

### 1. SUMMARY

1.1 The NPPF replaces most, though not all, of the previous planning policy guidance on minerals. In addition to the Framework document itself there is a Technical Guidance document which amplifies minerals policy in respect of proximity to communities, dust, noise, land stability, restoration and aftercare.

1.2 From a CPRE perspective there are good and bad points in the new set of policies.

### 2. TOP TIPS

- Be aware that minerals planning is undertaken by the county or unitary council as the Minerals Planning Authority (MPA) (along with waste planning) and there will be a separate Minerals, or Minerals and Waste Development (Local) Plan Document. Check your MPA's minerals plan, if there is one, for any conflict with the NPPF and for complementarity with the Local Plan(s) for the area (covering all other planning issues).
- The Minerals plan should pick up on, and respect important strategy issues in local plans, such as landscape designations and infrastructure development.
- Be sure to check out the political and officer relationships involved when the separate plans are prepared. Find out how the 'duty to co-operate' is being applied and whether strategic planning is being dealt with effectively. You may find officers and councillors working on the Local Plan(s) for the area are allies in pointing out concerns about minerals development.

#### PLANNING CAMPAIGN BRIEFING SERIES:

1. Development Plans
2. Green Belts
3. Housing
4. Energy Infrastructure
5. Transport
6. Heritage and Design
7. Light Pollution
8. Rural Economy
9. Economic Development and Town Centres
10. Wider Countryside and Protected Areas
11. Tranquillity
12. Minerals

We welcome case studies and feedback to inform future versions of these briefings.

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### 3. POLICY CHANGES AT A GLANCE

PRE REFORM	NPPF / PLANNING PRACTICE GUIDANCE (PPG)
Lead guidance was in Mineral Planning Statement 1 (MPS1) with a number of other MPSs and Mineral Planning Guidance notes (MPGs) covering specific minerals or aspects of mineral operations	<p>MPS 1 and most of the other MPSs and MPGs were replaced by publication of the NPPF. The overall approach to minerals planning has not changed, but there is some more supportive wording on economic benefit (para 144) and the planning procedures for aggregates supply have been significantly revised.</p> <p>The stated intention in producing the NPPF was to greatly reduce the volume of guidance. However, since the NPPF was published there has been further guidance on some technical aspects of minerals working and on the Managed Aggregates Supply System (MASS). This has now been incorporated in the extensive Planning Practice Guidance issued in on-line form in March 2014 and intended to be regularly revised. The section on minerals is an important reference point for campaigning on minerals issues.</p>

#### 4. BACKGROUND

4.1 The purpose of this briefing is to assist understanding of the reforms to the town and country planning system introduced by the Localism Act 2011 and the NPPF (March 2012). It outlines the main changes and the issues to be aware of (Analysis) and advises on specific campaign topics (Campaign Advice).

4.2 The new emphasis on localism is likely to lead to a much wider variety of local planning policies and decisions. These decisions will determine the impact of the planning reforms. CPRE is keen to ensure that our precious countryside continues to be protected and valued, and to highlight significant threats to it where they arise. We will collect evidence of outcomes (good and bad), in the form of cases that illustrate the issues we highlight. We welcome public assistance with this, as well as feedback on the briefing.

#### 5. WHAT ISSUES ARE YOU LIKELY TO FACE?

5.1 This briefing is designed to assist understanding of the policy changes introduced by the NPPF specifically in respect of minerals. The procedures for local plan preparation are covered in Briefing 1 - Development Plans. The advice in that briefing is equally applicable to the process of influencing mineral plans.

5.2 The scope for 'localist' minerals policies is likely to be limited because the previous strong national and strategic framework has survived more or less intact.

5.3 However there are several important elements of the NPPF which change or modify previous planning guidance. In overall terms, the loss of the national objective in former Minerals Policy Statement 1 - 'to secure adequate and steady supplies of minerals ..... within the limits set by the environment, assessed through sustainability appraisal' - is of great concern to CPRE, because of the loss of the explicit reference to environmental limits.

5.4 Paragraphs 142 - 149 cover specific minerals policies, but some other policies are of particular relevance to consideration of minerals proposals.

5.5 Paragraphs 142 and 143 note the essential need for minerals and require MPAs to have appropriate policies to ensure that essential needs are met. There is a requirement to define Mineral Safeguarding Areas to avoid sterilisation (i.e. making future working impracticable) of known mineral reserves by other hard development 'whilst not creating a presumption that resources defined will be worked' - a welcome caveat from CPRE's viewpoint. There is also a clear instruction not to grant further consents for the extraction of peat.

5.6 Paragraph 144 states that MPAs should 'give great weight to the benefits of mineral extraction, including the economy'. Just how that should be balanced against the environmental constraints covered in bullet points 2 and 3 of the same paragraph is not clear. There will, no doubt, be much quasi-legal discussion on interpretation of wording in the NPPF in future. There is already some evidence that the impact on decisions will be adverse in terms of environmental and countryside impact.

5.7 Paragraph 145 introduces a requirement for MPAs to prepare an annual Local Aggregate Assessment, either on its own or in collaboration with other MPAs, based on a rolling average of

10 years sales data ‘and other relevant local information’. In principle, this is in line with CPRE’s long term argument for ‘plan, monitor and manage’ rather than ‘predict and provide’ based on rigid adherence to national aggregate guidelines (which have consistently indicated higher demand than has proved to be the actual case). However, whether this will work as intended depends upon MPAs having the resources to undertake the task. To achieve public trust it also requires minimum restriction on access to data, which is currently often limited on grounds of commercial confidentiality.

5.8 There is a requirement for land banks of at least 7 years for sand and gravel and at least 10 years for crushed rock. How this will be balanced against environmental constraints is not clear (the procedure for such a conflict set out in MPS1 has gone). The paragraph also instructs MPAs to ensure ‘that large landbanks bound up in very few sites do not stifle competition’. Whilst having sufficient sites to maintain the necessary productive capacity is a valid land use planning consideration, this policy point is about commercial competition *per se* - which seems an inappropriate requirement to place on a planning authority. (There was an investigation by the Competition Commission into whether the aggregate supply sector is sufficiently competitive, which concluded that it is).

5.9 Paragraph 146 instructs MPAs to co-operate ‘with neighbouring and more distant authorities’ to co-ordinate the supply of industrial minerals. Although this paragraph does not refer to other minerals, paras 156 and 178 make it clear that cross boundary cooperation is required in delivering all necessary minerals.

5.10 Paragraph 147, addressing onshore oil and gas, includes ‘unconventional hydrocarbons’, presumably covering shale gas, though there is no direct reference to fracking (hydraulic fracturing). Unconventional gas is an issue that is currently subject to much controversy. The NPPF says that when planning for on-shore oil and gas development, including unconventional hydrocarbons, planning should clearly distinguish between the three phases of development (exploration, appraisal and production). Secondly it should address constraints on production and processing within areas that are licenced for oil and gas exploration or production. Planning practice guidance for onshore oil and gas (including ‘fracking’) was issued by CLG in July 2013. It is now incorporated in the recently issued on-line Planning Practice Guidance. We are still very concerned about how local authorities will manage effectively the cumulative impacts of shale gas and fracking developments. For example, there is no section in the online PPG on cumulative impacts. See CPRE’s response to the Government’s Strategic Environmental Assessment for further information on this<sup>1</sup>.

5.11 Paragraph 149 reads, at least superficially, like a presumption against opencast coal, although careful reading does not quite support that assumption, because the wording presumes environmental acceptability can be achieved in some cases. Para 147 does require MPAs to ‘indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable’. In a number of local authority areas, where coal deposits are widely present, the Coal Authority is pressing for safeguarding across the whole of the LPA. There is a case for resisting this blanket approach. Best practice on safeguarding and local plans is available via the BGS website

<http://www.bgs.ac.uk/mineralsuk/planning/legislation/home.html#safeguarding>

<sup>1</sup> <http://www.cpre.org.uk/resources/energy-and-waste/shale-gas/item/3602-strategic-environmental-assessment-for-further-onshore-oil-and-gas-licensing-environmental-report>

Open cast coal mining has been an issue of serious concern to CPRE in some areas of the country. A recent case and legal challenges on several other decisions (see case examples) suggest that the NPPF is being seen by the industry as supportive of a resurgence in exploitation of coal by open cast. More information on open cast mining issues is available from the Loose Anti Opencast Network (see case studies below) It should be noted that currently (2014) the UK still imports around 70% of the coal which is burned (mostly for electricity generation) so careful consideration is required before arguing lack of 'need' (as opposed to citing environmental objection).

5.12 Of the non mineral specific policies in the NPPF, paragraphs 115, 116, 156, 178 - 181 deserve special mention in minerals context.

5.13 Paragraphs 115 and 116 retain the strong presumption, on landscape grounds, against major development in National Parks and AONBs, other than in exceptional circumstances. Most mining and quarrying would be treated as major development except, perhaps, very small scale building or roofing stone quarries.

5.14 Paragraph 156 requires LPAs, which presumably includes MPAs where they are a different authority, to set out strategic priorities, including the provision of minerals.

5.15 Paragraph 178 sets out 'a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities set out in paragraph 156'. This relates to the statutory duty in the Localism Act. Paragraphs 179 - 181 amplify that duty and warn that evidence of effective cooperation will be a requirement when Local Plans are submitted for examination.

## 6. CAMPAIGN ADVICE

6.1 Key themes to press for in minerals plans: Localism, plus a briefer form of national policy, allows for local interpretation and application of key planning principles. This creates a new opportunity for influence. CPRE aims are best promoted by advocating consideration of the following areas of local evidence and policy:

- Identification of local environmental limits and how they can specifically affect mineral working proposals
- Local characterisation of landscape and built environment (much can be done on this by local communities through use of the CPRE toolkit or through influencing neighbourhood plans)
- Policy designations for local landscape and built environment features
- Location of workings to minimise impact
- Mitigation policies

6.2 Organisational arrangements: Find out who is responsible, at officer and member level, for mineral plan preparation and minerals applications in your MPA and try to establish a positive working relationship. Usually there will be a senior officer who is a qualified planner responsible



for minerals work. The relationships involved in the duty to co-operate will be particularly important to minerals planning.

**6.3 Previous plans:** Find out about the history and current status of the mineral plan for your area. Normally you will be able to view all plan documents on the Council's web site. Decide what parts of the existing plan are still important. Even if the plan is out of date, most policies should have been 'saved' and should still apply, subject to remaining relevant, until there is a replacement plan. Find out what stage has been reached in producing an up to date minerals local plan. Be sure to understand the areas of search, safeguarding areas and site allocations as these will provide a base from which to assess new plan proposals.

**6.4 MPA resources:** Current public finance pressures often mean that the resources and skills available for minerals planning are under stress. This may result in major delays in bringing forward new mineral plans and in carrying out the annual Local Aggregate Assessments. It may also limit the degree of co-operation with other - which the NPPF requires. It is important to ascertain whether/how your MPA's resources are affecting the statutory and policy guidance duties placed upon them and how they are addressing the important areas of monitoring of production and periodic review of permissions/conditions. This is a very specialist area of planning and the availability of relevant expertise should be pressed as a political priority, especially where there is evidence of a deficiency.

**6.5 Mineral planning applications:** Be prepared to communicate with the applicants and to try to clarify any points of uncertainty about what is proposed. Concentrate on key issues which are of concern to CPRE rather than refusing to acknowledge any fair points made by the applicants. Marshall your arguments concisely, but comprehensively. Ensure that all of your objections are valid in a land use planning context and/or reflect reasonable local amenity concerns. Minerals applications are often of major environmental and social significance. Press for good pre-application consultation and if it is not forthcoming draw this to the attention of the MPA. Use pre-application consultation to press the applicant on issues of principle and mitigation, so that you have a two stage strategy - questioning of need and location, but if the development happens, good environmental mitigation.

**6.6 Mitigation during working:** Minerals plan requirements, agreements and conditions on applications to cover working arrangements, traffic routing, and screening, noise control etc. are crucial. Explore these issues carefully. Look for good criteria based policies in plans and explicit commitments from minerals operators. This will necessitate some monitoring of and comment on key planning applications.

**6.7 Restoration and after use:** The importance of restoration proposals and controls cannot be underestimated. When dealing with minerals plans and applications ensure there are good quality policies and proposals for restoration and after use. If they do not exist or seem unclear ask for explanations. This requires detailed consideration of realistic options for future land use and specific and enforceable conditions and agreements. It is usually appropriate to seek phased restoration unless the quarry will have a very short working life. Consider asking the MPA to require a restoration bond if there is doubt about the financial stability or track record of the applicant; current planning policy rules against bonds as a matter of course. Restoration and after use is a key opportunity to create new landscapes and habitats, but intentions can easily fail due to inadequate land ownership (transfer and custodianship) and practical arrangements. Watch out for attempts to use mineral working sites as a Trojan horse for industrial and waste operations and other forms of permanent built development in future. Try to press for this to be



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pre-empted by the MPA in the way land is controlled and used in future (preferably by legal agreement). Restoration and after-use may have particular landscape significance where large land areas are affected.

6.8 A range of resources to help you plan an effective campaign, communicate your message, and gather people to your cause can be found on Planning Help:

<http://www.planninghelp.org.uk/improve-where-you-live/campaign-tips>

### 7. FURTHER INFORMATION

#### CPRE Resources:

[www.planninghelp.org.uk](http://www.planninghelp.org.uk)

*How to Respond to Planning Applications*, September 2011.

*How to Shape Where You Live: a guide to neighbourhood planning*, January 2012.

*Planning Explained*, December 2011.

#### Case Studies:

Some particularly useful case analysis material is available on open cast mining from the Loose Anti Open Cast Network (LAON):

[Nottingham Indymedia | Articles | Show | Is so much opencast coal now needed?](#)

There is growing concern that decisions on open cast coal are giving greater weight to the economic benefits of extraction.

Where case studies relevant to the briefings and to future national campaigning are available they will be stored on our website:

[www.cpre.org.uk/what-we-do/housing-and-planning/planning](http://www.cpre.org.uk/what-we-do/housing-and-planning/planning)