

25th October 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 Annexes to Minerals Policy Statement 1; Planning and Minerals –
Supply of aggregates**

Thank you for inviting us to comment on the above papers. Our remarks will be largely confined to the first of the annexes on aggregates. We would also like to comment additionally on the “Small Firms Impact Test” under the draft partial Regulatory Impact Assessment (RIA). Over 90% of our membership is from small business.

We remind you of our remarks on the consultation document for MPS1 and the associated Good Practice Guidance, in our letter to you dated 23rd February 2005. In particular we welcomed the government’s intention to create a strong and coherent policy which is simpler and less complex, and a planning system which will give faster and more timely 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.

The British Aggregates Association (BAA) represents the interests of over 70 members. 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.

Overview

We, along with most other stakeholders, had serious concerns over the original MPS1 draft and guidance as it lacked clear unequivocal national government policy and resolve to ensure a security of supply to meet society long-term needs for materials in a timely manner. The draft aggregates annex also does not clearly address this need and also lacks clear, unambiguous use of language.

As we understand the situation MPS1 and the annexes have equivalent status and weight on policy. We also understand that there will be no further annexes to cover other minerals (eg industrial limestone). This would indicate that the final MPS1 will be the principal over-arching document and until a further version is made available that meets our earlier concerns we need to qualify any comments on the current annexes. Overall we will wish to ensure that minimal duplication occurs but that where it does it does not create any distortion and ambiguity to fuel litigation.

Our particular primary concerns are:

1. The lack of a clear and positive commitment and a mechanism to ensure the supply of the nation's long-term mineral needs, and a clear responsibility, accountability and methodology for the MPAs and regions to deliver “..an adequate and steady supply..” in a timely manner. Stronger intent and clearer commitment from government is essential if aggregate producers are to make long term investment to secure and maintain long term supplies to meet the needs of the economy.
2. There is no mention of a *presumption in favour of development unless it causes demonstrable harm*. We also believe that *preference should be given for extensions to existing operations* where geological knowledge and reserve information is often more robust, infrastructure, access and traffic routing is established and community relationships are in place. MPA's should be guided to consider the opportunities for extending existing quarries before considering greenfield proposals.
3. No reference to the proximity principle favouring local sourcing of minerals and minimising distance from supplier to customer. Often rail and water transport involves double-handling of materials at one or both ends of the supply chain and with no reduction in overall road transport.
4. The proposed landbank allocations do not adequately address society needs, nor that of the hard-rock suppliers, or where the landbank is controlled by one or two dominant suppliers. The policy should emphasise the over-riding need to deliver – and that the landbank is just one of the methods of achieving this. This would also ensure consistency between authorities nationwide.
5. The references to extraction in sensitive areas such as National Parks and AONBs do not adequately reflect that longer-term extraction could be met at the lowest environmental cost without compromising their special status.

In our opinion these concerns have a marked disproportionate impact on SME companies which comprise the majority of our membership. We see a consequent and unnecessarily increased outlay in both finance and time for companies with limited resources, and a potential for loss of livelihood.

Detailed Comments

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

- We believe that, tried and tested wording is being replaced for no apparent good reason and should be selectively re-introduced in certain areas e.g. 1.2.2 “...is achieved at acceptable cost to society including environmental costs”. Should be replaced by *..adequate and steady supply of aggregates is achieved at...best balance of social environmental and economic cost....* 1.3.10 Why introduce “without avoidable delay and disruption to supply” – again the wording *adequate and steady...* would be preferable.
- 1.2.3 The main objective should be to **supply a need**; and item (h) should reflect more strongly the proximity principle to minimise the overall haul distance from quarry to end-customer.
- 1.3.8 This is a potential downward slide towards “environmental capacity” which is an untried methodology. (It will be many years – perhaps a decade - before the success or otherwise of the experiment in Wales will be known.) It could provide an opportunity for MPAs to decide that they no longer wish to be aggregate producers and to rely instead on imports from neighbours. We would suggest deleting “..at acceptable environmental cost” from the first sentence.
- 1.3.10 The whole concept of keeping permitted reserves **and** operations to a minimum is a concern. Together with the proposed phasing a single quarry producing exactly what the MPA requires is the preferred outcome irrespective of the proximity principle and the extra

haulage involved. Again no mention of extensions here – particularly where existing quarries already meet exacting environmental standards.

- 1.3.11 The wording used to define the length of the landbank reflects that used in MPG6 but the important *at least* is missing. Without this certain authorities could unilaterally continue to use 7 years as the maximum. It should also state that when the landbank falls below 7 years new reserves **will** (not may) need to be permitted.
- 1.3.12 The proposed cap on the landbank is new and has worrying implications - unless a company is in a favourable position with a large reserve this could be very bad news particularly for SME's relying on extensions for survival.
- 1.3.17 This appears to suggest that borrow pits can be an easier way of releasing reserves than permitting normal quarry proposals. Whilst borrow pits meet the proximity principle the statement needs to make clear that the environmental standards and the restoration and aftercare requirements are the same as for other quarry operations. The ability to properly plan for and to rely upon the release of reserves from borrow pits is also uncertain.
- Other annexes. These generally do not impact on our membership except for annex 3 on which we have no comments. We note that industrial limestone (along with many other minerals) is not covered by any current or proposed annex. We would observe an inconsistency that in 2.3.4 brick clays get extensions whilst aggregates don't. If an extension is environmentally acceptable for a brick pit surely an environmentally acceptable extension to a quarry should be viewed in the same manner.

Regulatory Impact Assessment (RIA)

As with the original MPS1 consultation we are encouraged by some of the wording in this section – which unfortunately is not repeated in the main policy sections!

Economic: *The proposals will not require firms to do anything more than they are required to do at present.*

Environmental: *It is not anticipated that there will be any significant environmental impacts or costs arising..*

Social: *It is not anticipated that there will be any significant social 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. The impact of the proposed shorter hard-rock landbank coupled with no presumption in favour of development, and of extensions could lead to loss of livelihood.

We note your intention to have a small firms' impact focus group to explore this more fully and welcome the opportunity to contribute further, in addition to our members who contributed to the first meeting on 22nd September 2005.

We trust that our comments are helpful in ensuring that a revised, workable and effective, policy document for MPS1 and the annexes can be prepared, along with guidance.

Yours Sincerely

Peter Huxtable

Secretary, British Aggregates Association