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Dear Sirs,

**MPA RESPONSE TO THE DEFRA “BALANCE OF COMPETENCE” REVIEW**

Thank you for the opportunity to submit evidence on the Government review of the balance of competences between the United Kingdom and the European Union on issues of environment and climate change.

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.

The MPA wishes to submit evidence only in relation to questions 1, 2, 3, 4 and particularly question 6.

**Advantages and disadvantages**

*1. What evidence is there that EU competence in the area of environment and/or climate change has:*

*i. benefited the UK / your sector?*

The EU EIA Directive, Water Framework Directive, Waste Framework Directive have provided a consistent basis for the development of the regulatory legislation that applies to the mineral industry across the different administrations in the UK.

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*ii. disadvantaged the UK / your sector?*

The high level or even absolute protection afforded to discrete elements of the environment by EU Directives (Habitats, Birds, Water etc) is difficult to reconcile with the balance-of-interests approach to decision-making by which land use in the UK is regulated through the planning system.

For the same reason, such protection is not compatible with the delivery of sustainable development which is based on the collective consideration of social, economic and environmental interests in combination. This process cannot be prejudiced by valuing any one interest over others ahead of a planning decision. No high level protection is provided by the EU for mineral resources and by virtue of that, minerals interests will always be secondary to the protection of certain species, habitats, water resources, etc.. This is despite the fact that minerals are universally accepted as being essential to society, options for their exploitation are limited to the places where they occur and they are finite.

**Internal market and economic growth**

*3. To what extent do you consider EU environmental standards necessary for the proper functioning of the internal market?*

The environmental standards applicable to the minerals industry in the UK have evolved in the light of experience and extensive research over many years. EU environmental standards have done nothing to improve the environmental performance of the industry which is already of the highest level.

*4. To what extent does EU legislation on the environment and climate change provide the right balance between protecting the environment and the wider UK economic interest?*

In addition to the issues set out in response to 1ii above, MPA members are of the view that the legislation, policy, practice and guidance that is being introduced in the UK in response to EU legislation is not always aimed at providing the right balance between these interests.

A fundamental aim of the land use planning system is to contribute to the achievement of sustainable development which in turn has three dimensions: economic, social and environmental. However, despite the fact that the planning system already functions in this way, new regulatory mechanisms are constantly being introduced which erode the primacy of the planning permission, in response to alleged EU requirements.

Principally this relates to new responsibilities given to the Environment Agency for water and mineral waste management. Both of these matters are already taken into consideration and regulated efficiently by the planning system. In the case of mineral waste management this is secondary to comprehensive legislation developed over many years and significantly in response to the 1966 Aberfan disaster. The new regulatory systems add nothing to the effectiveness of regulation and add both unnecessary complexity and cost.

It can be clearly demonstrated that the management and restoration of mineral sites makes a greater contribution to biodiversity gain than any other sector of the development business. These gains have been achieved without the stimulus of EU obligations. Far from assisting in the restoration of mineral sites, the EU-driven waste regulation powers of the Environment Agency continue to frustrate the delivery of biodiversity gain.

Dividing responsibility for specific elements of sustainable development between different decision making bodies makes it much less likely that the right balance will always be struck between environmental protection and the wider economic interest.

The MPA considers that in the future the UK Government would be well advised to consider much more carefully the capabilities of existing regulatory systems and particularly the land use planning system, when they are considering responses to EU legislation.

### Doing things differently

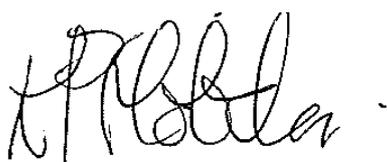
*6. How could the EU's current competence for the environment be used more effectively? (e.g. better ways of developing proposals and/or impact assessments, greater recognition of national circumstances, alternatives to legislation for protecting/improving the environment?)*

The majority of mineral extraction planning applications are accompanied by an Environmental Impact Assessment. The EIA Directive has functioned well as a basis for the process, through regulations in England and Wales first implemented in 1999 and subsequently updated. The EIA Directive is currently being reviewed and the MPA see this as an opportunity for the UK to introduce greater discretion for member states to focus on those aspects of the environment that are most at threat in their individual areas of jurisdiction.

In relation to alternatives to legislation; as explained in response to 4., the MPA consider that alternatives to entirely new legislation should be more prominent in transposition considerations by UK Governments. UK regulatory systems continue to be plagued by "gold plating" thinking from the past which in some cases is a major disincentive to investment in our industry.

This is a major issue at present in relation to water regulation where comprehensive, tried and tested control through the planning system has been rejected for no sound reason as an option for implementation of the Water Framework Directive.

Yours sincerely



Ken Hobden  
Director of Planning