

The words *if practical* should be added to the third bullet so it reads;

- Where alternatives to road transport have been considered *if practical*.

## Sand and Gravel

We are concerned that under the section *Additional Requirements (p 89)* DCC have not properly considered the requirements of NPPF in that the calculation of the

requirement for sand and gravel provision only the 10-year average has been considered.

Paragraph 145 of NPPF requires mineral planning authorities plan for a steady and adequate of aggregates by:

- *Preparing and annual Local Aggregate Assessment.....based on a rolling average years sales data **and other relevant local information** (emphasis added)....*

The PPG for Minerals (ID 27-064-20140306) states that LAAs **must** (emphasis added) *consider other relevant information in addition to the 10 year rolling supply, which seeks to look ahead at possible future demand, rather than rely solely on past sales....*

*Authorities should also look at average sales over the past 3 years in particular to identify the general trend of demand as part of the consideration of whether it might be appropriate to increase supply.*

DCC appear to have relied only on the 10-year average to decide the supply requirements for sand and gravel over the Plan period. This is UNSOUND and not planning positively in the plan making process.

The period that the 10-year average was taken was for a considerable part recessionary. Using DCC own figures and applying the average of the last 3 years sales we get a figure of 1.123 MT annual requirement as opposed to the 1.04 MT using just the 10-year average. Applying these figures gives a shortfall over the Plan period of 3.19 MT not 2.03MT.

At paragraph 6.2.54 says that *local factors ...have been considered and these suggest that a continued supply of sand and gravel will be required from Derbyshire.* No attempt has been made to quantify this supply as required by guidance and National Policy. This needs to be addressed in the Plan.

#### Policy MS1: Supply of Sand and Gravel

This policy is UNSOUND for the reason stated above. The second bullet point needs redrafting as follows;

- Maintaining a landbank of at least 7 years ~~based on the past 10 years average sales;~~

## Policy MS6: Helping to Reduce Quarrying in the National Park

This policy is not consistent with National Planning Policy and is therefore UNSOUND.

Clearly DCC have predicated Policy MS6 on the PDNPs Core Strategy aim to see a reduction in mineral extraction from within the Park area. The PDNPs interpretation of National Policy is simplistic and partial especially in the context of the core strategy which predates the current NPPF.

National planning policy, as set out in the NPPF, requires that '*great weight*' is given to the benefits of mineral extraction, and that planning authorities should '*as far as practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks...*' (para 144)

The '*as far as practical*' clause is important as it reflects the fact that minerals can only be worked where they occur, and it may not be practical or viable to provide for or extract material from outside of National Parks and ensures in the interests of sustainable development that finite workable mineral resources are not sterilised.

Para 116 of the NPPF also provides further qualification about the public interest and exceptional circumstances that may justify permitting major development (including mineral extraction) in National Parks, including the following considerations:

- *The need for the development, including any national considerations, and the impact of permitting it or refusing it, upon the local economy;*

Minerals are essential to support economic growth and our quality of life (NPPF para 142). This includes aggregates for construction and building stone that supply local markets, and industrial minerals that are of national and international importance in terms of size and extent of market.

- *The cost of, and scope for, developing elsewhere outside of the designated area, or meeting the need for it in some other way;*

Minerals can only be worked where they occur, and locally, nationally and internationally important resources occur and can be concentrated within National Parks, including the PDNP. Extraction involves substantial investment in gaining consent, mitigation of impacts, and in access, processing and transport. The scope for development elsewhere is often not practicable or may incur excessive costs and other economic and environmental impacts.

- *Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

Minerals development usually includes considerable mitigation in terms of physical development and operation, to make the development and its impacts acceptable. Quarrying is essentially a temporary activity, even though this may be over several decades, and restoration offers opportunities for enhancement particularly for recreation and biodiversity.

The stated aim to *continue to enable progressive reduction in mineral working in the National Park* constitutes a policy of *managed retreat* for minerals from the National Park which is far in excess of the requirement of National Planning Policy and is unsound. As previously stated the *'as far as practical'* clause is important as it reflects the fact that minerals can only be worked where they occur, and it may not be practical or viable to provide for or extract material from outside of National Parks and ensures in the interests of sustainable development that finite workable mineral resources are not sterilised.

For DCC to effectively support this aim of managed retreat for minerals from the National Park is not consistent with the NPPF and is UNSOUND. The Policy and supporting text should be deleted in full.

In support of the concerns expressed by the MPA on this topic we refer to the recent *West Sussex Joint Mineral Local Plan (Schedule of Proposed Modifications January 2018)* and specifically MMI and MM2 on page 3&4 on the document which are reproduced below.

Ref. No.	Old ref. No.	Part of Plan (Para / Policy / Table / Fig)	Proposed Modification	Reason for Modification
<b>Executive Summary</b>				
MM1		1st paragraph under heading "Chapter 2: Vision and Strategic Objectives"	The Authorities want economic minerals in West Sussex, which mainly comprise Aggregates, Silica Sand, Clay, Chalk, Stone and Hydrocarbons, to be produced and managed in a sustainable way. To that end, minerals resources will be safeguarded and exploited in a manner which <b>only</b> sees <b>minerals development</b> a move away from activity within the South Downs National Park (SDNP) <b>take place in exceptional circumstances and in the public interest</b> . The activity of minerals importation to wharves and railheads in West Sussex will be safeguarded from other non-minerals development. The replacement of primary minerals with secondary and recycled materials will be promoted. Provision of minerals will take place in ways that protect public amenity and the special character and environment of the County.	To ensure the Plan is consistent with national policy concerning development within National Parks
MM2		4th paragraph under heading "Chapter 6: Strategic Minerals"	<del>With regard to the production of minerals from within the South Downs National Park, the strategy is to allow existing sites to be worked and not to plan for any specific additional capacity. This situation will be monitored in case exceptional circumstances were shown to exist in future which would merit the future provision of</del>	To ensure the Plan is justified and consistent with national policy

West Sussex Joint Minerals Local Plan Schedule of Proposed Modifications  
Page 3 of 44

Ref. No.	Old ref. No.	Part of Plan (Para / Policy / Table / Fig)	Proposed Modification	Reason for Modification
		Supply"	additional supplies sourced from within the SDNP.	
MM3		Text under heading "Chapter 7: Strategic Minerals Site Allocations"	Chapter 7: Strategic Minerals Site Allocations The only allocations for <b>an</b> additional minerals sites <b>is</b> are as follows: <ul style="list-style-type: none"> <li>An extension to West Hoathly claypit (clay).</li> <li><del>Ham Farm, Steyning (soft sand)</del></li> </ul> The broad locations of the allocated sites <b>is</b> are shown on the Key Diagram and the boundary identified on <b>Policies</b> inset Maps. 'Development principles' for the sites have been identified, <b>which are</b> that is, specific issues that will need to be addressed at the planning application stage, as and when proposals come forward for the allocated site.	To ensure the Plan is justified and consistent with national policy
<b>Chapter 1: Introduction to Minerals Planning</b>				
MM4		Para 1.3.1	Amend last sentence: It also allocates <b>a</b> strategic minerals sites for clay <b>and soft sand</b> and includes a monitoring and implementation framework.	To reflect the deletion of Ham Farm (Policy M11)
<b>Chapter 2: Vision and Strategic Objectives</b>				

The above modifications were made at the direction of the Inspector (Jonathan Manning) as the original proposal by West Sussex was to have in effect a managed retreat of mineral working from the National Park which was considered unsound and not consistent with National Policy concerning development in National Parks. We believe a similar circumstance exist with the policy proposal put forward in Policy MS 6. A link to the full West Sussex Modification schedule is below.

<http://www2.westsussex.gov.uk/mlp/md002.pdf>

## Chapter 7 Supply of Non-Aggregates

We believe that DCC are misinterpreting the NPPF in respect of building stone operations. The apparent justification for dismissing any consideration of allocating sites has been set out in paragraph 7.1.42 where DCC state;

*However, the NPPF recognises the need for **only** (emphasis added) small-scale building stone extraction.*

The effect of the proposed wording above is to limit building and roof stone proposals beyond the requirements of National Policy and is wrong and hence is unsound. The Plan should be more encouraging of building stone quarries, and plan positively for these and reflect the economic, social and environmental importance of supply of building stone. The NPPF (para 144) refers to '*demand for small scale extraction of building stone*' in terms of determining applications, rather than setting policy. And it importantly qualifies the policy by doing so in the context of sites '*at or close to relic quarries*'. This is only applicable to a small proportion of building stone demand, much of which is national or international in scope and used for new build applications, not just for the heritage market. In doing so it requires that the '*small scale nature and impact*' of such quarries is taken into account. '*Small-scale*' is not defined, and so should reflect local circumstances, including the market for the material which may be wider than '*local*' as described above and should not be restricted to a planning authority area which would make no sense in terms of commercial or planning considerations. Indeed, many building stone operations simply will not be commercially viable if they are only able to supply the '*local*' market that exists within the planning authority area – which is likely to be too small, and too infrequent. The demands for such products are just as likely to arise outside the Plan area as within.

It should also be remembered that most of building stone in the UK is quarried in medium sized sites which also produce aggregates, either as the main product or as a by-product of a building stone business model.

We also believe paragraph 28 of NPPF is relevant where local plans should support rural enterprise and clearly DCC approach fails this test as well.

### Policy MS7: The Provision of Building Stone

The second bullet of this policy states;

- *There is a need for mineral of a specific character to be worked in that particular location.*

This bullet should be deleted in full. There is no requirement to show need. Any proposal should be judged on land use planning criteria. By the time an operator could show need the opportunity to supply a specific project will be gone.

Paragraph 114 of NPPF is not to be interpreted by planning authorities that building stone must be '*small-scale*' which is the effect of the above bullet point. There is no logic to this thinking. Why should a particular sector of an industry be limited to only *small-scale* operations? Building stone companies have just as much right to be entrepreneurial and look to expand their markets as any other part of the extractive industry. All this would benefit the rural economy in line with NPPF para 28.

It is important that DCC do not limit building 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. However, it is important that the authority does not artificially seek to impose restrictions but allows any expansion of the operation (subject to environmental safeguards) without decreeing maximum production levels or prohibitions on aggregates production or limits to reserves, for example. All these restrictions are commonly met by our members in their businesses on the mistaken assumption by local government that building stone operations must be small and confined to be acceptable. We look forward to a flexible approach being adopted in the emerging mineral plan.

In particular, 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. 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. 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.

M E NORTH

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