

Briefing Note on the Quarrying Industry and the Aggregates Levy, Jan 2002

Executive Summary

The British Aggregates Association (BAA) believes that the aggregates levy cannot be justified on environmental grounds, and that the economic effects will be alarming.

- The levy is most unlikely to increase aggregates recycling, since there is little scope for this to be increased much further (possibly 1% – 3%)
- Serious new problems will be created in dealing with aggregates waste
- It confuses existing contract law and will increase litigation
- There are major flaws in the research behind the levy
- There has been a failure to recognise the environmental benefits of quarrying
- Aggregates quarrying is highly regulated with a statutory requirement to use the “best available technology” to protect the environment, and continues to improve its environmental management
- The levy will hit smaller companies disproportionately hard; they already face major regulatory challenges and have improved their environmental performance
- Import substitution will cause major economic damage to the industry. The Government has underestimated the ease of transporting aggregate to the UK and the price advantages which the levy will hand importers
- Major issues around the practical implementation of the levy remain to be resolved, just weeks before it is due to be implemented. This is delaying the signing of contracts and causing significant commercial damage. Despite this, the Government has so far refused to consider a delay to allow the levy to be implemented sensibly and prevent further unnecessary damage

The Aggregates Industry

- Our infrastructure depends on and benefits enormously from readily available, high grade, cost effective aggregates
- Over 90 per cent of the UK's quarry products are used by the construction industry, which contributes about 10% of the nation's GDP
- Some 40,000 people depend upon the quarrying industry for their livelihoods, many in rural areas where there are limited employment opportunities
- The Government uses nearly 40% of minerals for public sector projects
- Today there are only some 200 private quarries in Britain, compared with over 5,000 in 1960. Five major companies now

claim 80% of output, and control 90% of the downstream markets of ready mix concrete and asphalt, with obvious implications for smaller quarries

- The industry faces some of the toughest environmental regulations in Britain
- From next April, the industry will face a new tax, the aggregates levy, at a rate of £1.60 per tonne. This greatly exceeds profits levels being equal to a 35% increase
- In addition to this, the industry is particularly hard hit by the climate change levy, and fuel duty. Increasing bureaucracy, numerous regulations, and new standards for noise and vibration (which may be technically impossible to meet) all inflict disproportionate costs on the smaller quarry operators. Significant difficulties have also been faced in meeting legislation on maximum working hours, drivers' hours and paternity leave, since highly specialised personnel are required to operate quarrying equipment.

Aggregates Quarrying, the Environment, and the Aggregates Levy

The Aggregates Levy has been justified as an “environmental tax”, with the following reasons given for its introduction:

- “to maximise the use of recycled aggregate and other alternatives to primary aggregate in order to reduce the environmental impacts of quarrying such as damage to biodiversity and visual intrusion.”
- “to reduce waste products”
- “to provide revenue for a Sustainability Fund to tackle the environmental impact of quarrying.”

The BAA believes that the Government’s justification for the tax is seriously flawed.

It is unlikely to increase the recycling of aggregates:

- It is true that a recent survey by the Environment Agency^[1] found that “there is still scope for additional use of construction and demolition wastes”; however the figures show this to be extremely limited. Just 4% of hard (i.e. recyclable) waste is land-filled, with a further small proportion of hard waste recoverable from the 10% of wastes which are soil and hard waste mixed together. If all the hard waste, clean or contaminated, which is currently land-filled, were to be recycled, it would still only reduce demand for primary aggregate by 2.6 million tonnes, or 1 – 2% at most
- Almost all available materials are already recycled, mainly as a result of the landfill tax. At a British Geological Survey seminar in Nottingham in February 2001, experts concluded that some 2 – 3 million tonnes per annum of hard waste available for recycling currently exists. This may rise to a possible 5 – 6 million tonnes longer term, in other words 1% perhaps rising eventually to 2% of total primary aggregate use^[2]

- Incentives to recycle were further enhanced when the construction industry revised its specifications on low quality aggregates, to allow the use of recycled materials.

The tax will not reduce waste products:

- The tax will inevitably generate even more waste by making it impossible to sell low value aggregates. Low grade aggregates are an unavoidable product of the extraction of industrial grade stone, and are often sold at less than £1 per tonne. Even if the £1.60 tax can be mostly loaded onto other products, any price increase is likely to destroy the market, with alternative materials being used
- This will not significantly reduce demand for industrial grade primary aggregate, although a reduction in demand for secondary aggregate will lead to serious problems with new aggregate spoil heaps. In addition, aggregates waste provides high quality inert fills; some of the suggested alternatives will be lower quality.

The levy may unintentionally obstruct environmental improvements:

- Many quarry operators voluntarily make environmental improvements, paid for out of their own pockets. The tax will reduce the profits available to fund this. The Sustainability Fund will constitute less than 10% of the Aggregates Levy collected, which is unlikely to be more than quarries already spend on the environment
- The Sustainability Fund is distributed according to the Barnett formula rather than levels of quarrying, which means Scotland produces 12% of taxable aggregates but will have just 8.6% of the Sustainability Fund to spend on environmental mitigation measures at its quarries.

Environmental Benefits

- “Old tips can become havens for wildlife and biodiversity”^[3]. There are also opportunities for nature conservation resulting from aggregate extraction and site restoration and after-care, including habitat creation, species reintroduction and future land management for conservation. A large number of SSSIs have resulted from quarry restoration
- The availability of local stone is vital for the preservation of the historic built environment
- Sand and gravel operations have often provided tangible public gain with award winning nature reserves, lakes and improvement to agricultural land, such as the Cotswold Water Park and Inverkip Marina.

The environmental case for the levy is flawed. Justification of the tax was based on research commissioned by the then DETR. However there are serious concerns about the methodology used:

- The basic method used in the study is known as contingent valuation – surveying residents and asking them to put a monetary value on closure of their local quarry – to assess the impact of quarrying. At its worst, contingent valuation can simply quantify local “nimbyism”, endorsing unrealistic expectations. No industry has a baseline of zero environmental impact^[4]
- The research shows that the willingness to pay to avoid primary aggregate production in the densely populated and affluent southeastern parts of England is some ten times more than that measured in the remote Highlands of Scotland. Furthermore, only 11.6% of those surveyed gave a positive bid for the impact of quarrying, which means the data used to assess cost came from a vocal minority
- The Government itself has found that “the site may be incorrectly identified as the prime source of concern. This may result either from the source of vibration or noise being wrongly identified by the complainant or from a general dissatisfaction with the site due to other reason.”^[5]
- London Economics did not fulfil the original brief “to evaluate the environmental costs and benefits of aggregate extraction”. No attempt was made to evaluate the benefits of quarrying, such as local infrastructure, local employment, the availability of local stone to preserve the local heritage, and the SSSIs and parks which often result from site restoration; nor was any allowance made for necessity
- No attempt was made to supplement this survey with an assessment of the extent to which impacts are already addressed through planning and regulation. In addition, regulations since the survey have been tightened still further, notably the change from BATNEEC to BAT (which means the “best available technology” must now be used, to protect the environment – standards for compliance are regularly, individually, assessed), reducing the impact of quarrying and leaving the assessment of its cost externalities outdated
- The Northern Ireland Affairs Committee recently found, in their report “Introduction of the Aggregates Levy in Northern Ireland” (December 2001), that: “[The Government’s] research does not withstand scrutiny either as a rationale for discouraging aggregates extraction and encouraging recycling or within the wider Northern Ireland context which was somehow totally overlooked”
- London Economics were also asked to evaluate the environmental costs of recycling operations, using the same methodology. Their report clearly shows the environmental cost of recycling stations as being 28 times greater than some quarries. However this part of the research was not shown in the Phase II report

The levy is unnecessary

- Regulation, when carefully considered, is a more efficient tool for improving standards

- Under the Environmental Protection Act 1990, quarries are subject to integrated pollution control; their total impact is measured and regulated, with unavoidable impacts directed towards the medium best able to cope with them
- The standards set followed the principle of “best available technology not entailing excessive cost” (BATNEEC), which by 2002 will be replaced by a simpler requirement to use the “best available technology” (BAT)
- Standards for compliance with BAT are constantly reviewed in Process Guidance notes, and are tailored to individual quarries
- In addition there are an increasing number of EC Directives, which regulate the environmental impact of quarrying
- Further incentives for best environmental practice exist in the climate change levy, landfill tax, and fuel duty, all of which hit the quarrying industry particularly hard
- The Government has argued, “other European countries also tax aggregates”. However Britain’s aggregates tax will be many times higher: Denmark, for instance, only charges 3 kroner per tonne, about 25p. Sweden has introduced a tax on sand and gravel but not on crushed rock, it is set at 0.6 euro/tonne or 36p. France has set a levy of 6p per tonne, whilst Holland has postponed a decision and Germany and Ireland have no plans to introduce the tax
- Minerals Planning Guidance 11 and 6 are currently being revised. They are lengthy documents strictly regulating all environmental aspects of quarrying. Planning legislation already ensures higher standards than in many other industries, and is currently under review
- The level of aggregates quarrying is not increasing – there is no urgent need for new measures.

The Aggregates Levy will cause environmental problems of its own.

- It is recognised that much more power is required to re-cycle than to produce primary aggregate. In addition, the distance aggregates must be transported for recycling – to and from the recycling plant – has obvious economic and polluting effects. Unpublished evidence from a DETR commissioned report suggests the environmental cost of recycling could be up to 28 times that of a hard rock quarry outside a National Park^[6]. Whilst the quarrying industry does not oppose recycling aggregates, policies should recognise the environmental impact of recycling and should provide clear, major environmental gains to outweigh it
- The levy will tend to lead to the closure of smaller quarries (for reasons explained in more detail below). This will mean that, since aggregates are generally used within 30 miles of their production, aggregates will have to travel further by road as local quarries close, with the attendant environmental impacts of increased road haulage. Road haulage accounts for the majority of complaints made about quarries

- Unsaleable secondary aggregates will form vast new spoil heaps
- Smaller independent quarries tend to be better custodians of the local environment, having been locally-owned for many generations
- Alternative building materials are not environmentally “cost free” to produce – a shift to alternatives may well increase the environmental impact of other industries, which will not have internalised their environmental costs.

The Consequences of the Aggregates Tax

With the environmental gains promised by the tax appearing dubious, it is worth examining the evidence of the economic problems it will create.

The levy will hit smaller companies disproportionately:

- They have a smaller production base across which to spread the costs of compliance. This means compliance costs will be greater, per tonne, for small businesses^[7]
- Increased prices and reduced demand will cause greater problems for small operators, leading to the closure of some smaller quarries
- Secondary Aggregates and cross subsidisation will become a worrying issue. Secondary (low grade) aggregates are an unavoidable product of the extraction of industrial grade aggregates. For example, it can take up to six tonnes of throughput to achieve one tonne of industrial grade limestone. Quarries have to sell them, at their market price of often less than £1 per tonne, to free up vital operating space and avoid unsightly spoil heaps. The crux of the problem is taxable secondary aggregates will be in competition with other materials, such as china clay spoil, which are exempt. This will cause knock on effects:
- Clearly the market for secondary aggregates will be severely diminished with any tax – more spoil heaps can be the only result.
- Because they will have to compete with untaxed alternatives, the only way secondary aggregates will be even partially saleable will be through cross subsidisation. More of the tax will have to be loaded onto the more valuable products
- Big companies have far greater flexibility to cross subsidise, as smaller operators necessarily service fewer markets. In addition, through vertical consolidation, the majors will have the option of loading more of the tax onto processed products downstream. This will prove an extremely effective method of forcing smaller producers out and decreasing competition
- Importers will not have to bear the costs associated with taxed secondary aggregates, and will therefore be given a significant cost advantage.

The closure of smaller quarries will have several important effects:

- Since aggregates are generally used within 30 miles of their production, this will mean aggregates travelling further by road as

local quarries close, with the attendant environmental impacts of increased road haulage

- It is worthwhile remembering that these small companies were once successful businesses, returning a great deal to the communities they served by way of much needed local employment and with a relatively small environmental impact
- Rural job losses, where there is little alternative employment, will be inevitable
- Larger quarries will magnify the problems of by-products and waste
- The market for aggregates will become much less competitive.

International Competitiveness will be irreparably damaged:

- Taxation of secondary aggregates will make British producers of (tax exempt) industrial aggregates less competitive. As mentioned above, secondary aggregate is an unavoidable product of the extraction process, which will be taxed. This will force up the costs of producing industrial grade aggregate, as tax on these low priced products will need to be cross subsidised. Although foreign imports will be taxed in the same way as British products, foreign producers will not face this significant extra production cost and will therefore be able to undercut British producers
- “Value added” products (ie processed products such as concrete), which incorporate aggregates, will not be taxed on import into the UK. Foreign concrete producers will therefore be able to sell concrete incorporating tax free aggregates to UK customers, whereas UK producers will have to pay tax on the aggregate they use. This will put UK producers at a clear disadvantage
- There has also been a failure to appreciate the extent of the problem in Northern Ireland. The announcement of a delay in implementing the levy for processed products in the province will simply allow more time for the production of value added products, and most of the jobs associated with the industry, to be transported across the border. It does not address the fundamental problem of import substitution. In addition, the tax advantage offered by the delay will allow Northern Irish manufacturers of value added products to undercut British manufacturers, further increasing the problem of import substitution. The situation will become even more serious if the delay becomes an exemption. A limited number of imports from Ireland already reach as far as Aberdeen and Southampton
- Imports are enabled by cheap transport. All the major ports are already handling relatively small amounts of sea-borne and marine dredged aggregates so it will be relatively simple to switch to imports. Apart from Birmingham, all major aggregates markets including London have access to ports, enabling cost effective international transport
- The Government has in principle recognised that the sea border can be overcome by exporters; Annex A to the Regulatory Impact Assessment^[6] points out that Glensanda coastal quarry’s success

as an exporter is partly due to cheap sea transport. However they have not so far accepted that this same advantage will also apply to imports from Norway, Ireland and France. In some cases, the cheapness of sea transport relative to road haulage from remote rural quarries is such that aggregates are already imported from Norway, Ireland and France. It is vital that Government recognise that the sea barrier affords insufficient protection

- The aggregates levy will tip the balance, handing importers a sufficient cost advantage to penetrate far more of the UK market than they are otherwise able to.

Bad Debt Relief

The Treasury have said that bad debt relief is available on goods sold as aggregate but not on goods sold in the form of processed products. However this is not the full story. Processed products make up 50% or more of the market, so the inability to claim bad debt relief on such products has extremely serious implications. In addition, bad debt relief for the supply of raw aggregates will be restricted to the lower of £1.60 or half the value of the overall transaction per tonne. This means that, for low value products, relief will be less than the £1.60 per tonne paid. This is clearly inequitable and constitutes a major threat to some businesses.

Unresolved Practical Issues

Various issues concerning the practical implementation of the levy are proving extremely difficult and time consuming for HMCE to resolve. This means that key elements of the secondary legislation and regulations are not yet finalised. This is resulting in a great deal of confusion and financial cost within the industry, as many contracts have had to be delayed pending resolution of the various issues. In addition, the Government has failed to recognise some very serious problems. Despite these significant problems remaining unresolved just a short time before the levy is due to be implemented, the Government have refused to consider a delay.

- The Government has decided to exempt a number of sources of aggregates from the levy – so called “windfall aggregates”. However there are many unresolved problems with the definition of such sources, and there are worries such exemptions will lead to perverse incentives. Although there are several diverse exempt sources, it is the aggregates resulting from road construction and open cast coal sites which probably give the most immediate cause for concern. There are obvious major cost savings in incorporating stone excavated onsite within the construction of roads, indeed this already happens in virtually all cases. Exemption of such sources from the levy is therefore unnecessary in terms of encouraging greater recycling of aggregate. In addition, there are worries that an exemption could give contractors an incentive to “over dig”, sell the rock, and replace it with cheaper fills.
- The list of exemptions remains to be finalised, there is no precise definition of a “taxable tonne”, and there is no indication of when the issues around exemptions will be resolved. Lack of clarity on

exemptions has already delayed a major project at Peterhead, and the problem is becoming more acute as April draws nearer.

Although the Treasury argues that the list of exemptions has been clear from the publication of the 2001 Finance Bill, it became clear soon after the Bill was published that the list was incomplete and would require revision; indeed some exemptions have since been removed from the list. Customs and Excise recently announced changes to the list of exemptions, in a business briefing of November 28th, and the Financial Secretary admits he has yet to agree to the draft final list of exemptions.

- Although the Government, through section 43, has sought to protect operators' long term contracts and leases, the issues have not been fully addressed. Section 43 allows long term contracts for the supply of raw aggregates to be overwritten to allow for the levy, but does not deal with contracts further up the chain. This means companies mixing aggregates themselves will pay the levy but will be unable to alter their contracts. Section 43 also allows the effect of the levy on prices and revenue to be disregarded in payments for quarry leases, where these are based on aggregates prices and revenue. However the legislation does not deal with the many leases where payment is specified in relation to aggregates price indices produced by the ONS or the DTI. Section 43 therefore fails to protect quarry operators adequately.
- The Government's own guidance from the Small Business Service^[9] says that businesses should be given 12 weeks to implement legislative changes. However substantive issues which are affecting operators' ability to prepare for the levy and, more seriously, are delaying contracts, remain to be resolved. On the 24th January, there will be less than 10 weeks remaining before the legislation is due to be implemented.

In view of the present situation with a large number of key issues still to be resolved, the need to obtain EU approval for the partial exemption in Northern Ireland and a great deal of information still to be provided for various Government departments it is not possible nor would it be sensible to attempt to set a fresh date for implementation. The start date must be linked to an agreed time beyond the core legislation being settled and robust. Government guidelines suggest a minimum period of 12 weeks notice to allow business to make provision, however, due to the nature of the construction industry, with 3 year supply contracts common, 12 weeks would plainly not be sufficient. This needs to be discussed more fully but nothing less than 6 months would be achievable and any start date should naturally coincide with the beginning of a tax year.

Conclusion

The BAA believes that there are serious flaws in the environmental justification for the levy. It will fail to significantly increase recycling, and is likely to cause, rather than prevent, environmental damage. The levy will cause significant economic damage to the industry. In the long term, this will be through significant, widespread import substitution, made possible by the

cost advantages importers will gain as a result of the tax. More immediately, significant commercial damage is already resulting from major practical issues which still remain unresolved, owing to their complexity and the impossibility of designing a sensible and equitable levy on aggregates. The Government must recognise the gravity of these problems.

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[¹] Environment Agency and Symonds Group, “Construction and Demolition Waste Survey: England and Wales 1999/2000 – Executive Summary” (DETR, January 2001) [[Resume text](#)]

[²] More detail on the seminar, entitled “Aggregates Recycling – Limits to Growth?” at which the DETR, the Environment Agency, the Recycling Industry and various Green organisations all presented papers, can be found on the BGS website, <http://www.mineralsuk.com/> [[Resume text](#)]

[³] H.M. Treasury, “Consultation on the Objectives of the Sustainability Fund under the Aggregates Levy Package”, (2000) [[Resume text](#)]

[⁴] London Economics, “The Environmental Costs and Benefits of the Supply of Aggregates”, (May 1998), London Economics, “The Environmental Costs and Benefits of the Supply of Aggregates – Phase 2”, (August 1999) [[Resume text](#)]

[⁵] DETR consultation paper on revising MPG11, 2001 [[Resume text](#)]

[⁶] London Economics, “The Environmental Costs and Benefits of the Supply of Aggregates – Phase 2”, (August 1999) [[Resume text](#)]

[⁷] BAA, “Aggregate Tax: Impact Assessment” October 2001 (available from <http://www.british-aggregates.com>) [[Resume text](#)]

[⁸] HM Customs and Excise, “Aggregates Levy: Regulatory Impact Assessment” (HMCE, April 2000) [[Resume text](#)]

[⁹] Small Business Service, “Guidance on Implementation Periods” (November 2000). This document clearly states that the guidelines apply to secondary as well as primary legislation.