

Statement on behalf of the Mineral Products Association (MPA)

N Yorkshire Joint Mineral & Waste Local Plan; Examination in Public

Matter 4: Development Management Policies

Issue: Whether the vision, objectives and development management policies strike a sound balance between seeking to provide appropriate development and protecting the environment and sensitive receptors.

Questions:

155. Should Policy D02 (Local amenity and cumulative impacts) part 1) make reference to local communities and residents?

We interpret the phrase '*local amenity*' used in part 1 of D02 as a catch all term to cover *local communities and residents*.

156. With reference to Policy D03 (Transport of minerals and waste and associated traffic impacts) is it disproportionate to require a green travel plan for all proposals generating significant levels of road traffic or should it only be required where appropriate?

It should only be required if appropriate. We have seen such schemes implemented requiring for example certain number of bikes racks at an operation when it was virtually impossible to get to the site by bike.

157. With respect to the exceptional circumstances for development in the National Park and AONBs in Policy D04 (Development affecting the North York Moors National Park and the AONBs) Part 1) a) is the wording "will usually include a "national need" and contribution to the "national economy" too restrictive?

Yes, it is too restrictive. As drafted this exceeds the requirement of NPPF para 116, first bullet, which requires an assessment of;

...the need for the development, including in terms of national considerations.....

There is no definition of *national need* or *national economy* in the glossary of the draft plan. It is considered that this part of the policy is not consistent with national policy and as such is UNSOUND.

Of equal concern is the way the policy begins namely;

*Proposals for major development in the National Park, Howardian Hills, Nidderdale, North Pennines and Forest of Bowland Areas of Outstanding Natural Beauty **will** [emphasis added] be refused except in exceptional circumstances and where it can be demonstrated it is in the public interest. The demonstration of exceptional circumstances and public interest will require justification based on the following:*

This goes further than the NPPF which at paragraph 116 says "*Planning permission **should** [emphasis added] be refused for major developments in these designated areas ...*". The use of the word "*should*" in the NPPF signifies a suggestion and not a directive as alluded to using the word "*will*" in Policy D04. This also makes the policy UNSOUND.

158. Should Policy D04 Part 1) b) and/or c) be more flexible by increasing the scope of economic considerations and taking account of economic sustainability?

Yes, it should be more flexible in line with NPPF paragraph 116 2rd bullet which states;

- *The cost of, and scope for, developing elsewhere outside designated area, or meeting the need for it in some other way....*

This aspect(economic) is an important element of the three pillars of sustainability and should have equal weight in development management matters.

159. Is there any difference in the scope or application of Policy D04 Part 1 d) to that set out in the NPPF paragraph 116 third bullet point?

Without the reasons for the designation being available it is hard to comment. However, the title of the policy is clear so that the reference to the reasons for designation appear superfluous.

161. Is Policy D04 Part 3 too restrictive? Should some flexibility be introduced by amending "will not" be permitted to, for example, "will not usually" be permitted?

Yes, it is too restrictive and exceeds the requirements of NPPF paragraph 116 which is silent on the issue of setting. Applications outside designated areas should be dealt with on their merits against the plan policies. Furthermore, the temporary nature of mineral operations should be recognised. It could be argued in this case that the Local Plan is not planning positively as required by paragraph 157 of NPPF and as such is unsound.

164. Should Policy D07 (Biodiversity and geodiversity) part 1) clearly distinguish the hierarchy of international, national and locally designated sites and is it consistent with NPPF paragraph 113? Should it address biodiversity and geodiversity in general and reference the specific protections provided under parts 2) to 6)?

Policy D07 (1) as worded affords the same level of protection to all designations. NPPF at para. 113 is clear that there should be distinctions between sites of different levels of importance and protection should be commensurate with this. The relevant part of para 113 states;

Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.

This means that internationally important sites (covered by Habitats and Birds Directives) receive highest level of protection (still set out in Circular 06/05), followed by SSSIs/NNRs, then County Wildlife Sites. Part 1 seems to apply same level of protection to everything. As such the policy is not compliant with National Policy and is UNSOUND.

165. Does Policy D07 provide sufficient protection to sites lower down the hierarchy such as those identified in part 1)?

Yes

166. Does Policy D07 3) provide sufficient protection to Sites of Special Scientific Interest (SSSIs), ancient woodland and aged/veteran trees?

Yes

167. In Policy D07 6) is "offsetting" an effective compensatory measure and should it be a requirement? Should consideration be given to overall gains in biodiversity through reclamation and should Policy D10 (Reclamation and afteruse) be cross referenced?

No offsetting is not effective. The reference to offsetting in Clause (6) of the policy seems to take a disproportionate role in the policy to its expected role in mineral development. The MPA's position is that mineral workings already demonstrate a more than acceptable level of offsetting in that in most of cases restoration leaves a site more biodiverse than before mineral working took place.

Mineral extraction, unlike other forms of development can only take place where the minerals exist in economic quantities and it is often not possible to choose an alternative site to avoid areas of ecological interest. Offsetting of any impacts caused because of mineral development is often achieved within the development scheme itself i.e. because of approved restoration schemes. 'Losses' may be temporary as sites are worked, but net gain can generally be delivered through restoration as recognised in Clause (5) of the Policy.

If mineral developments were required to offset their permanent impacts, then this would increase the regulatory burden. Mineral extraction is also a temporary activity in each location and normally results in a net gain in biodiversity through site and estate management before and during working, and restoration and aftercare following extraction.

In any event the requirement to provide compensation gains elsewhere may well require third party involvement/land not in control of the developer.

Biodiversity does not respect local authority boundaries, so it is not appropriate to restrict any compensatory gains to within the mineral or waste planning authority area in which the loss occurred as required by Clause (6) (iv) of the Policy.

It is considered therefore that the Policy is INEFFECTIVE as it not likely to be implementable for the reasons above.

168. In Policy D07 6) iv) what is the rationale behind requiring compensatory gains to be delivered within the minerals or waste planning authority area in which the loss occurred? How are cross-boundary aspects of biodiversity taken into account?

Biodiversity does not respect local authority boundaries, so it is not appropriate to restrict any compensatory gains to within the mineral or waste planning authority area in which the loss occurred as required by Clause (6) (iv) of the Policy.

169. In Policy D07 should more emphasis be given overall to considering cumulative impacts?

It is important to recognise that cumulative impacts can be positive especially when considering biodiversity.

173. In Policy D12 (Protection of agricultural land and soils) is the last sentence (even with amendment PC97), which states that development that disturbs or damages soils of high environmental value will not be permitted,

still too restrictive? Does "high environmental value" need further explanation if it is to remain?

Although the Planning Authority have addressed partially our concerns through PC97 we agree that it is still too restrictive and could still be used as a '*catch all*' to frustrate development. It is considered that this Policy is not positive planning as required by para.157 of NPPF. At the very least the term *high environmental value* needs to be tightly defined.

END

1424 words including questions.