

Aggregates Panel Members:- J Anderson, R N Copping (Chairman), R Sanderson, HM Saunders, WA Storey, G F Wenham

New Minerals Policy Statement for England on controlling and mitigating the environmental effects of mineral working (MPS2): consultation on revised text.

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1. Purpose of the report

- 1.1 To inform members about a public consultation on the Government's proposed Minerals policy statement 2: Controlling and mitigating the environmental effects of mineral extraction in England and to seek the Panel's views on the content of the Council's response.

2. Background

- 2.1 The Office of the Deputy Prime Minister (ODPM) has produced a consultation paper on the proposed Minerals policy statement 2: Controlling and mitigating the environmental effects of mineral extraction in England (MPS2). The proposed MPS2 was formerly consulted upon as extended Minerals Planning Guidance Note MPG 11 in 2000. The proposed MPS2 would cover all the environmental effects of mineral working in one guidance note by bringing together all relevant guidance on planning controls and good environmental practice. The revised consultation document has been drafted in light of the Government's planning reform agenda, including changes to the approach of planning guidance, and in consideration of the responses to the previous consultation in respect of MPG11. The new MPS2 would replace current guidance on the environmental mitigation of mineral workings contained in a number of existing MPG's and good practice guidance (including the current MPG11 (1993), which relates only to the control of noise at surface mineral workings).
- 2.2 The purpose of the guidance is to provide advice on the significant adverse environmental effects arising from mineral extraction and how they may be dealt with in relation to: -
- framing policies in development plans;
 - considering planning applications; and
 - considering reviews of planning consents under the provisions of the Environment Act 1995 (i.e. RoMPP);
- 2.3 The draft guidance consists of an over-arching core document containing general information on the environmental effects of mineral workings, specific advice on environmental management systems and community relations, and

general information on the considerations for the formulation of development plans, deciding individual planning applications and formulating planning conditions. The core document is supported by a number of technical Annexes setting out policies on specific environmental effects. The Annexes to be produced relate to: -

- Dust
- Noise
- Traffic
- Blasting
- Visual Intrusion/Landscape Effects
- Impacts on land use and the environment
- The Water Environment
- Mineral Wastes

At this stage only the Annexes for Dust and Noise are attached to the guidance. The remaining Annexes are to be published, following consultation, as soon as practicable.

2.4 The consultation draft also contains a Draft Regulatory Impact Assessment, which attempts to assess the costs and benefits of the guidance.

2.5 The ODPM has specifically invited comments on three specific issues: -

- whether the revised MPS contains sufficient detail on the issues involved, with specific effects covered in the Annexes;
- if the explanation of the requirements for PM₁₀ consideration (a measurement of dust size that is associated with a range of effects on health) is now sufficiently clear and the requirements reasonable;
- views on whether the limits on noise emissions now proposed following the earlier consultation are sufficiently rigorous to mitigate the primary impacts of noise from mineral working without imposing an unreasonable burden on the minerals industry.

2.6 Comments are required by 11 April 2003.

3. Key Issues

3.1 In relation to the three specific questions asked by the ODPM, the following comments should be offered in response to the consultation:

- (i) whether the revised MPS contains sufficient detail on the issues involved, with specific effects covered in the annexes:**

The revised format removes some of the duplication in the previous consultation paper with the technical Annexes containing detail on the issues involved with the specific effects identified and this is supported as it provides the opportunity for the Annexes to be updated separately;

- (ii) if the explanation of the requirements for PM₁₀ consideration (a measurement of dust size that is associated with a range of effects on health) is now sufficiently clear and the requirements reasonable:**

Whilst the revised annex on dust does provide greater clarity regarding the consideration of PM₁₀ assessment and impact further clarification on what level of impact is “significant” should be provided to assist Minerals Planning Authorities to decide whether it justifies refusal of an application on that particular ground. Guidance would especially be useful when the levels of PM₁₀ that are likely to be generated by a particular development are acceptable on their own but the cumulative levels are likely to lead to breaches of Air Quality Objectives. Further advice would be beneficial as to whether the indicative values of the 2010 Air Quality Objectives should be used in assessing minerals developments that are anticipated to be working beyond that date.

- (iii) views on whether the limits on noise emissions now proposed following the earlier consultation are sufficiently rigorous to mitigate the primary impacts of noise from mineral working without imposing an unreasonable burden on the minerals industry:**

The initial consultation document invited comments on three noise level options that could be imposed by means of planning conditions attached to mineral planning consents. Subject to an overall upper limit of 55dB(A) Option A specified a limit of +10dB(A) above background noise levels, Option B a limit of +7db(A) with Option C suggesting a lower overall limit in exceptional quiet and/or rural areas.

In responding to the initial consultation the County Council supported Option B. The limit proposed in the current consultation is effectively Option A. It is considered that this limit is not rigorous enough given that the County Development Unit has frequently imposed a criteria of +5dB(A) over background levels and this has not proved to be onerous on operators.

Of particular concern is one statement within paragraph 2.19 of Annex 2 relating to Planning Conditions. Although the paragraph states that Mineral Planning Authorities should aim to establish noise levels at noise sensitive properties that do not exceed the background level by more than +10dB(A) the following sentence goes on to say:

“It is recognised, however, that this will in many circumstances be difficult to achieve without imposing unreasonable burdens on the mineral operator. In such cases the limit set should be 55dB(A) L_{AEQ}.”

It is considered that this latter statement may be used by mineral operators in order not to provide noise mitigation methods linked to levels above the background level. This is particularly relevant in quiet rural areas with lower

background noise levels. Circumstances to justify the 55dB(A) limit might be applicable to existing sites when considering reviews of planning consents under the provisions of the Environment Act 1995. However, it is considered that new sites or lateral extensions to existing sites should be assessed and designed so that limits above background noise are no more than +10dB(A) above background levels unless there are exceptional circumstances why this level cannot be met.

- 3.2 As well as commenting on the specific questions raised by ODPM in the consultation paper, there are several other points on which comments could be made. These are detailed in the following paragraphs.
- 3.3 MPS 2, paragraph 4, bullet point five. It would be helpful if reference to "nationally designated" and "architectural and cultural heritage" is to read "nationally important" and "historic environment" respectively.
- 3.4 MPS2, paragraph 14 (Pre-application discussions). In the final sentence it would be useful to encourage operators to seek "Screening" and "Scoping" opinions from Mineral Planning Authorities in relation to the Environmental Impact Assessment Regulations.
- 3.5 MPS2 Annex 1 - Dust and Annex 2 – Noise (Purpose and scope of guidance). Although the purpose of the Annexes is primarily aimed at the effects from surface mineral workings these effects are often associated with waste disposal and recycling operations that the County Council also has planning responsibility for. In this respect the guidance states that operators and waste planning authorities should take account of this Annex alongside Planning Policy Guidance Note (PPG) 10 *Planning and waste management*. The explicit support for the use of the guidance within the Annexes in respect of waste disposal and recycling operations is welcomed as it can be used to assess applications received by the County Council for these forms of development.
- 3.6 In both annexes the guidance states that *"the Government expects operators to make proposals that are environmentally acceptable from the outset rather than relying on retrospective action, and that Mineral Planning Authorities will take due account of this in their decisions on individual applications"*. This statement is supported as the previous consultation draft only indicated that this position was preferable to taking retrospective action.
- 3.7 MPS2, Annex 2 (Noise) – Guidance on noise impacts in relation to Rights of Way issues and public access and enjoyment would be useful as this can be a prominent concern amongst local communities when considering applications in proximity to such areas.

4. Financial Implications

- 4.1 A Draft Regulatory Impact Assessment is attached with the consultation document. This states that the document brings together in one MPS and its accompanying Annexes guidance that was spread among a number of

different MPG's and in research reports on good practice. In light of this the ODPM considers that its implementation would have little discernible impact on the costs to Mineral Planning Authorities and that these are outweighed by the benefits. The primary benefits would be that all stakeholders would know what is would be required when considering planning applications and the standards to met.

5. Conclusions

- 5.1 It is considered that the general content of the consultation paper on the revised Minerals policy statement 2 is appropriate and is to be welcomed. With particular respect to the three specific issues posed in the consultation paper it is recommended that the comments that are made on behalf of Hertfordshire County Council are those contained within Section 2.1 of the report below. This Section also includes other general comments on the document that should also be made. It is recommended that a copy of the report should be sent to the Office of the Deputy Prime Minister.

Background information used by the author in compiling this report

Minerals policy statement 2: Controlling and mitigating the environmental effects of minerals working in England. Revised consultation paper (ODPM February 2003).

Report of the Director of the Environment presented to the Environment Committee on 11 July 2000 in relation to the public consultation on the Government's proposed extended Minerals Planning Guidance Note 11.