

PLANNING FOR THE SUPPLY OF BUILDING AND ROOFING STONE

The Planning Officers' Society 2008

Extraction of minerals, including building and roofing stone, from the land requires planning permission under the Town and Country Planning Acts. Operations are also subject to the provisions of environmental protection and pollution control legislation thus licences are required, for instance, in respect of abstraction of, and discharges to, water and deposition of wastes.

The planning system

In simple terms, the framework of planning for development has four levels:

- National legislation, supported by planning policy and good practice guidance issued by the Department for Communities and Local Government (CLG) and its predecessor departments;
- Regional Spatial Strategies (RSS) prepared by Regional Assemblies;
- Local development frameworks (LDF) including a local development document, and various associated documents, prepared by local planning authorities (LPAs) ; and
- Planning applications determined by the relevant local authority or, on occasion, by the Secretary of State for CLG.

The development plan for a specific area consists of the relevant RSS together with the LDF.

National policies and guidance

National planning policies for minerals supply are set out in Minerals Policy Statement 1 (MPS1). National objectives are:

- to ensure the prudent and sustainable use of minerals and recycling of suitable materials;
- to conserve mineral resources through appropriate domestic provision and timing of supply;
- to safeguard mineral resources as far as possible;
- to prevent or minimise the production of mineral waste;
- to secure working practices which prevent or reduce, as far as possible, impacts on the environment and human health arising from the extraction, processing or transportation of minerals;
- to protect internationally and nationally designated areas of landscape value and nature conservation importance from minerals development, other than in exception circumstances;
- to secure adequate and steady supplies of minerals needed by society and the economy within the limits set by the environment, assessed through sustainability appraisal, without irreversible damage;
- to maximise the benefits and minimise the impacts of minerals operations over their full life cycle;
- to protect and seek to enhance the overall quality of the environment once extraction has ceased, through high standards of restoration, and to safeguard the long-term

potential of land for a wide range of after uses (mineral extraction is a temporary, although sometimes protracted, use of land);

- to secure closer integration of minerals planning policy with national policy on sustainable construction and waste management and other applicable environmental protection legislation; and
- to encourage the use of high quality materials for the purposes for which they are most suitable.

There is a specific annex dealing with building stone. The MPS is accompanied by a guide to good practices.

In addition, other MPS and Mineral Planning Guidance notes (MPGs) deal with specific detailed advice on control of environmental impacts of mineral extraction:

- MPG5 Stability in Surface Mineral Workings and Tips – stability is administered through the Mines and Quarries (Tips) Regulations 1969 but may also be a planning consideration. There detailed are provisions for assessment, inspection of, and reporting on, slopes.
- MPG7 The Reclamation of Mineral Workings – this sets out detailed advice on restoration and aftercare of sites to a variety of uses (agriculture, forestry, amenity, nature conservation, and built development) including both land and water uses. Information relevant to planning conditions includes that on soil handling, storage and emplacement, soil making materials, landform and landscape, infilling with respectively mineral or controlled wastes, restoration (including removal of plant and machinery, establishing vegetation, use of fertilisers, drainage, irrigation, and control of weeds, livestock and pests), and on standards of, and arrangements for, aftercare.
- MPS2 Controlling and mitigating the environmental effects of mineral working – this covers visual intrusion, dewatering, water pollution, noise, dust/fine particulates, blasting, and traffic, as wells as effects on landscape, agricultural land, soil resources, ecology and wildlife, and sites of nature conservation, archaeological and heritage importance. The aim is to keep impacts to an acceptable minimum by achieving a minimum environmental quality; limiting degradation of the environment and adopting appropriate amelioration measures. It sets out practice for community consultation and involvement and for Environmental Management Systems. Advice on dust and noise takes account of the sensitivity of “receptors” and methods of assessment and reduction. In the case of noise, an upward limit is defined and also a level by which ambient background levels should not be exceeded.
- MPG14 Environment Act 1995 Review of Mineral Planning Permissions – provides advice on the review of minerals planning permissions and the updating of conditions to better reflect current practices.

Guidance in MPSs and MPGs is to be taken into account by Minerals Planning Authorities in preparing policies and plans and determining planning applications, and minerals operators in preparing planning applications.

Regional Spatial Strategies

The Planning and Compulsory Purchase Act 2004 requires the preparation of Regional Spatial Strategies (RSS) by Regional Assemblies to provide a strategic framework for planning at the local level. An RSS is subject to sustainability appraisal, which includes consideration of environmental issues to meet the requirements of the Strategic Environmental Assessment Directive. RSSs are also subject to regular monitoring, review and revision. Draft RSSs are published for public consultation and is examined in public before an independent inspector before it can be finalised. Policies must be evidence based therefore Regional Assemblies require ready access to regional level information when an RSS is prepared, reviewed or revised. It is for the Regional Assembly to decide whether the supply of

building and roofing stone is a regional issue that needs to be addressed by policy in an RSS, or whether it is a more local matter. Policies in RSSs should conform to National policies.

Minerals and Local Development Documents

The Mineral Planning Authority prepares Minerals Development Documents (MDDs) or Local Development Documents (LDDs). MDDs are prepared by county authorities and LDDs by district, unitary and national park authorities. These documents identify mineral resource areas that are likely to be acceptable for extraction if an otherwise suitable planning application is submitted, and areas where resources exist but where extraction proposals are unlikely to be acceptable (e.g. areas subject to international or national nature conservation designations, ancient monuments etc). Areas are identified, after taking account of reserves that are already permitted, to make up the quantities of materials identified in the MPS guideline apportionment. Plans also identify areas where resources should be safeguarded from other forms of development, because of the possible need to extract from these sites in the longer term, and set out policies in respect of development control to reduce environmental impacts of extraction and to secure appropriate high quality restoration of worked land. The draft plan is subject to sustainability appraisal social and economic impacts, and public consultation. It is subject to regular review and revision. Policies in MDD and LDDs should conform to those in RSS and both should conform to national policies and provisions unless there are good reasons for not doing so.

Planning applications

The decision whether to grant planning permission must "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations". It is therefore said to be "plan-led". Thus, planning applications are more likely to be acceptable if they conform to areas identified, in development documents that have already been subject to sustainability appraisal, as suitable for particular purposes.

The relevant Secretaries of State have the power to call in applications for their own determination (in practice, done only sparingly for particularly contentious applications) as well as determining appeals against local authority decisions on the basis of a recommendation by an independent planning inspector.

Environmental Impact Assessment is required for development proposals that may have significant adverse environmental effects. The LPA determines whether EIA is necessary in respect of a planning application. In practice, EIA is required for most minerals proposals.

The LPA, on receiving a planning application, examines it to establish whether it is accompanied by adequate information for it to be determined. If not, the LPA may request reasonable additional information from the applicant. Applicants are encouraged to undertake pre-application discussions with LPA officials to help ensure that proposals conform to policy and are accompanied by all necessary information. Applications set out proposed measures for minimising environmental impacts and nuisance and measures for restoration and after-care of the site to ensure successful subsequent use. All interested parties, including the general public, are consulted on planning applications.

Planning conditions and agreements

Planning consents are normally accompanied by numerous planning conditions to control all aspects of the operations and rehabilitation of the site. Conditions take account of the characteristics of the specific site and control extraction, processing and transport at the site, and rehabilitation to an appropriate after use. Sites restored wholly or partly to nature conservation uses make a major contribution to local Biodiversity Action Plans.

Section 106 agreements (named after a section in the legislation) are negotiated for those matters that cannot be controlled through planning conditions (e.g. lorry routing). However this provision may be overtaken by new arrangements for planning gain supplements that are currently being considered by HM Treasury. Planning conditions and section 106 agreements are enforced by the MPA.

The operator pays for regular inspections of the site. Conditions for rehabilitation of the site to agriculture, forestry or nature conservation uses are subject to review and updating to make sure that these keep pace with current best practices although, in some circumstances compensation may be payable to the operator if conditions are altered.

Matters covered by conditions include, as appropriate, measures to address:

- noise
- dust and air quality
- blasting and vibration [rarely significant in sand and gravel extraction]
- mineral waste
- visual intrusion
- protection of archaeological and heritage features
- protection of habitats
- protection of geological and geomorphological features
- traffic
- groundwater
- surface water
- land instability
- landscape character
- the start date and duration of the permission
- restoration and aftercare

Planning appeals

When a planning application is refused by an MPA or where certain planning conditions are considered to be unreasonable, the applicant may appeal to the Secretary of State for Communities and Local Government. The appeal is considered by an independent planning inspector through written representations, a hearing or a public inquiry. All interested parties are able to make representations. The appeal is determined, on the basis of the evidence and planning policy and documents by the inspector or by the Secretary of State depending on the scale of the development proposal.

Some issues of particular relevance to the supply of building and roofing stone

Annex 3 of MPS1 sets out policy considerations of particular relevance to the supply of building and roofing stone and part of an accompanying good practice guide provides additional information.

Resources of suitable building and roofing stone are geologically relatively scarce therefore there is a limited choice concerning locations at which they can be quarried. These occurrences are not necessarily in the places where the least disturbance to the landscape, habitats and people will take place but, like all other minerals, these can only be worked where they are found, subject to suitable planning and environmental controls.

However, many building and roofing stone operations differ in character from other, more familiar, types of quarries. Although these materials are sometimes produced as by-products at large quarries, most sites are relatively small or even very small. Stone has to be extracted carefully to avoid damage; therefore processes such as production blasting are, as far as possible, avoided in favour of methods such as manually using wedges, hydraulic methods for prising stone apart, and rock saws. Often only small tonnages are extracted, sometimes sporadically (e.g. seasonally). Therefore disturbance during extraction and traffic to and from the site are often significantly less than at large-scale quarries for other materials. On the other hand, low rates of extraction may result in sites being worked over a very long time. Policies for extraction need, where appropriate, to make allowance for these matters. In some operations, there may be significant quantities of waste rock that is unsuitable for building stone but which can be crushed as aggregate if circumstances, and planning permissions, permit. If the material is not used then it may remain in tips for some time before it can be backfilled into the quarry. However some building stone operations produce little waste rock.

Because resources of suitable material are scarce, it is important to safeguard these, as far as possible, from other forms of surface development that might prevent future extraction such as being built over. Sites worked many years ago for major buildings such as cathedrals and castles may have become lost through infilling or natural regeneration. Because of this, and the slow rate of working at many sites, potential conflicts may develop between obtaining suitable stone and conservation of biodiversity, species, and industrial archaeology. However suitable stone, in terms of technical and aesthetic properties, is essential for repair of the cultural heritage and there may be no viable alternatives to the original source. Therefore planning guidance emphasises the need to identify and safeguard important sources of building and roofing stone and for careful liaison between English Heritage, Natural England and the MPAs. Discussion between English heritage and Natural England have taken place and English Heritage has sponsored a programme of research to address the issue.

Supply for new construction is needed both for building in styles compatible with existing local structures and for new prestige developments. Sale of stone for these purposes often keeps a quarry economically viable and thus can underpin the continued supply of stone for repair. Similarly, sale of by products such as crushing of some poorer quality stone for use as aggregates can help to make a site economically viable, although this will also increase the environmental impacts.

Building and roofing stone is sometimes obtained by underground mining. This may reduce surface environmental impacts but needs to be undertaken with care to avoid ground subsidence (see Planning Policy Guidance Note 14 Annex 2 Subsidence and planning).

Environmental licences

Abstraction of water, discharges to water, emissions to the air and deposition of wastes are controlled through licences issued, and enforced, by the Environment Agency. Licences carry conditions for the control of these operations that are site specific. Planning conditions should not normally duplicate licence conditions but, where appropriate, may set more (but never less) stringent requirements than the licence conditions. The measures for depositing minerals wastes, and the responsibilities for licensing this activity, are currently under revision following the adoption of the European Union Mining Waste Directive.

Health and Safety

Extraction and processing sites are subject to stringent Health and Safety requirements under Health and Safety at Work legislation. The Health and Safety Executive Agency also administers the Mines and Quarries Tips Regulations

Voluntary actions

In addition to these requirements, many operators voluntarily undertake additional steps to ensure that sites are well managed. This includes enhanced environmental and safety measures at sites, liaison arrangements with local communities to deal with public concerns, and other activities that provide community benefits e.g. educational facilities). Most large operators and some smaller companies conduct vigorous voluntary schemes to improve staff awareness and performance.

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