

## **GWYNEDD & ANGLESEY JOINT LOCAL DEVELOPMENT PLAN EXAMINATION**

### **HEARING SESSION 7: MINERALS & WASTE**

#### **Mineral Product Association Statement Representor Number 619**

#### **Minerals**

**3. Does the Plan ensure that the County will contribute appropriately to meeting regional demand for minerals over the Plan period?**

#### **MPA comments**

##### *Introduction*

1. There is some doubt that the Plan will ensure that forecast demand is met throughout the plan period. This means that it will not meet the tests of soundness for the following reasons.
  - It is not appropriate in that it over-simplifies the evidence
  - It will not deliver the requirements of national policy if it under-provides for mineral of certain types.
2. I will examine each lpa in turn against the RTS apportionment process and the issues arising therefrom. There is very little discussion of strategic matters in the LPD itself so recourse has been made to the Minerals Topic Paper March 2016.
3. There are three major issues
  - Provision for crushed rock on Anglesey
  - Provision for sand and gravel in Gwynedd
  - Inclusion of secondary aggregates in the primary aggregates landbank in Gwynedd.

##### *Anglesey*

4. Paragraph 7.24 of the Topic Paper sets out the reasoning behind the identification of the Areas of Search (AoS). Nowhere that I can find is there any mention of whether the joint authorities canvassed the industry for a call for sites. I can find no reference to minerals in either Topic Paper

1 and 1A or the Consultation Report. It may be that the industry was included but that no suggestions were received. The responses to the LDP Deposit Consultation show no representations on this subject.

5. The reason for mentioning the background to the AoS is to highlight the context for the statement in the Topic Paper, *“Rather than identify specific sites or Preferred Areas, the Councils have sought to identify Areas of Search where it is likely that some sites will be appropriate for mineral extraction, depending on economic and environmental circumstances.”* The resulting areas are quite restricted and throw doubt on whether they are viable if there was no input from the minerals industry. Areas of Search are usually extensive areas where operators are free to explore for viable mineral deposits that take account of the dearth of detailed information on minerals and the inaccuracy of mapping. The danger of only including small areas of search is that without industry confirmation that the deposit is present they may not yield any viable mineral and therefore frustrate the purpose of the policy.
6. Moreover, although the deficit is quite small (crushed rock apportionment of 1.31 Million tonnes) it is unlikely that any operator would only apply for such a small amount unless it was a rounding off exercise within an existing quarry. In view of the costs of EIA, planning applications and permitting costs a decent extension would have to be much larger to recoup the outlay, which would further question whether the AoS was adequate.

### **Gwynedd**

7. The methodology outlined in Appendix 1 of the Topic Paper is much more like a recognisable AoS approach with which the industry is familiar, and is likely to provide viable mineral somewhere within its boundaries. We have no other comments on the sand and gravel AOS.
8. One of our members mentioned the anomaly of slate waste being included in the aggregates landbank of 8.51 Mt. The North Wales RAWP report for 2010 confirms that this was included by agreement in 2009. However, the inclusion of secondary aggregates in the primary aggregates landbank can lead to several potential problems, depending on the extent of the inclusion. The Plan does not say how much of the landbank is comprised of secondary materials (i.e. slate) but if the landbank is significantly skewed towards secondary materials it will leave a potential shortage of higher quality materials, notwithstanding the encouragement that should be given to secondary materials.

9. Slate waste has a wide variety of uses as aggregate but these tend to be limited to constructional fill. Even so, slate waste has achieved an MOT Type 1 status and it is used as bedding sand. However, it remains true that it cannot meet the more demanding of aggregate specifications. That being so, and if the landbank is comprised of an appreciable quantity of slate, then there is a case for consideration of the RTS's qualifications of the apportionment (RTS Review, cited in Minerals Topic Paper paragraphs 6.11 & 6.23) and assess;
- whether more ought to be provided because of the difficulty of interchanging a poor quality aggregate with a better quality type; and
  - whether adequate productive capacity can be maintained for higher quality materials.

The Minerals Topic Paper admits there might be a problem with the provision for higher quality materials in paragraph 6.24, *"In particular a sizeable part of the existing crushed rock landbank in Gwynedd is made up of permissions at slate quarries and slate waste tips and, whilst slate aggregate is able to substitute for other rock types in many situations, it is not suitable for all applications. Additional allocations for other types of crushed rocks might therefore be required and the situation kept under review."* However, the assessment required by RTS is missing from the Plan although the possibility is mentioned in paragraph 6.24 of the Topic Paper. In this context we would seek a policy which is flexibly worded and capable of addressing potential shortfalls without the need for a full scale review.

### ***Recommendation for Changes***

10. We do not believe the Deposit Draft policy is sufficiently flexible to take account of these uncertainties. **Policy PS19** is silent on this analysis and we believe it does not go far enough in securing the continuous supply of minerals which is its aim. In this context, the bare aim of maintaining a minimum landbank may not be sufficient (Policy MWYN2 and Policy MWYN4).
11. We suggest the following changes to **Policy PS19** which is more adjusted to the evidence and delivers national and regional guidance, (new text in **bold**)

5 Where there is a need for new capacity of **other** minerals, these should come from locations of low environmental constraint and take into account transport implications.

New criterion – **Providing for the maintenance of the aggregates landbank including adequate provision and productive capacity for higher quality aggregates from locations in the Areas of Search.**

#### **4. Will the Plan deliver a 7 year land bank of sand and gravel and 10 year land bank of crushed rock aggregates over the Plan period?**

##### **MPA comments**

1. The answer to this question very much depends on whether the Areas of Search will be adequate and whether there is acceptance that certain specialised qualities of mineral need to be provided for in accordance with the RTS Review methodology. A related point is whether policy sufficiently recognises these points and is flexibly applied.
2. In respect of the landbanks we did ask for a change to **criterion 2** in **Policy PS19** which was as follows, (new text in **bold**)

Maintaining a **minimum** 7 year land bank of Sand and Gravel and **minimum** 10 year land bank of crushed rock aggregate reserves **throughout the plan period** in line with national guidance

3. We considered that this would bring the policy into line with national policy (MTAN1 para 49 and thus make the policy effective (deliverable) and we commend it to the Examination.

#### **5. Is the Plan sufficiently supportive of proposals for mineral extraction and protective of the mineral safeguarding areas?**

##### **MPA comments**

###### ***Proposals for Mineral Extraction***

1. Policy PS19 does not explicitly commit the Councils to delivering acceptable proposals submitted in the Areas of Search, nor to consideration of specific shortages/needs within the landbank (see answer to question 3 above). **Policy MWYN4** is better in that the preamble describes what sort of proposal would gain planning permission. We submitted suggestions for improvement of this policy which have been accepted, a consideration for which we are grateful. However, the policy could be clearer in being supportive of sustainable proposals in line with changes we propose for Policy PS19.

2. We therefore suggest the following changes to the policy preamble of **Policy MWYN4** (new text in **bold**),

Mineral exploration, **new mineral working sites** or extensions to existing operations **located in the Areas of Search** will be granted to maintain the Plan area's landbank of aggregates, or to meet a demonstrated need for **special qualities of aggregates which cannot be met by existing sources, or to maintain productive capacity of higher quality aggregates, or to meet a demonstrated need** for other minerals provided the following criteria are met:

3. This proposed change addresses the qualifications to the apportionment process inherent within the RTS and mentioned in paragraphs 6.11 and 6.23 of the Topic Paper. These are
- The technical capacity for one type of aggregate to be changed for another
  - Whether adequate production capacity can be maintained to meet the required level of supply.
4. The proposed change also addresses the situation described in paragraph 6.25 of the Topic Paper where new permissions for crushed rock in Gwynedd will need to be dependent on a specific justification of need for a particular quality of mineral.

### ***Mineral Safeguarding Areas***

#### ***Proposals Map***

5. **Policy MWYN1** says that Mineral Safeguarding Areas (MSAs) are shown on the Proposals Map, but I cannot find them on any of the maps on the Councils' website. However, they are present on the Constraints Map. This is clearly anomalous and not in accordance with PPW para 14.7.3 and the MSAs should by right feature on the Proposals Map as the policy says.

### ***Development Management***

6. We made the point in representations that the development management criteria in **Policy MWYN1** were incoherent, and could be dangerous. In particular, we wonder what '*a significant impact on the viability of future exploitation of the mineral*' means. Some mpas take the view that if a development sterilises mineral, but the area is small in comparison with the total area of the mineral deposit, then it is admissible to approve the sterilisation. However, the MPA believes this is folly. Decisions such as this do not take into account the level to which mineral development is already constrained by the planning system, and how difficult it is for the industry to find

acceptable sites to work. The true comparison should be the absolute one of the quantity of mineral sterilised. Therefore, we suggest that this ambiguous phrase is replaced by one whose meaning is more certain.

7. In our representations we suggested that the proposed criteria were incoherent in that prior extraction featured in both. We also criticised the policy because it did not represent good practice as recommended in the BGS guidance, which is being recognised as valid in Wales. For example, the Inspector's Report for the Cardiff LDP Examination said, "*The general approach to safeguarding reflects that outlined in the British Geological Survey's (BGS) good practice guidance insofar as it is consistent with Welsh Policy.*" (para 12.6). The reference is to the 2011 guidance. The Report endorsed a new Policy (M7) which had industry support. An extract from the Inspectors' Report and the adopted policy are shown in **Appendix MPA1**. We would commend the wording of this policy to the Examination since it closely follows good practice and is comprehensive in supplying the mpa with the development management tools needed to fully and fairly assess the relative merits of potentially sterilising built development against the need to safeguard essential mineral resources.

8. The only criterion promoted by the MPA but not adopted in the Cardiff policy which is also recommended by the BGS is as follows,

***it constitutes 'exempt development', namely householder applications and development already allocated in a statutory plan..***

9. Exemptions assist the lpa in sieving out minor development that would prove onerous for an lpa to screen for impacts on the MSA, and sieving out allocations in a Local Plan where the principle of sterilising mineral for essential development has already taken place. Although this criterion was not taken forward in the Cardiff plan, we still believe it is good practice and commend it to the Examination for inclusion in this policy.

10. We also believe it is prudent to include a requirement for a specialist report detailing the impact of a development on the MSA and the feasibility of prior extraction. If this is not to feature as part of the policy, it should in our view become part of the supporting text. We recommended the following text based on good practice elsewhere.



With the exception of exempt development, all applications in Minerals Safeguarding Areas should be accompanied by a Mineral Assessment Report prepared by a qualified person, which includes a site-specific desk-based assessment of the existing surface and solid geological and mineral resource information, including where appropriate, borehole data leading to an estimate of the economic value (for example quality and quantity) of the mineral resource, its potential for use in the forthcoming development and an assessment of whether it is feasible and viable to extract the mineral resource ahead of development to prevent unnecessary sterilisation. Where prior extraction can be undertaken, an explanation should be included of how this will be carried out as part of the overall development scheme.

**6. Should the spatial identification of the ‘Preferred Areas’ (policy MWYN2 following NF93) be shown on the Proposals Map rather than the Constraints Map (see minor change to that policy)?**

**7. Does the approach of identifying Preferred Areas provide an effective means of addressing the identified shortfall in the provision of aggregates in the Plan area?**

#### **MPA comments**

1. The ‘Preferred Areas’ should be shown on the Proposals Map as required by PPW paragraph 14.7.10. Indeed, I believe they now are so shown on the Proposals Map.
2. We are not clear whether the areas listed in **Policy MWYN3** are intended to be ‘Preferred Areas’ or ‘Areas of Search’. As explained in our representations, the term ‘Preferred Areas of Search’ conflates two mineral planning concepts, which are explained in PPW paragraph 14.7.10. It seems clear from the description of the areas given in the Plan’s supporting text (paras 7.5.67 – 7.5.69) that they are Areas of Search since the Councils were uncertain whether they contained commercial quantities of mineral. The nomenclature should be changed in the policy and the supporting text to make clear which category the Areas fall in to, which will avoid confusion. However, PPW also says that it will not usually be appropriate to identify only areas of search in a plan and ‘*a full justification for adopting such an approach would be needed*’. (PPW paragraph 14.7.10). This doesn’t appear to have been supplied in the supporting text and its absence makes the plan unsound.

3. There is no reason why an Areas of Search (AoS) approach cannot be effective, provided that the information on which the approach is based is good enough, which usually implies that the larger the area allotted the more likely there is to be mineral within it. In addition, the approach should not be adopted if the industry has proffered proposals for allocation comprising more detailed information. I don't know whether that has happened, or whether the approach adopted is because no operator has come forward with a site proposal. The AoS approach is of course more uncertain than allocating Specific Sites or Preferred Areas and this is presumably the reason why additional justification is required by national policy. We believe it is important to retain the correct terminology in LDPs for mineral allocations since the approach of the industry to them will depend on their categorisation.
4. We suggest the dropping of the word 'preferred' from areas of search in **Policy MWYN3** to align more closely with national policy.

## **8. Is policy MWYN6 unnecessarily prescriptive in relation to buffer zones, in particular notional buffer zones?**

### **MPA comments**

1. The **Policy MWYN6** does seem to be unduly prescriptive and does not reflect the wording of MTAN1 paragraph 14.7.16 which specifies the minimum distances for buffer zones *"unless there are clear and justifiable reasons for reducing the distance. An example may be that, because of other means of control, there is very limited impact from the mineral extraction site."* The policy as submitted appears to be too prescriptive and does not recognise this allowance in national policy.
2. However, we are pleased to see that NF96 inserts this qualification, which we would support as it takes account of changes to working practices that would reduce the environmental burden of quarrying and thereby justify a smaller buffer.



5.386. Operations involving the trans-shipment of minerals do not normally need specific planning permission within the operational area of the port. However, secondary processes including the manufacture or treatment of mineral products usually need permission. Where proposals are submitted they will need to demonstrate minimal impact on the environment. Where proposals are likely to have significant effects upon the environment, applications may be subject to Environmental Impact Assessment. Additionally, proposals will need to have regard to the Severn Estuary SSSI/SAC/SPA and Ramsar site and where proposals are likely to have a significant effect on an international site, an appropriate assessment of the proposal would be undertaken.

**M7: SAFEGUARDING OF SAND AND GRAVEL, COAL AND LIMESTONE RESOURCES**

**Development will not be permitted within the Sand and Gravel, Coal and Limestone Safeguarding Areas shown on the Proposals Map that would permanently sterilise these mineral resources unless:**

- i. The applicant can demonstrate to the satisfaction of the Local Planning Authority that the mineral concerned is no longer of any resource value or potential resource value; or**
- ii. The mineral can be extracted satisfactorily prior to the incompatible development taking place; or**
- iii. The incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not either sterilise the resource or inhibit extraction within the timescale that the mineral is likely to be needed; or**
- iv. There is an overriding need for the incompatible development which overrides the need for the resource, including a requirement for prior extraction if practicable.**

5.387. The aim of this Policy is to ensure that the sand and gravel, coal and limestone safeguarding areas identified on the Proposals Map are protected from development that would cause its sterilisation and safeguarded for the future, should a need for these resources arise. In order to ensure this the Policy sets out a range of criteria against which proposals for development will be assessed.



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**Adroddiad i Gyngor Dinas  
Caerdydd**

**Report to Cardiff City  
Council**

gan;

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Arolygyddion a benodir gan Weinidogion

Dyddiad: 05/01/2016

by;

**Rebecca Phillips BA (Hons) MSc DipM  
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Inspectors appointed by the Welsh Ministers

Date: 05/01/2016

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 64

**REPORT ON THE EXAMINATION INTO THE  
CARDIFF LOCAL DEVELOPMENT PLAN  
2006 - 2026**

Plan submitted for examination on 14<sup>th</sup> August 2014

Examination Hearings held between 13<sup>th</sup> January and 27<sup>th</sup> February 2015  
and on 28<sup>th</sup> and 29<sup>th</sup> September 2015

Cyf ffeil/File ref: LDP/Z6815/14/515993

extracted jointly with limestone for aggregate use and that it can be difficult to differentiate between the materials produced for the two different markets until after it has been processed. As such, and bearing in mind that the Plan makes provision for the protection of limestone reserves and potential resources, such an omission does not render the Plan unsound. Moreover, only a small area of Category 1 HSA is identified within Cardiff’s administrative boundaries and, as this is already protected by the Coal Safeguarding Area, it is neither practicable nor necessary to identify the area separately.

- 12.4. Policy M1: ‘Mineral Limestone Reserves and Resources’ seeks to safeguard mineral reserves from development that could cause sterilisation and thereby prevent their extraction. **MAC60** amends this Policy by also identifying the resource areas at Creigiau and Ton Mawr Quarries as ‘Preferred Areas’ of known resource suitable for the future working of limestone. These changes remove ambiguity, reflect national policy and are therefore recommended.
- 12.5. With regards the approach to safeguarding, it was agreed at the Hearings that the three separate policies included in the submitted version of the Plan could be effectively merged into a single criteria based policy, expanding on the framework set by Policy KP11. Accordingly, **MAC64**, **MAC65** and **MAC66** delete Policies M7, M8 and M9 respectively, whilst **MAC67** introduces the new integrated and criteria based safeguarding Policy M7: ‘Safeguarding of Sand and Gravel, Coal and Limestone Resources’. The new Policy M7 has had input from the industry, would provide greater clarity and would enable a more balanced and reasonable assessment of development proposals submitted within the identified safeguarding areas. It also explains the reasoning for not separately identifying the small amount of Category 1 Sandstone HSA resource, as referred above. These changes are necessary for soundness and are therefore recommended.
- 12.6. The general approach to safeguarding reflects that outlined in the British Geological Survey’s (BGS) good practice guidance<sup>124</sup> insofar as it is consistent with Welsh Policy. Moreover, the safeguarding areas for sand and gravel, coal and limestone are clearly distinguishable on the Proposals Map. However, **MAC PM16**, which excludes international and national designations of environmental and cultural importance from the coal safeguarded area, is necessary to ensure consistency with the requirements of national policy. Likewise, the changes proposed through **MAC PM17** are necessary to correct errors on the Proposals Map and are therefore recommended. On this basis, and subject to the MACs recommended in this report, we are satisfied that the approach to safeguarding is soundly based.
- 12.7. Notwithstanding the fact that Cardiff’s existing minerals landbank means it is unlikely to be necessary to grant further permissions for mineral resource release within the Plan period, Policy M2: ‘Preferred Order of Mineral Resource Release’ sets out the sequential approach that would be adopted to assess such needs should it become necessary. This, alongside **MAC75**, which enables the monitoring framework to effectively monitor the landbank situation, would ensure that the Plan’s approach is reasonably flexible to enable it to deal with changing circumstances. Moreover, subject to **MAC61**, which improves the

<sup>124</sup> BGS Mineral Safeguarding in England: Good Practice Advice 2011