

13. Minerals

13.1 PARAGRAPH 11.4.4 Non-Energy Minerals – Aggregates : Sand and Gravel

Objection

DO/51229/1874 National Assembly for Wales

Issue

13.1.1 The main issue is whether or not an additional policy should be inserted to safeguard sand and gravel resources.

Conclusions

13.1.2 The NAW argues that there should be a specific policy to address the safeguarding of sand and gravel resources. A recent study on behalf of the NAW has identified land to the west of South Cornelly quarry as being a significant sand and gravel resource with few constraints. The Council replies that the extent, quantity and quality of the resource has not been fully identified by what was essentially a desktop study. If there were significant sand and gravel deposits in the Borough, I consider that it would be important to have a safeguarding policy in the Plan.

13.1.3 As to whether the land west of South Cornelly quarry should be safeguarded from development, I agree with the Council that, as the exact nature of the resource has not been ascertained, the exploitation of the site is by no means certain. In any case, it seems to me that non-minerals development in the locality would be highly unlikely, given that it is countryside away from any other significant built development. Although agricultural development may be permitted, I consider that that would be unlikely to seriously prejudice future extraction. Therefore, I conclude that it is unnecessary to safeguard land west of South Cornelly for sand and gravel extraction purposes.

Recommendation

13.1.4 I recommend that no change be made to the Plan.

13.2 POLICY M2 Mineral Extraction Criteria

Objections

DO/51200/1890 Rhondda Cynon Taff County Borough Council
DO/51196/1490 T S Rees Limited

Issues

13.2.1 The main issues are:

- Whether or not the policy is overly restrictive in requiring all criteria to be met before development can take place;
- Whether or not the policy or its supporting text should refer to the necessity for 'significant environmental improvements' when working former colliery tips for secondary materials.

Conclusions

13.2.2 On the first issue, the objector considers that the Policy is unduly onerous in requiring that all criteria be met before development is acceptable. The Policy does not allow for issues of special need or landbank deficiencies to be taken into account. I consider that all the criteria relate to legitimate minerals planning concerns and the mitigation of the detrimental effects of development. It is therefore reasonable for the policy to require all relevant criteria to be met before permission is granted for development. If a special need were demonstrated, this would amount to a material consideration which would be taken into account through the development control process. I conclude that the Policy is sufficiently flexible and need not be relaxed to address these matters as the objector seeks.

13.2.3 The objector argues that the working of former colliery tips should only be permitted if 'significant environmental improvements' are achieved. However, in my view, restoration and after-care considerations would be adequately addressed by criterion 3 of the policy. There is no requirement in Minerals Planning Policy Wales (MPPW) (CD108) for significant environmental improvements to be made before the exploitation of former colliery workings is permitted. The details of any environmental improvement would be most appropriately addressed as a matter of development control. I conclude that the policy and text need not refer to 'significant environmental improvements'.

Recommendation

13.2.4 I recommend that no change be made to the policy.

13.3 POLICY M3 Maintenance of Appropriate Landbanks

Objections

DO/51227/1808	Harmer Partnership
DO/51196/1491	T S Rees Limited

Issues

13.3.1 The main issues are :

- Whether or not the policy and its supporting text should be updated to reflect the fact that the Plan is intended to cover the period to 2016;
- Whether or not the Plan should advocate the application of a 20 year land bank to individual quarries.

Conclusions

13.3.2 On the first issue, the Council proposes an amendment in the PIMS, referring to 2016 as the end of the Plan period. I consider that this adequately addresses the objector's concerns.

13.3.3 On the second issue, the objector refers to the provisions of the Glamorgan Limestone Quarrying Plan which advocates the maintenance of 20 year reserves at individual quarries. The Council argues that the policy identifies sufficient reserves for the remaining Plan period and 10 years beyond. This implies a reserve capacity in excess of 20 years, and I consider this to be sufficiently forward looking.

13.3.4 The objector suggests that the policy should identify landbanks for individual quarries, as in the Mid Glamorgan Structure Plan. This approach was also followed in the subsequent Mid Glamorgan Mineral Local Plan for Limestone Quarrying. However, MPPW offers no detailed advice on how landbanks should be apportioned at local level, implying that there is no obligation to identify them for individual quarries in the UDP. Furthermore, the actual apportionment of permitted reserves to form a landbank is a matter for individual minerals planning applications. Some existing sites may be constrained and difficult to exploit within the anticipated time period. I therefore conclude that there is no necessity to provide further information on how landbanks should be apportioned in the policy.

Recommendation

13.3.5 I recommend that the policy be modified as shown in the PIMS.

13.4 POLICY M6 Extraction of Land-Won Sand & Gravel

Objections

DO/51198/1497	Quarry Products Association
PCO/51209/2231	Countryside Council for Wales
PCO/51198/2173	Quarry Products Association

Issues

13.4.1 The main issues are :

- Whether or not the prohibition of extraction from the coastal zone is appropriate in the light of national policy and the local nature of this designation;
- Whether or not the words 'and their consultation areas' should be added to the last sentence of paragraph 11.13.2.

Conclusions

13.4.2 On the first issue, the Council has put forward an amendment in the PIMS to indicate that extraction will not be permitted in 'statutory designated areas'. Although welcoming the deletion of the phrase 'the Coastal Zone', the Quarry Products Association still considers that the policy's wording is excessively stringent. Although minerals development would have to satisfy exacting criteria to be permitted in designated areas, MPPW sets out the

circumstances where development in statutory designated areas would be allowed. In summary, this is that minerals development should not take place save in exceptional circumstances. I conclude that the policy should be amended to be less restrictive and to reflect national policy more closely.

13.4.3 On the second issue, the Countryside Council for Wales suggests that the words 'and their consultation areas' be added to para 11.13.2 of the supporting text. The Council has proposed an amendment in the PIMS so that the policy refers to statutory designated areas, namely the Kenfig NNR and Merthyr Mawr SSSI. The reworded para reads more clearly and I conclude that no further change is necessary.

Recommendation

13.4.4 I recommend that Policy M6 and para 11.13.2 be modified as shown in the PIMS.

13.4.5 I recommend that Policy M6 be further modified to read:-

'Proposals for land won sand and gravel will be examined against criteria in Policy M2. Extraction in statutory designated areas will only be permitted in exceptional circumstances, following the most rigorous examination of the contribution to the public interest, environmental impact and scope for mitigation.'

13.5 POLICY M8 Extraction of Material from Mineral Working Deposits

Objections

DO/51211/1709 Forest Enterprise
DO/51200/1520 Rhondda Cynon Taff County Borough Council

Issues

13.5.1 The main issues are :

- Whether or not the requirement for improvements to tip safety, in the final part of the policy, is appropriate given other legislation;
- Whether or not the policy or its supporting text should refer to the necessity for 'significant environmental improvements' when working former colliery tips, as is the case for secondary materials.

Conclusions

13.5.2 On the first issue, although tip safety is addressed by other legislation notably the Mines and Quarries Regulations, these are not concerned with the land use planning implications of mineral extraction from minerals working deposits. Para 34 of MPPW makes it clear that land instability is one of the environmental factors that should be addressed by UDPs. I therefore conclude that the issue of tip safety is a legitimate concern for the policy.

13.5.3 On the second issue, for reasons set out in para 13.2.3 and bearing in mind the content of MPPW, I conclude that the objector's suggested rewording should not be made.

Recommendation

13.5.4 I recommend that no change be made to the policy.

13.6 POLICY M10 Conditions to Protect & Improve the Environment

Objections

DO/51227/1809

Harmer Partnership

DO/51229/1875

National Assembly for Wales

DO/51200/1521

Rhondda Cynon Taff County Borough Council

Issues

13.6.1 The main issues are :

- Whether or not criterion 8 of the policy should take account of differences between sites in terms of their importance for archaeological and historic interest;
- Whether or not the policy should refer to restoration and cross refer to Policy M13;
- Whether or not a criterion should be added concerning assessment of the potential nature conservation value of sites.

Conclusions

13.6.2 On the first issue, the objector suggests that the policy fails to differentiate between sites in terms of archaeological and historic value, and criterion 8 of the Policy should be reworded. Reading the policy as a whole, I consider that the phrase “where necessary and appropriate” in the opening sentence of the paragraph provides the degree of differentiation sought by the objector. I conclude that criterion 8 need not be amended.

13.6.3 On the second issue, the NAW argues that criterion 10 should refer to restoration with a cross reference to Policy M13. The Council considers that there are sufficient references to restoration in other policies within the chapter. As the UDP should be read as a whole, I consider that a cross reference to Policy M13 would be unnecessary. However, I conclude that, as the criterion refers to appropriate land use and aftercare, it would be sensible to refer to restoration as well.

13.6.4 On the third issue, I consider that the change suggested in the Council's response to Rhondda Cynon Taff Council would meet the objector's concerns and address an important consideration. I shall recommend an additional criterion requiring an assessment of the potential nature conservation value of prospective sites, accordingly.

Recommendation

13.6.5 I recommend that the Plan be modified by inserting an additional criterion:

'11 Require a detailed evaluation of the nature conservation value of the site. Where necessary, measures will be required for the protection of any habitats, species or features of interest, or mitigation measures, as appropriate.'

13.6.6 I recommend that criterion 10 be modified to read:

'Provide appropriate restoration, land use and aftercare to secure

13.7 POLICY M11 Protection of Local Amenity

Objection

DO/51198/1498 Quarry Products Association

Issue

13.7.1 The main issue is whether or not the policy should specify a set distance for buffer zones.

Conclusions

13.7.2 The objector considers that the distance between minerals working and sensitive uses would be most appropriately assessed on the individual merits of specific applications rather than by the imposition of a set distance. A buffer zone of 200 m is considered to be unnecessary and excessive, and likely to sterilise valuable mineral resources. The Council argues that this approach was supported at the previous Inquiry into the Mid Glamorgan Minerals Local Plan, and the principle of using buffer zones is still justified. However, following monitoring, the Council judges that it would be reasonable to reduce the distance to 200 m from the 250 m set in the adopted plan. Para 40 of MPPW supports the use of buffer zones and accepts that these would be most appropriately set by UDPs.

13.7.3 The subsequent draft TAN on aggregates (CD141) endorses this approach and suggests a distance of 200m for hard rock quarries. As hard rock quarrying is the main non-energy minerals activity carried out in the Borough, I consider that this would be appropriate. Where the individual circumstances of a minerals operation suggest a different size of buffer zone, the wording of the policy is sufficiently flexible to allow these factors to be taken into account. I conclude that, as the principle of setting buffer zones in the UDP is advised in national policy guidance, this approach is appropriate. A 200m a buffer zone would be acceptable in the local context.

Recommendation

13.7.4 I recommend that no change be made to the policy.

13.8 POLICY M12 Retention & Control of Land

Objection

DO/51169/1375 Tarmac Western Ltd

Issues

13.8.1 This is whether or not there is justification for the policy to restrict mineral working and retain all the specified topographical features.

Conclusions

13.8.2 Both parties consider that it is reasonable that minerals operations are screened, and Tarmac refers to screening work which it has carried out in the area. The parties differ on how screening should be achieved. Tarmac argues that the detailed nature of screening should be undertaken as part of any application for development, not as part of the UDP process. The Council considers that the process envisaged by the policy is supported in the recent draft Tan on Aggregates (CD141) and the Mid Glamorgan Mineral Local Plan (CD109).

13.8.3 Tarmac contends that the Policy conflicts with existing planning permissions for mineral workings, and land safeguarded for future extraction. In addition, it does not pay sufficient attention to the Environment Act submissions before the National Assembly, to update permission for mineral extraction in the area and the partial closure of Hoel y Splott. The Council considers that the retention of screening around these quarries is justified to protect landscape and visual amenity interests, as well as to protect residential amenity east of Stormy Down Quarry. The quarries are bounded by a number of public highways and other rights of way. The size of plant, up to 30 m in height, in the quarries is said to require the provision of screening other than simple landscaping. The Council argues that its approach is justified by both local and national planning guidance on minerals planning.

13.8.4 Tarmac considers that the policy, in particular M12 (1) and (2), would conflict with its long term strategy to implement an extant planning permission at Pant Mawr Quarry and expand quarrying to land east of Cornelly Quarry. It argues that Policy M12 conflicts with Policy M4 (1) which identifies land east of Cornelly Quarry as an area safeguarded for future use and M5(1) which identifies land to the north of Cornelly quarry as an area of search.

13.8.5 Furthermore, the objector argues that the identification of the areas named in the policy has not been based on an objective landscape analysis, and there is no clear statement as to what is being screened against. The Council replies that an unpublished assessment from adjoining highways, footpaths and sensitive residential areas was undertaken by Mid-Glamorgan County Council. However, the objector's own assessment found that there was no case for retaining all the land along Heol y Splott or adjacent to Mount Pleasant Road as identified in the policy. I consider that the absence of a formal assessment with clear guidelines as to what impacts are being considered and what would be unacceptable is a serious omission. There is uncertainty as to whether all the identified features should reasonably be included in this policy.

13.8.6 The objector argues that the process underlying Policy M12 would conflict with both WO C13/97 on the use of planning obligations, and pending applications under the Environment Act for alterations to the conditions of quarrying on extant permissions. The areas identified by the policy already have permissions for mineral development, and the policy seeks to have them relinquished. I agree that strict adherence to the policy could pre-empt the review of old mineral permissions under the 1995 Act. The policy as worded implies a blanket formulation, failing to take account of whether a legal agreement to withdraw the right to work the identified areas would be fairly and reasonably related to a particular proposed development. In my view, this is in conflict with WO C13/97, para B17(iii).

13.8.7 I am advised that the screening areas are in the ownership of more than one company. Though land ownership usually does not affect the allocation of land in UDPs, I accept that a complex ownership pattern may prohibit the achievement of a planning obligation in this context. It could prevent development which is reasonable in all other respects. I consider that the policy could lead to conflict with the Circular on planning obligations, and with the process of updating planning permissions under the Environment Act.

13.8.8 The objector has put forward a revision to the policy and its reasoned justification, indicating that the identified areas have planning permissions for quarrying, and any relinquishment of the right to work would need the agreement of the operators. The proposed changes to the reasoned justification would explain some of the practical difficulties associated with retaining all the features. I consider that these amendments would be reasonable, as they would enable the UDP to identify the broad areas where screening would be desirable. However, they would leave the details of any screening and the retention of existing topographical features to be considered in the context of individual planning applications through the development control process. I conclude that they would overcome the current difficulties with the policy.

Recommendation

13.8.9 I recommend that Policy M12 be modified as follows:

13.8.10 'The Council will seek to secure the retention of identified existing topographical features as shown on the Proposals Map that screen mineral operations. It is, however, recognised that the identified areas enjoy planning permission for quarrying, and any relinquishment of the right to work the respective areas would need to be with the agreement of the operators. The identified areas are : M12(1)

13.8.11 I recommend that the text in para 11.19.2 be amended and extended along the lines proposed by Tarmac in its supplementary written statement to the Public Inquiry.

13.9 POLICY M13 Securing High Quality & Prompt Restoration & Aftercare

Objections

DO/51184/1415	Coed Cadw Woodland Trust
DO/51198/1499	Quarry Products Association

Issues

13.9.1 The main issues are :

- Whether or not the policy should recognise the contribution made to restoration and aftercare by woodland creation;
- Whether or not the supporting text should include 'unless particular circumstances dictate otherwise'.

Conclusions

13.9.2 On the first issue, the objector considers that the policy underestimates the contribution that woodland can make in restoring former mineral workings. The Council considers that, whilst woodland is not explicitly referred to in the policy, it recognises its important role in restoration particularly with regard to the objectives set out in the Borough's LBAP. In my opinion, there is no need for the UDP to refer to any particular method of restoration. This is a detailed matter that would be most appropriately addressed through development control.

13.9.3 On the second issue, the objector considers that to require financial payments for the grant of planning permission without a clear and distinct authority laid down by statute is contrary to a fundamental principle of law. Guarantees of this nature are usually only required for coal-related development so that the phrase 'unless particular circumstances dictate otherwise' should be deleted from the policy's supporting text. The Council considers that, in particular for non-coal related developments such as borrow pits, it is reasonable to seek financial guarantees.

13.9.4 I accept the Council's view, as it is supported by para 54 of MPPW. This national guidance makes no specific reference to coal-related development but allows for authorities to require the use of financial guarantees to ensure that necessary aftercare and restoration measures are completed. In terms of the detailed application of the policy, any financial arrangements would have to accord with national planning guidance set out in WO C13/97, which would guard against any abuse. I conclude that it is acceptable for the supporting text to include 'unless particular circumstances dictate otherwise'.

Recommendation

13.9.5 That no modification be made to the policy or its reasoned justification.

