

Newport Local Development Plan

Examination in Public

Hearing Session 9 - Minerals; Waste; Renewable Energy

Mineral Product Association Statement

(NB. All documents referred to are contained in the Appendix to this Statement)

Policy SP22 Minerals

- 1. Does policy SP22 and its accompanying text adequately and sufficiently clearly set out how national and regional requirements concerning aggregates provision are met, so far as is reasonably possible, by the Plan? In particular, is the stance of the Plan in relation to maintaining land bank supplies during the Plan period adequately explained and justified? Does paragraph 2.81 sufficiently clearly explain the basis of the policy's provisions?**

1. The Mineral Product Association's (MPA) objections to Policy SP22 were couched in terms of the Regional Technical Statement for South Wales 2008 (RTS). We understand that the Review of that document (RTS2¹) in which the Association took a prominent part, was considered by the Members' Forum on 1st April 2014. It has been reported to us that fifteen authorities came along to that meeting with delegated powers to endorse the document (Bridgend, Monmouthshire, Ceredigion, Cardiff, Pembrokeshire, PCNP, Gwynedd, Torfaen, Carmarthenshire, Merthyr, Anglesey, Neath/PT, Newport, RCT, Blaenau Gwent) whilst nine were not ready to proceed procedurally but didn't foresee any problems. Caerphilly will not be in a position to make a decision until June 10th at the earliest. Several authorities noted that examinations are scheduled and procedural delays are not helping with clarifying the RAWP's latest advice. Welsh Government (WG) said that the remaining authorities would be given until the end of April to formally endorse the document. Ministers will not sign it off for WG endorsement until all authorities have agreed, which we understand will be immediately after agreement by all mpas has been reached.
2. We are therefore in limbo between a guidance document that no-one expects to continue to implement and one which is almost on the verge of acceptance. The probable outcome is that RTS2

¹ Regional Technical Statements for the North Wales and South Wales Regional Aggregate Working Parties (1st Review) Main Document Consultation Draft October 2013, Cuesta Consulting Ltd

will be published as the South & North Wales RAWPs' guidance before the close of the Examination. However, the MPA cannot be certain of this.

3. The principle difference between the two documents as far as Newport is concerned is as follows, For Newport the RTS 2008 states:
 - The MPA should examine the feasibility of making allocations which go an appreciable way towards meeting the estimated 8 - 8.5 Mt of demand for aggregates arising within its area.
 - The secondary aggregate stockpiles should be monitored and where available used to replace the shortfall in primary aggregate reserves.
 - Existing and prospective wharves should be identified for protection in the LDP to safeguard the marine sand and gravel and possibly other minerals flow into the area.
 - The rail sidings at Mon Bank should be safeguarded to maintain existing and potential use for the transportation of aggregates by rail.
 - The feasibility of sea borne rock imports should be explored
 - Land won sand and gravel resources and possibly small areas of limestone which may be workable, need to be safeguarded in the LDP.

4. RTS2 2014 recommends for Newport that:
 - There should be no apportionment because Newport has no track record of sales over the last ten years and has no permitted reserves (landbank) [Table 5.1].
 - Caerphilly might need to find a new allocation for Carboniferous Limestone, depending on its assessment of the likelihood of two inactive quarries being brought back into production in the near future in order to encourage an improved compliance with the proximity principle in supplying limestone aggregates to Newport and Torfaen, further east [para 5.10]. .

5. The major differences can be summarised as the disappearance of the need for an apportionment, and the absence of detail on safeguarding mineral infrastructure, resources and sea borne imports. The safeguarding issues and alternative supply options have been addressed in the Plan leaving the issue of the apportionment.

6. Paragraph 2.81 in our view does not reflect the up-to-date position in respect of the apportionment in that it does not mention the outcome of RTS2. Consequently, there needs to be more explanation

summarising the position of RTS2 for the County Borough. We do not disagree that Newport's resources are limited, or that reserves currently permitted in Monmouthshire and Caerphilly could fulfill the needs of the mpa. However, even if maintaining a landbank is not possible due to having no reserves it should not absolve the mpa from adopting a policy which allows a contribution to aggregates demand should a suitable application be submitted.

7. The main problem we would have in the existing supporting text and policy is the reference to 'consider proposals...in the regional context' which we suggested should be dropped in our representations. This is because it is too vague and ill defined. We therefore suggest a revised alternative wording of the policy and supporting text for the examination to consider as a discussion topic.

(NB. insertions in **bold**; deletions in ~~strikethrough~~)

SP22 Minerals

THE PLAN WILL FULFIL ITS CONTRIBUTION TO THE REGIONAL DEMAND OF **AGGREGATES** BY:

- i) **CONTRIBUTING TO AN ADEQUATE SUPPLY OF AGGREGATES AS FAR AS LIMITED RESOURCES ALLOW AND BY PROTECTING EXISTING AND POTENTIAL WHARVES AND EXISTING RAIL INFRASTRUCTURE AT NEWPORT DOCKS;**
- ii) SAFEGUARDING LOCALISED ~~POTENTIAL~~ HARDROCK AND SAND & GRAVEL RESOURCE BLOCKS;
- ii) ~~PROTECTING EXISTING AND POTENTIAL WHARVES AND EXISTING RAIL INFRASTRUCTURE AT NEWPORT DOCKS TO ENSURE THE CONTINUED SUSTAINABLE TRANSPORTATION OF AGGREGATE;~~
- iii) ENCOURAGING THE USE OF SECONDARY AND RECYCLED AGGREGATES WHERE APPROPRIATE;
- iv) CONSIDERING **FAVOURABLY ANY SUITABLE** PROPOSALS FOR THE WINNING AND WORKING OF MINERALS ~~IN THE REGIONAL CONTEXT~~, WHILST HAVING CLEAR REGARD TO **ENVIRONMENTAL IMPACT** LOCAL FACTORS.

2.81 The **review of RTS (2014) recommends no apportionment for Newport in view of the lack of reserves and suitable resources. Instead, it recommends that Caerphilly might need to allocate further resources to supply the needs of nearby areas on the grounds of proximity. However, since** ~~sets out the need for Newport to provide 8 to 8.5 million tonnes of aggregate and National Mineral Planning Policy requires Planning Authorities to maintain a landbank of supply for both hard rock and sand & gravel reserves. There is no current landbank within the Newport boundary, resources are limited and adjoining authorities are unable to take on the provision. Therefore Newport will consider~~ **favourably any suitable** proposed mineral workings in the regional context due to the limited resource **made in order to** enable an individual a landbank policy to be **maintained** ~~applied~~, as recognised in Section 17 of MPPW.

8. These amendments would then satisfy tests C2 by bringing the policy into line with national policy, and with CE1 by presenting a coherent strategy logically flowing from evidence.

2. Does the wording of SP22 need to make more direct reference to maintaining a land bank of aggregate supply?

1. In that the previous discussion of RTS2 admits that no apportionment is given to Newport on the basis of its track record of sales and reserves over the last ten years, and in view of its limited resources, the mpa cannot maintain what is not there. However, as we have stated, the authority should have a policy that is open to the permission of aggregates to assist in providing a landbank should the need arise. We have made updated suggestions for the policy wording to accommodate this.

3. What is the position concerning a new RTS? Are there likely to be significant implications for the policy approach proposed in the LDP?

1. See above.

4. Is additional text to policy SP22 (and to paragraphs 10.13 and 10.14) referring to other dock-related freight and to policy T1 necessary to make the Plan sound?

1. The sustainable transport of minerals is dealt with in MPPW paras 42 & 43 and is mentioned in para 40 of MTAN1. It is also mentioned in para 29 of MTAN1 as part of making the aggregates supply pattern sustainable by minimising the transportation of aggregates by road (4th bullet point). The RTS (2008) contained advice about transport in paras 3.123 – 3.124 & 3.130 – 3.132. Advice specifically for Newport is found on page 98. RTS2 (2014) contains no specific advice on safeguarding transport infrastructure, leaving consideration of the topic to national policy. As such, the principle of safeguarding mineral infrastructure is part of national policy and its absence would make the plan unsound.
2. These references advised that wharf sites and rail depots should be safeguarded for the purposes of encouraging sustainable transport of minerals and minimising road transport. The wharf sites in Newport and other coastal locations in Wales are important for the continued ability to import marine sand and gravel. If they are compromised in any way, this could trigger the need for land won sand and gravel production.

3. The MPA is very supportive of the principle of safeguarding essential mineral infrastructure and would urge the Examination to continue to include such safeguarding of wharves and rail depots in the Policy. However, we are aware that certain locations at major ports are established under PD rights and cannot be safeguarded. This is regrettable since the loss of wharf capacity to other uses (either to sensitive non mineral development or to other port uses) is an ever present danger. If this situation applies in Newport we would ask that the port operators be encouraged to provide suitable alternative locations for mineral import infrastructure when seeking to redevelop existing sites.
4. The policy satisfies test C2 by reflecting the clear statements of national policy.

Minerals Policies M1-M3

5. Is policy M1 Safeguarding of Mineral Resource sufficiently clear in articulating: i) the status of safeguarding areas identified on the proposals map; ii) the intended approach to development proposals within these areas; iii) the circumstances of overriding need where, exceptionally, development may be permitted?

1. The policy is very brief and insufficient to provide development management guidance. It ought to as a matter of principle identify where the safeguarding of minerals can be found (i.e. on the Proposals Map) and the criteria to be used to assess non-mineral development proposed in these areas. However, much of that information is relegated to the supporting text, which is why we did not object to the policy. However, on reflection we consider that this important information deserves to be elevated to policy text since it is essential to the working of the policy and because such criteria will form the substance of reasons for refusal of planning permission.
2. The following remarks make use of the BGS document, '*Mineral safeguarding in England: good practice advice*' published in 2011. I realise that this document does not apply to Wales but it does represent best practice for safeguarding mineral resources. The MPA was a co-author of the document. I have appeared at more than twelve Plan Examinations over the last four years using this document and its predecessor.
3. The document says, "*The definition of MSAs will not in itself safeguard mineral resources. Effective safeguarding will only be achieved by outlining criteria against which planning applications for land*

*use and development in MSAs will be considered.*² The Deposit LDP does not at present fulfill this advice. The BGS guidance advises that plans should include development management policies where the largest part of the process is to be included in the major policy vehicle, which applies in this case. Policy M1 does not provide such a development management policy, and it says very little more than Policy SP22. Indeed, policy type concepts like ‘overriding need’ and ‘prior extraction’ are relegated to the supporting text. Arguably, considerations such as these should form part of the policy itself since they will be important determining factors in deciding whether to prioritise minerals or development when they come into conflict. It also condenses the rather discursive treatment of the subject in the supporting text and focuses attention on the policy issues at stake.

4. I would judge that as an overall strategic statement Policy SP22 pitches the statements about safeguarding in the right place. However, if accepted, that does mean that more would be expected of the policies like Policy M1 which support it and take it further. I would suggest a model development management policy recommended by the BGS as follows,

“Planning permission will not be granted for any form of development within a Mineral Safeguarding Area that is incompatible with safeguarding the mineral and significant infrastructure unless:

- a. the applicant can demonstrate to the satisfaction of the Local Planning Authority that the mineral concerned is no longer of any value or potential value; or***
- b. the mineral can be extracted satisfactorily prior to the incompatible development taking place; or***
- c. the incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed; or***
- d. there is an overriding need for the incompatible development; or***
- e. it constitutes ‘exempt development’, namely householder applications; development already allocated in a statutory plan; infilling in existing built up areas.”***³

² ‘Mineral safeguarding in England: good practice advice’ BGS, Keyworth, 2011, para 5.2.1

³ Ibid, Case Study 9

5. This amendment would then satisfy test CE1 by presenting a coherent strategy logically flowing from evidence and also CE2 where it would demonstrate appropriateness.

6. Are the safeguarded mineral resource boundaries on the proposals map consistent with the most up to date relevant information available (including the BGS Mineral Resource and Aggregates Safeguarding Maps of Wales)? Is the proposals map annotation sufficiently clear and unambiguous?

1. There are discrepancies between the Proposals Map and the BGS Aggregates Safeguarding Map for South East Wales consistent with the MSA having been derived from the earlier Mineral Resource Maps. The later Aggregates Safeguarding Map should be used to delineate MSAs for aggregate minerals, since this was specifically produced for local authorities from the earlier Mineral Resource Maps as the BGS report makes clear⁴. The Proposals Map is consequently deficient in two respects; it does not reflect the rounded boundaries of aggregates safeguarding areas that specifically take into account buffers to the resource, and it misses out a category 2 aggregates resource, which is the Sandstone surrounding the category 1 Limestone resource. It would appear that the Proposals Map will need to be changed to reflect the later information found on the Mineral Safeguarding Map. An appropriate change would meet test CE2 by displaying a credible and robust evidence base.

7. Does policy M2 Mineral Development adequately reflect the RTS context of underlying unmet need – should it be permissively worded, subject to protection of amenity and environment?

1. Again, we had no objection to this policy but on reflection it needs to be more encouraging of the mpa's obligation to provide for its own aggregates needs if possible than to rely on other authorities. At present, it gives the impression (as interpreted in the light of para 10.6) that it might be difficult to demonstrate need for primary aggregates with veiled references to alternative materials.

2. Both the 2008 version of RTS and RTS2 took a hierarchical approach to land won provision by top slicing alternatives such as marine aggregates and secondary and recycled materials (e.g. RTS2 paras 2.2 & 2.3). The shortfall as represented by the proposed apportionments is what cannot reasonably be expected to be provided by such alternatives.

⁴ Aggregates Safeguarding Maps for Wales, BGS, Keyworth, 2012 Section 2, page 1

3. It could therefore be argued that any application that contributes towards an apportionment has already been demonstrated to be needed. In a case where no apportionment has been made (like Newport), does not indicate there is no need. On the contrary, Newport consumes probably more aggregates than all of its neighbours but produces none of its own. There is therefore a significant unmet need for aggregates in the County Borough, and any development management policy dealing with the subject should encourage suitably located and designed operations to fulfill that need.
4. We therefore believe the policy should be more permissively worded. We suggest the following,

(NB. insertions in **bold**; deletions in ~~strike through~~)

M2 Mineral Development

PROPOSALS FOR MINERAL EXTRACTION OR SIMILAR DEVELOPMENT WILL BE ~~CONSIDERED~~ **PERMITTED PROVIDED THEY SATISFY AGAINST** THE FOLLOWING CRITERIA:

- i) **FOR NON-AGGREGATE MINERALS PROPOSALS PROVIDE** EVIDENCE OF LOCAL, REGIONAL OR NATIONAL NEED;
- ii) ANY ADVERSE IMPACT ON POLLUTION, DRAINAGE, LANDSCAPE, THE NATURAL AND HISTORIC ENVIRONMENT, AGRICULTURAL LAND QUALITY AND LAND STABILITY IS ADEQUATELY MANAGED;
- iii) ADJOINING AREAS ARE NOT ADVERSELY IMPACTED IN TERMS OF NOISE, DUST, VIBRATION AND TRAFFIC GENERATION LEVELS.

5. The supporting text can then make clear that it is a priority of the Plan to provide aggregate minerals to contribute towards unmet demand and that in this case need is not required to be demonstrated. These amendments would then satisfy test CE1 by presenting a coherent strategy logically flowing from evidence

8. Is policy M3 Oil and Gas necessary? What evidence demonstrates this? What practical or useful purpose does the policy serve?

1. No comment.