

BAA Response to MPS1

23rd February 2005

Andrew Lipiński,

Office of the Deputy Prime Minister

Minerals and Waste Planning,

Zone 4/C2, Eland House,

Bressenden Place,

LONDON

SW1E 5DU

Dear Andrew

Consultation Paper on Minerals Policy Statement 1; Planning and Minerals and associated Good Practice Guidance

Thank you for inviting us to comment on the above papers. We would also like to comment additionally on the "Small Firms Impact Test" under the partial Regulatory Impact Assessment (RIA) as over 90% of our membership is from small business.

The British Aggregates Association (BAA) represents the interests of some 70 members of which 50 are independent and privately-owned SME quarry companies throughout the UK with some 10% of national output and who operate from over 100 sites. We are part of the consultation and lobbying process both in the UK and Europe – and are also represented through the CBI (Confederation of British Industry) and CPA (Construction Products Association).

Overview

We welcome the government intentions to create a strong and coherent policy which is simpler and less complex, and a planning system which will give faster decisions in providing the essential mineral needs of society through the Planning and Compulsory Purchase Act of 2004 and associated policy statements and guidance documents.

However we are disappointed that the current draft for consultation lacks the necessary clarity and focus to achieve this objective. It fails to give a clear remit to the Regional Assemblies and authorities on how to deliver timely planning decisions, and provide industry with an incentive to continue to invest and provide the nation with its required materials.

In particular we are concerned about:

- The absence in the Policy statement of the strong essentiality of minerals. This needs reinforcing throughout the document to ensure that a balance is clearly represented between social, economic and environment factors.
- The split of relevant items between policy and guidance.
- The lack of reaffirmation in government policy of the "presumption in favour of development unless it causes demonstrable harm".
- The lack of consistent and unambiguous terminology. We believe that the current draft would increase the level of litigation.

As this document is of vital importance to the future of the industry and the government's Sustainable Communities programme, we would request the opportunity to re-consider the policy statement and good practice guidance following changes as a result of this consultation, and seek a further consultation on the subsequent draft.

The impact of these particular concerns will in our opinion have a marked disproportionate impact on SME companies which comprise the majority of our membership, with consequent and unnecessarily increased cost outlay in both finance and time for companies with limited resources.

General

Whilst the Statement and Guidance are essentially a consolidation of current practice with no new items, and is thankfully shorter (3MPSs rather than 14MPGs!), it has not achieved the clarity and incentive to business. The principle of Sustainability has three pillars – and the economic and social aspects need to be better represented while the environment is covered more than adequately under extensive current and proposed legislation.

BAA believes it is particularly important in the government policy statement to ensure that this is a clear and unambiguous remit to the Regional Assemblies. Whilst there are choices for most other developments, minerals can only be extracted where they occur – and this will continue to be mainly in rural and scenically attractive areas. This clear statement will enable the Assemblies and Authorities to meet the requirements in their own strategies and plans with a suitable and strong emphasis on minerals development. We believe the current draft does not meet its own objectives in this area.

BAA would ask that the overall policy statement be further reviewed to achieve this. The front cover and various items in the RIA already have this greater impact and clarity, and could be included in the policy statement. This should incorporate a **long-term government commitment to ensure this need is provided** – 25 years plus as elsewhere in Europe and the World.

We already have concerns that the new Planning and Compulsory Purchase Act will have difficulty in achieving these aims, principally due to the complications of a "wider community involvement" and the role of the

additional tier of the Regional Assemblies. It is therefore paramount that MPS1 policy and the forthcoming aggregates annex gives the necessary clear and unambiguous focus.

It was hoped that MPS1 and the various annexes would give some teeth to the Act, create a more positive environment for business investment, and offer a clearer remit to planners, and hopefully for a new generation of planners being attracted into the industry.

We are also disappointed that neither timeliness of decision-making nor the proximity principle, are included in the policy statement. Both of these factors are of particular importance to SME companies.

Detailed Comments

We have selected some illustrative examples of concerns as well as some more specific items.

Introduction

We are pleased with the commitment to greater clarity and a commitment that Mineral Planning has to provide the raw materials needed to build the houses, schools and infrastructure required by society and its government.

However, there should be a greater accountability imposed on the Regions and on the Authorities. The need to deliver the necessary quantities of minerals at a sufficient, steady and sustained level to meet society needs should be stated clearly as the over-riding and final consideration.

It is noted that MPS1 is a **formal** statement of policy and GPG is only **advisory**. There is a lot of policy-type information in GPG which should be in MPS1. An acid-test would be to ensure that the meat of MPG1 is adequately transposed to the new MPS1.

Most critically, there is an unhelpful use of a lot of bland wording (regard to, consider, take note, might). This needs a much stronger focus and the use of plain English to alleviate and eliminate any possible misinterpretation or ambiguity.

MPS1 Planning and Minerals

As a general comment it would be useful to increase the number of sub-headings as has been adopted in the Good Practice Guide, and avoid the use of bullet points.

Introduction. This needs to be a stronger statement than "significant contribution". More appropriate wording would be as on the frontispiece "Minerals are **essential** ..." *It is important* is again not strong enough – it is **paramount or essential that the needs of society are met** and also to say by who or whom! Local authorities have a mandate to deliver? There is no

mention of **time** which should be included as a major consideration; and **effective** would be more suitable than "*most sustainable*" in the second to last line.

(3)policies **must** be taken into account by RPBs.

(4) Government Objectives. Third bullet. Consider shortening to just "To secure supplies of the materials needed by society".

(8) Protection of Heritage and Countryside. Second bullet point – remove serious from impact that developments may have – this is somewhat negative. Sixth bullet point "...nationally *important* archaeological..." Replace important by major or significant. Ninth bullet the same particularly as there is a presumption assumed against mineral development – and change overriding reasons to national need rather than *importance*. Only scheduled sites should be included.

(9) Supply. First bullet last sentence, delete *justifiable*. Second bullet change wording to the original MPG1 "...indicate areas where future mineral working could or is most likely to take place.." Welcome that mineral extraction need not be inappropriate in the green belt but this should include recycling if located in a quarry.

(10) Transportation. There is no mention of proximity. Policy should encourage minimal road transport by favouring sourcing close to use.

(11) First three bullets, delete **require** – replace with **ensure** (first bullet) and **encourage** (2nd and 3rd)

Good Practice Guidance

(2) Note the fact also that <0.5% of land in the country is used or destined for use in mineral extraction.

(6) Third line change might to **should** or **will**.

(12) Bullet points 1, 2 and 4 should be moved to MPS1 policy introduction. Reword or remove third bullet point. Mineral working can enhance and have **positive** environmental impacts.

(33) Second line change require to **involve**.

(35) The wording for preferred areas of search is better in **MPG6 annex A**.

(37) Change wording to ensure sites and preferred areas cover the **whole of the plan** not just half.

(38) Planning applications outside of areas identified in plans is very welcome.

(51) – (53) financial requirements. This needs to be made consistent with current MPG7 policy and the FRS12 code provisions for business accounting. Note that the BAA, SAGA/QPA schemes only cover financial failure not default (item (52)). Also change wording ...MPAs *might wish to seek*... not require.

(58) Remove sentence "MPAs should.....waste material.....existing mineral sites."

Regulatory Impact Assessment (RIA)

These are various points for possible inclusion in the main policy statement:

Risk assessment. ...*much ... remains unchanged a few elements are new ...in particular RSSs ... more focussed documents with statutory status.* ie essential we get the Policy right!

(7) **Business sectors affected.** ...*proposal will only have positive effects for business...greater clarity and certainty of where and when development will take place.....greater efficiency in handling of...applications....*

(8) **Economic Effects.***not require firms to do anything more than they are required to do at present...*

(9) **Environmental Effects.** ...*not anticipated...any significant.....impacts or costs arising...*

Small Firms Test

As over 90% of our members are small firms we are concerned that the true cost in either cash or time is adequately recognised or reflected in the partial RIA. The impact will be disproportionate on our members and the lack of clear statements and language will in our opinion lead to a higher level of challenges and litigation with potential sterilisation of the nation's mineral resource.

We are also concerned on the front loaded consultations that are required prior to the submission of applications and the need for demonstrable prior liaison with the local community.

If either you or members of your department require any further information or would like to discuss in more detail please do not hesitate to contact me.

We look forward to your response.

Yours Sincerely

Peter Huxtable

Secretary

British Aggregates Association