

Herefordshire Draft Minerals & Waste Local Plan Jan 2019; Representation on behalf of the **Mineral Products Association (MPA)**.

Contact:

Mark E North, (Director of Planning Aggregates and Production)

Gillingham House, 38-44 Gillingham Street, London, SW1V 1HU.

Tel: 07568 427719 Email: mark.north@mineralproducts.org

The MPA has various comments on the draft plan and these are set out below. We would like to be kept informed of the plan progress and would like to appear at the Examination in Public.

Comments on the Draft M&WLP

Para 3.3.4

The first sentence of this paragraph does not properly reflect the NPPF and therefore is unsound. NPPF para 205 (a) requires that;

***as far as practical** [emphasis added], provide for the maintenance of landbanks of non-energy minerals from outside National Parks.....*

It is suggested that the text of this paragraph is changed as follows;

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

*The NPPF **states that mineral planning authorities should, as far as far as practical, provide for the maintenance of landbanks of non-energy minerals from outside** ~~also places emphasis upon conserving important landscape and heritage assets by requiring that landbanks for non-energy minerals are provided outside~~ National Parks, Areas of Outstanding Natural Beauty, Scheduled Monuments and World Heritage Sites.*

It is noted that you have the properly reflected the NPPF on this issue in paragraph 3.4.1 (3rd bullet point).

Para 3.4.1 (17th bullet point)

Our concern with the text under this bullet point is that there is no recognition of the hierarchy of importance for the various types of nature conservation

assets, and heritage assets that must be taken into account when testing development proposals. This is made clear as a requirement in NPPF para 171 and para 189. As such the text as drafted is unsound and should be redrafted to properly reflect the NPPF.

Draft MWLP Objectives ; Objective 3

The MPA support the principle of this objective but it does not go far enough in that it does not mention added value operations e.g. concrete batching plants, coated stone plants, block making plants, secondary aggregate recycling sites.

To make this objective effective the text should be altered as follows;

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

*To safeguard ~~appropriate~~ mineral and waste resources, **and added value operations (e.g. concrete batching plants, coated stone plants, block and bagging plants, secondary aggregate recycling centres)** within Herefordshire and the associated transport infrastructure for the future.*

Draft MWLP Objectives; Objective 6

This objective while supported in principle does not reflect properly the NPPF.

The NPPF at para 207 requires that;

*Local planning authorities should plan for a steady **and adequate** [emphasis added] supply of aggregates.....*

Suggested text change as follows;

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

*To plan for the steady and ~~sustainable~~ **adequate** supply of minerals present within Herefordshire, to contribute to the county's economic growth, development and local distinctiveness and to make **the required** ~~a reasonable~~ contribution to the MASS.*

Para 5.5.14

We support the first part of this paragraph requiring that major developments should have a resource audit but do not feel it is explicit enough. The MPA

have been pressing Government for a considerable time to require resource audits on major development to identify the quantity and source of construction aggregates to allow effective planning by industry and mineral planning authorities.

We suggest the text of this paragraph is modified as follows;

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

*Any application for major development, defined as residential development of 10 units or more or 0.5ha or more, and all other development of 1ha or more will be required to be accompanied by a Resource Audit. Resource Audits will identify ~~(quantifying where possible)~~ the approach to materials used in construction, **the quantity of construction aggregates to be used, and** how waste will be minimised, what waste will be generated from the development and how this will be managed to promote the recovery of materials and/or energy from it.*

Policy SS8 : Resource Management

In respect of the comments immediately above this policy needs adjusting as follows;

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

*2. the provision of a Resource Audit that identifies the approach to sourcing, **and the quantum of** construction materials and the amount and type of waste which is expected to be produced by the development, both during the construction phase and once it is in use. The Resource Audit will set out how waste will be minimised and how it will be managed, in order to meet the strategic objective of driving waste management up the waste hierarchy. Information appropriate to the planning application shall be provided on the following matters:*

a. the amount and type of construction aggregates required and their likely source;

***b &** the steps to be taken to minimise the use of raw materials (including hazardous materials) in the construction phase, through sustainable design and the use of recycled or reprocessed materials;*

c. the steps to be taken to reduce, reuse and recycle waste (including hazardous wastes) that is produced through the construction phase;

d-e. the type and volume of waste that the development will generate (both through the construction and operational phases);

e. on-site waste recycling facilities to be provided (both through the construction and operational phases); and

f. the steps to be taken to ensure the maximum diversion of waste from landfill (through recycling, composting and recovery) once the development is operational.

Policy SD5 :Site Reclamation

In order to make this policy effective there needs to be adjustment to part b) of the policy as follows;

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

*b. proposals that deliver landscape scale benefits and/or integrated green infrastructure **when and where practical and** appropriate to its location;*

It will not always be in the developer's gift to provide landscape scale benefits as this comes down to the control of land outside of the development often. Hence to make the policy effective and therefore sound the above changes are required.

Policy M2 : Safeguarding of Mineral Resources from Sterilisation

The MPA supports the principle of this policy however it is unsound in that is not considered effective nor does it fully accord with the NPPF.

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 204 (c)

which says planning policies should *safeguard mineral resources by defining Mineral Safeguarding areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral where this should be avoided.....* 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 Council 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. Accordingly, buffers need to be applied to the policy to make it effective and in accordance with national policy.

Furthermore, in the event consent is granted for non-mineral development the *agent of change* principle needs to be applied as required by para 182 of the NPPF.

For the reasons above text change is required to the policy as follows;

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

*Within the minerals safeguarding areas **and within a buffer of 250m from the boundary of any mineral safeguarding areas, and within 250m from a permitted mineral operation** non-minerals development will only be permitted in the following circumstances:*

*a. the development would not sterilise or prejudice the future extraction of the mineral resource because it can be demonstrated that the resource: is not of economic value; occurs at depth and can be extracted in an **economic** alternative way; does not exist or has been sufficiently depleted by previous extraction; or*

b. the mineral can be extracted satisfactorily prior to non –minerals development without materially affecting the timing and viability of the non-minerals development; or

c. the non-minerals development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or

*d. the need for the non-mineral development is strategic and can be **clearly** demonstrated to outweigh the need for the mineral resource.*

If permission is granted for non-mineral development the agent of change principle will be applied to that development to ensure that future extraction of mineral resource protected by a mineral safeguarded area, and its buffer is not in anyway prejudiced.

Additional Policy Required; Safeguarding of Mineral Infrastructure and Added Value Operations.

Although the safeguarding of mineral infrastructure is mentioned in objective 3 of the draft plan there is no specific policy on the topic. It is felt that this makes the plan unsound as it is not in accordance with NPPF and is not effective. Furthermore, added value operations also need to be covered by such a policy. All such facilities need to be listed and identified on the policies map.

NPPF at para 204 (e) is explicit when it states that;

Planning policies should:

- e) safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material;*

Furthermore, the agent of change principle should be applied to any such policy as set out in para 182 of the NPPF.

Suggested wording for such a policy is set out below;

Additional Policy :

Minerals ancillary infrastructure sites identified on the Policies Map, with a 250m buffer zone, will be safeguarded against development which would prevent or frustrate the use of the site for minerals ancillary infrastructure purposes such as:

a) an existing, planned or potential rail head, wharf or associated storage, handling or processing facilities for the bulk transport by rail or sea of minerals, including recycled, secondary and marine-dredged materials, and/or;

b) an existing, planned or potential site for concrete batching, the manufacture of coated materials, other concrete products or the handling, processing and distribution of substitute, recycled and secondary aggregate material;

applicants will be required to demonstrate to the County Council that those sites no longer meet the needs of the minerals industry. Where this is not the case, satisfactory alternative handling facilities should be made available by the developer.

Where development is proposed within an identified buffer zone the 'Agent of Change Principle' will be applied in that the responsibility, and cost for mitigating impacts from existing noise-generating activities or uses will be placed on the proposed new noise- sensitive development and any such measures will not add to the costs and administrative burdens on existing noise generating uses.

Para 6.2.5

In this paragraph it states that the *Local Aggregate Assessment will be updated regularly*. The NPPF requires that the LAA is updated annually. The word *regularly* needs replacing with *annually*.

Policy M3: The winning and working of sand and gravel

The policy needs to be explicit that there is a requirement to maintain a landbank of at least 7 years throughout the plan period. Furthermore, there is now a statutory requirement (para 33 of NPPF) to review the plan at least every 5 years. As currently drafted the policy is unsound.

Suggested changes to the policy are set out below;

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

1. A landbank of at least 7 years of sand and gravel will be maintained throughout the plan period. Total provision for sand and gravel over the plan period to 31 December 2031 will be 4.5 million tonnes. Additional provision shall be made **as required and in event** through ~~a mid-term~~ review **at least every 5 years** ~~if necessary~~ to maintain a landbank of at least seven years for sand and gravel at 31 December 2031 based on an annual rate of provision to be determined through the review.

Policy M4: The winning and working of crushed rock (limestone)

The policy needs to be explicit that there is a requirement to maintain a landbank of at least 10 years throughout the plan period. Furthermore, there is now a statutory requirement (para 33 of NPPF) to review the plan at least every 5 years. As currently drafted the policy is unsound.

Suggested changes to the policy are set out below;

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

- 1. A landbank of at least 10 years of crushed rock will be maintained throughout the plan period.** Total provision for crushed rock over the plan period to 31 December 2031 will be 7.5 million tonnes. Additional provision shall be made **as required and in any event** through ~~a mid-term~~ review **at least every 5 years**, ~~if necessary~~, to maintain a landbank of at least ten years for crushed rock at 31 December 2030, based on an annual rate of provision to be determined through the review.

Policy M5: The winning and working of sandstone

The MPA are supportive of the working of building stone and support the policy in principle. However, as drafted the policy is unsound as it is not in accordance with national policy nor is it positively prepared in that it is overly restrictive.

The MPA believes that at drafted the policy has misinterpreted the NPPF. Any policies in respect of building stone should encourage building stone quarries, and plan positively for these and reflect the economic, social and environmental importance of supply of building stone. The NPPF (paragraph 205(g)) states '*recognise the small scale nature and impact of building and roofing stone quarries...*' in terms of determining applications, rather than setting policy. In doing so the NPPF 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*' and should not be restricted to a planning authority area which would make no sense in terms of commercial or planning considerations. Indeed, many small sites 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 planning authority area as within it.

It is important that dimension stone extraction is not limited 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. So, 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 in order to be acceptable.

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.

Furthermore, the policy does not support the rural economy as required by para 83 of the NPPF.

The policy needs rewording as follows;

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

*~~1. In order to maintain an adequate supply of sandstone to preserve local distinctiveness within Herefordshire, p~~ **Proposals for sandstone extraction will be permitted for:***

a. the extension of time for completion of extraction at permitted sandstone extraction sites;

b. the lateral extension and/or deepening of workings at the following permitted sandstone extraction sites., ~~subject to the key development criteria set out at Annex A:~~

- Black Hill Delve; and/or*
- Llandraw Delve; and/or*
- Westonhill Wood Delves;*

c. the opening of new sites for sandstone extraction at appropriate locations, including micro-scale extraction on or adjacent to existing historic buildings or structures and new build developments., ~~where the extracted materials will only be used in connection with the identified project~~

*2. Such proposals will be permitted where **they are in accordance with other policies in the Local Plan***

~~a. the need for the material for the preservation of local distinctiveness, particularly features of local historic or architectural interest, listed and vernacular buildings or archaeological sites, outweighs any material harm extraction might cause to matters of acknowledged importance.~~

~~b. the proposed workings are small scale; and~~

~~c. the proposal is limited to the production of non-aggregate materials, with any overburden and spoils retained on-site and used for its reclamation.~~

We would be grateful to be kept informed of the, progress of the plan and would wish to appear at the Examination in Public.

ME NORTH

28/02/2019