

Draft National Planning Policy Framework, July 2011

Response by Planning Officers Society (Minerals and Waste Forum) on Minerals and Waste

- (i) The Planning Officers' Society represents the most senior professionals and managers of planning functions in the English local authorities. We set out to:
 - Act as an advocate and promoter of Local Government planning;
 - Assist and advise the Government and the Local Government Association on planning matters and related issues;
 - Act as a centre of excellence, undertake research and promote best practice in planning matters;
 - Promote all aspects of the built and green environment by working closely with other organisations and professions.
- (ii) The Society's aim is to ensure that planning makes a major contribution to achieving sustainable developments, from national to local level, in ways which are fair and equitable and achieve the social, economic and environmental aspirations of all sectors of the community.
- (iii) The comments in this response are specific to minerals and waste and should be read in conjunction with the Society's main response. Numbers given in brackets are the paragraph numbers of the draft NPPF.

MINERALS

1. General

- 1.1 POS (MWF) generally welcomes the minerals section of the Draft National Planning Policy Framework (dNPPF) as a succinct single statement of planning policy covering all minerals.
- 1.2 POS (MWF) welcomes the emphasis on:
 - Planning for a steady and adequate supply of aggregates and the apparent retention of a managed aggregates supply system (MASS);
 - Liaison between mineral planning authorities (MPAs);
 - Maintaining landbanks for primary aggregates and other minerals;
 - Safeguarding of mineral resources and minerals supply infrastructure.
- 1.3 POS (MWF) does have a number of comments and concerns about the minerals section of the dNPPF, as set out below.

2. Key Comments

Types of minerals

- 2.1 The NPPF would be clearer if policies specific to the different broad types of minerals – construction (including aggregates); industrial; and energy minerals – were separated, rather than being muddled together as in the dNPPF. In particular, it should distinguish between area-wide landbanks for aggregate minerals and site-specific landbanks for industrial minerals. The NPPF should specify national priority minerals, as currently identified in MPS/MPGs, and set out specific policies for their supply and safeguarding. In particular, stronger emphasis, with clear and more distinct policies, should be given to industrial minerals; the dNPPF seems weak in this area compared with MPS/MPGs. The NPPF should also recognise that some minerals have a European or international dimension, with important export markets, eg china clay and ball clay.

Objectives for minerals

- 2.2 The Government's objectives for minerals (100) are significantly changed from those in PPS1 (para 9). The dNPPF seems to focus exclusively on supplying minerals to meet development needs and lacks the balanced approach of MPS1 which brings environmental and social considerations into the achievement of sustainable development.
- 2.3 The objectives for minerals (100) also lack the hierarchy approach to minerals supply in PPS1 (paragraphs 1 & 15, 3rd bullet): reduce minerals used and waste generated; maximise use of recycled and secondary materials; use marine dredged aggregates; secure the remainder from primary extraction. This hierarchy is an important principle that should be carried forward into the NPPF. In particular, the role of recycled materials appears to have been downgraded. The first objective in MPS1 puts recycling of materials together with prudent use of minerals; whereas the dNPPF (100) presents recycling as separate from and seemingly subsidiary to supply of indigenous (presumably meaning primary) minerals. Secondary materials are not mentioned. POS has previously suggested a hierarchy of supply options (see comments on MASS below and Annex 1).

Duty to cooperate

- 2.4 The NPPF should include a clearer and stronger statement (101, 1st bullet) on the duty of MPAs to liaise and cooperate on inter-authority minerals issues, both for aggregate minerals and also for industrial and energy minerals. Minerals can only be dug where they exist in the ground and they need to be moved from source to market, often involving large quantities moving over long distances. It is essential that, in planning for minerals supply, MPAs liaise and work together to established requirements and develop appropriate plans that will together make adequate provision to meet them. This will require working with both neighbouring and more distant authorities, as well as

the minerals industry and other relevant agencies; inter-authority working should build on the existing sub-national working arrangements for aggregates (ie AWP).

MASS

- 2.5 The future shape and role of MASS is unclear (101, 3rd bullet). MASS has been a central plank of aggregates planning policy for many years. POS believes it is essential that a suitably modified form of MASS is retained. The NPPF should confirm MASS and clearly state the principles for its future operation (see detailed comments below).

Marine aggregates

- 2.6 The dNPPF only deals with land-won minerals (apart from safeguarding of wharves). MASS has always taken a comprehensive approach to aggregates supply and demand, including marine-dredged material. Whilst there is a separate emerging system of marine policies and plans, there needs to be a tie-up with land-based planning policy and this should be articulated in the NPPF.

Landbanks

- 2.7 The landbank policy (101, 3rd and 4th bullets) does not say how landbanks are to be calculated (although it seems that the guidance in Planning and Minerals: Practice Guide, November 2006 will continue to apply). POS has proposed that aggregates landbanks should be based on 'rolling' average sales data. But landbanks should not be the sole requirement for the granting of further permissions. Also, there is confusion between development plan allocations and landbanks. (See detailed comments below.)

Clarity of meaning

- 2.8 The brevity of the dNPPF risks lack of clarity (see detailed comments below); it is vital that the NPPF is clear what it means and how it should be interpreted.

Good practice and technical guidance

- 2.9 It seems that valuable existing good practice and technical guidance documents are proposed to be cancelled, such as MPS2 and its Annexes 1 (noise) and 2 (dust). POS believes that such good practice and technical guidance is invaluable both to applicants and decision makers and that its loss would be counter-productive, leading to mineral planning authorities wasting resources 're-inventing the wheel'. It is noted and welcomed that the Planning and Minerals: Practice Guide, November 2006 (which accompanies MPS1) is not listed for cancellation. Annex 2 lists those minerals (and waste) good practice and technical guidance documents that POS considers should be retained.

3. MASS

3.1 Movement of aggregates (often long distance) from areas of resource to areas of demand underpin the supply system so it is essential there is a coherent national planning framework, as successfully provided by MASS over the last 30-40 years. It is essential that the principle of MASS is retained, but the system should now be modified to embrace localism. The NPPF must be clear on the future shape of MASS and how it is to operate. POS has previously put forward a suggested model for a modified form of MASS, and this is attached again at Annex 1.

3.2 Paragraph 101, 2nd bullet, 1st sub-bullet: this statement is unclear in the following respects:

- It is not clear how the National and Regional Guidelines are to be used in plan-making given that they do not include proposed apportionments below regional level.
- It is not clear what the AWP's are to advise on; presumably a sub-regional apportionment.
- It is not clear what is meant by 'sustainable sources'; does it mean secondary and recycled aggregates?
- It is not clear when and how the contribution from recycled (and secondary?) aggregates is to be taken into account in the sub-regional apportionment and/or plan-making process (additional to it having been taken into account in the national and regional guidelines).

Footnote 4 is welcomed, but this is an important statement and should be in the main text.

4. Landbank Policy

4.1 Paragraph 101, 2nd bullet, 2nd sub-bullet: the inclusion of this statement in the paragraph on preparing development plans is confusing as it relates to the determination of planning applications; it should be moved to paragraph 103.

4.2 Paragraph 101, 4th bullet, 2nd sub-bullet: this statement includes policy on aggregates landbanks in a section on industrial and energy minerals; it would be clearer if the two types of minerals were covered separately. It also confuses development plan allocations and maintenance of landbanks; development plan allocations are to enable sufficient supply of required minerals over the plan period; whereas landbanks are a measure of existing permitted reserves to indicate when further planning permissions need to be granted.

4.3 Paragraph 102, 1st bullet: it is assumed that 'ensure sufficient levels of permitted reserves' means 'maintain adequate landbanks'. This should be clarified; in particular it needs to be made clear that landbanks should as far as is practicable not include National Parks, the Broads,

AONBs and World Heritage Sites, as in MPS1 (paragraph 15, 10th bullet). But it should be made clear that there is no policy 'veto' on mineral extraction in National Parks and AONBs; the policy tests in MPS1 (paragraph 14, 2nd bullet) should continue to apply.

5. Other Detailed Comments

Terminology and clarification

- 5.1 It would be helpful to clarify that the references to 'local planning authority' (101 to 105) include the mineral planning authority, and that it is the mineral planning authority that is responsible for preparing minerals plans and determining minerals applications.
- 5.2 Paragraph 102: apart from the first two bullets, this paragraph appears to set out matters to be covered in minerals plan policies; this should be made clear at the beginning of the paragraph, as in paragraph 101. The first two bullets are about landbanks and relate to determination of planning applications; they should be moved to paragraph 103.

Peat

- 5.3 The proposed absolute ban on further permissions for peat extraction could have perverse consequences. It would rule out the possibility of permissions being given for less environmentally sensitive sites in exchange for existing permissions where working would be environmentally damaging (including to Natura 2000 sites). It would encourage existing permissions to be worked to their full extent regardless of the environmental consequences and there would be no incentive for operators to carry out environmentally beneficial restoration beyond the minimum required.
- 5.4 We suggest the policy be recast in less absolute terms, to give some flexibility for permissions to be granted as exceptions in justifiable circumstances.

Industrial & energy minerals

- 5.5 Paragraph 101, 4th bullet, 1st sub-bullet: it is not clear what this statement means; the inclusion together of 'extraction rates', 'safeguarding' and 'stockpiling' is confusing. The wording 'manage extraction rates' does not seem right, as the only way MPAs could do this would be through conditions restricting output, which is only likely to be justified in limited circumstances. Perhaps this should instead refer to managing the provision for extraction, which would be more relevant to the inclusion of this statement in the paragraph on preparing minerals plans.
- 5.6 Paragraph 101, 4th bullet, 2nd sub-bullet: 10 years is unlikely to be a sufficient landbank period for minerals for brick-making (currently 25 years), and may not be sufficient for silica sand (currently 15 years); and a landbank of more than 10 years is needed for minerals for cement manufacture (currently 25 years), which should also be

included here. Whilst it is open to mineral planning authorities to apply longer periods, the significant reduction from the existing policy could be seen as giving the wrong message and could make investment in these industries more difficult.

- 5.7 Paragraph 102, 3rd bullet: cement-making minerals and gypsum are also nationally important and should be included in the list of minerals to be safeguarded; and brickearth is also a brick-making mineral.

Safeguarding

- 5.8 Paragraph 102, 3rd bullet: all potentially important minerals resources should be safeguarded, not just proven ones. This section should also say that county councils should define mineral consultation areas based on mineral safeguarding areas, as in MPS1 (paragraph 13, 4th bullet).

Prior extraction

- 5.9 Paragraph 102, 5th bullet: policies should encourage prior extraction wherever economically important minerals would be sterilised, not just in mineral safeguarding areas; but it should be made clear that it must be subject to the mineral working being environmentally acceptable.

Environmental criteria

- 5.10 Paragraph 102, 6th bullet: the reference specifically to human health seems unduly narrow; potential impacts on people's amenity, such as from noise, dust, visual intrusion and traffic, are much more likely but are not covered. Other potential impacts of minerals development, such as on flooding, agricultural land and soils, are also not covered.

Restoration

- 5.11 Paragraph 102, 8th bullet: the NPPF should positively state that restoration of mineral workings is an opportunity to secure local enhancements and benefits, particularly in terms of biodiversity, geodiversity, landscape and public access and recreation, as in the section on Natural Environment (164). Policies for restoration in mineral plans should reflect this.

Determining planning applications

- 5.12 Paragraph 103, 1st bullet: it should be made clear that benefits of mineral extraction include environmental and social benefits as well as economic. It is not clear what is meant by 'give significant weight to'; the absence of this working elsewhere implies that this should be the most important consideration in determining a planning application. But, in any case, the weight to be given to a material consideration is a matter for the decision maker.
- 5.13 Paragraph 103, 2nd bullet: same comment on 'human health' as above (102, 6th bullet). The inclusion of aviation safety and cumulative effect

is noted; for consistency, these should also be included in paragraph 102 as matters to be covered in development plan policies.

- 5.14 Paragraph 103, 6th bullet: this requirement should be widened beyond mineral safeguarding areas (MSAs) also to cover development proposals outside MSAs which would indirectly sterilise mineral resources and development proposals that would adversely affect other minerals infrastructure such as aggregate wharves and rail depots (102, 4th bullet).
- 5.15 Paragraph 103, 7th bullet: it is not clear what the wording 'consider allowing' means, given that minerals planning authorities are duty bound to do this when determining applications; if this means there should be a presumption in favour of permitting small-scale extraction of building stone, then this should be clearly stated. However, 'not compromising the requirement to protect designated sites' should not be the only factor to be taken into account in considering such applications.

Energy minerals

- 5.16 Paragraph 104, 2nd bullet: it is noted that this policy only relates to methane from coal mines; it is not clear what national policy is on capture and use of methane from coal seams elsewhere.
- 5.17 POS questions the continuation of the MPG3 policy presumption against coal extraction (106) in the context of the general presumption in favour of sustainable development and asks that the need for coal to be treated differently from other minerals, with a higher threshold of acceptability, be re-examined.
- 5.18 Paragraph 106, 2nd bullet: the requirement for impacts to be outweighed by benefits should apply to mineral working generally, not just to coal extraction.

Plan-making: Minerals requirements

- 5.19 Paragraph 32: this paragraph seems too narrowly focused on primary minerals; it should also cover minerals from secondary and recycled and marine sources. The term mineral 'reserves' should be changed to 'resources', as in MPS1 (para 12, 1st bullet); and the term projected 'demand' should be changed to 'need' as in MPS1 (para 12, 2nd bullet). The paragraph should begin, 'Mineral planning authorities'.

WASTE

6. General

- 6.1 The dNPPF places an obligation on waste planning authorities to have regard to the policies in the NPPF when preparing waste plans (7). It also recognises that waste facilities are part of the strategic infrastructure (21) and that strategic priorities should be set out in Local Plans. It advocates that local planning authorities should work together with other authorities and providers to assess the quality and capacity of waste infrastructure and its ability to meet forecast demands (31). It is therefore disappointing that the dNPPF does not then go on to say something more about national objectives for the delivery of waste management facilities through the planning system. The proposal to deal with waste planning in a separate and later National Waste Management Plan seems at odds with the overall planning reform proposal to simplify the system in a unifying way. It is difficult to ascertain whether placing waste planning policy within the National Waste Management Plan is relegating or elevating its status and effectiveness.
- 6.2 It is disappointing that it was not seen fit to transpose key elements of PPS10 into the dNPPF. Little or anything of present waste planning policy is likely to be altered by the NWMP as basic principles regarding the development and location of waste infrastructure remains the same. Moreover, it is generally accepted that the waste agenda is closely allied to other planning policy areas e.g. energy, recycled aggregates and other minerals, climate change, etc. It is a retrograde step to separate it from the main national planning policy document.
- 6.3 If nothing else, the differential timing of bringing planning policy framework forward and the National Waste Management Plan (NWMP) will inevitably lead to confusion and contradiction when comparing the existing and continuing PPS10 to the NPPF.
- 6.4 If waste cannot be integrated into the NPPF it would be helpful if PPS10 could be either simultaneously amended to sit with the NPPF or clarified in those areas where there may be potential for confusion.

7. Specific Issues

National Waste Management Plan (NWMP)

- 7.1 Along with PPS10, it is assumed that waste plans will also form part of the NWMP in order to comply with EU Waste Directive. If those plans are to be based on both the PPS10 and the NPPF, then it needs to be clear how the two will work together. The pro-growth objective of the dNPPF is generally welcomed, particularly in relation to bringing forward needed waste management facilities which are often locally

unpopular and controversial and consequently difficult for decision makers. Whilst this may fly in the face of local community wishes, decision makers will potentially be faced with conflicting national policy guidance which may lead to unnecessary complication or delay, particularly if EU waste treatment targets are to be met.

Are Waste Plans Local Plans?

- 7.2 Reference in the dNPPF is made to local authorities preparing “waste plans” and that they should have regard to the NPPF. It is not clear whether waste plans mean Waste Local Plans. If not, then some further advice is required as to what the purpose of waste plans are to be. If waste plans are to contain strategies and policies to bring sufficient waste management sites forward in the right place to support development growth then they should be or have the same status as local plans (i.e. waste local plans) and form part of the development plan for the area. Furthermore, it would be helpful to clarify that the references to ‘local planning authority’ include the waste planning authority, and that it is the waste planning authority that is responsible for preparing waste plans and determining planning applications for waste related development.

Localism and community aspirations

- 7.3 The dNPPF makes a number of references to ensuring that any plans reflect the needs and aspirations of local communities (25). This is welcomed and PPS10 already contains similar objectives. The need to provide essential infrastructure such as waste facilities, as already mentioned, is not always at the top of the list of community aspirations but clearly growth (such as housing) will place demands on infrastructure. The dNPPF refers to incentives (18) that will help communities benefit from increase in development and if waste is to be outside the NPPF then it would be appropriate if opportunities for community incentives were equally available to ensure waste facilities are located and delivered in the most sustainable locations, particularly if the objectives of PPS10 (3) for communities to take more responsibility for their own waste.

Strategic facilities

- 7.4 The recognition in the dNPPF that planning authorities need to set strategic priorities (23), which includes planning for waste, and work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans (45) is supported. The acknowledgement that in two tier areas, county and district authorities should cooperate on relevant issues is also welcomed. The nature of waste facilities, the flow of waste through the economy and the market for waste will require a network of facilities, including strategic facilities of more than local significance. In those circumstances waste plans would need to

be coordinated across local authority areas and given the strategic nature of waste, upper tier authorities (particularly in two tier areas) would continue to be best placed to provide that coordination and delivery. It would be helpful if the NPPF made clear reference to that although that may be difficult given that waste planning policy is not to be part of the NPPF even though it recognises waste as a strategic priority.

Waste as a resource and economic growth

- 7.5 Sustainable development includes the re-use of existing resources (dNPPF 19) and so whilst waste is part of the infrastructure provision it is also a resource, is important in business resource efficiency and contributes to the economy directly. PPS10 recognised the need to integrate waste management to be considered alongside other spatial matters and it would be helpful if the NPPF made specific reference to that when addressing the reuse of existing resources, economic growth and the low carbon economy.

Waste Data and Technical Advisory Groups

- 7.6 The dNPPF strongly advocates that plans are based on “adequate, up-to-date and relevant evidence” taking full account of relevant market and economic signals (27) and that local planning authorities should work with other authorities and providers to assess the quality and capacity of waste infrastructure and its ability to meet forecast demands (31) as well as identifying land available for economic development (29-30). This is supported and clearly set out. Waste planning authorities have had difficulties in obtaining reliable and consistent data on waste, particularly in the non municipal sector. Two aspects are of concern about waste data:
- a) Sources – Waste planning authorities have relied on organisations such as the Environment Agency and DEFRA for data but the capacity to capture and relay that information has always been an issue. The obligation to cooperate on these matters is welcomed provided the capacity is available. Whilst it is not expected the NPPF to give detailed guidance on this matter a signpost that this will be dealt with in the revised PPS10 would be helpful.
 - b) Collation – PPS10 required the setting up of Technical Advisory Bodies (TABs) to support regional waste planning. TABs provided useful coordination, collation, consistency, expertise and market intelligence on waste matters that could support the provision of waste plans, particularly in identifying strategic level facilities and provide consistent advice on the what “adequate, up-to-date and relevant evidence” was in relation to waste matters. A number of TABs continue to work, e.g. in the South East, East of England and East and West Midlands. They could operate in a similar way to Aggregate Working Parties which the dNPPF supports. The

NPPF should endorse similar strategic advisory groups for waste, and that waste planning authorities should continue to work through such groups in the context of cooperative working.

Green belts and waste

- 7.7 PPS10 identified that waste development in the Green Belt may be acceptable due to locational, environmental and economic factors but the dNPPF does not. It is not clear whether this is an intentional omission to restrict uses within the Green Belt or whether the acceptability will continue in a revised PPS10. If it is to continue then it would be helpful if was set out in the NPPF.

Annex 1

POS proposal for Modified MASS

Provision for the supply of aggregates should be in accordance with the following hierarchy of supply options:

- Secondary and recycled;
- Marine dredged;
- Local land-won;
- Imports by rail or water;
- Imports by road.

But it must be recognised that supply of the potential for supply from secondary and recycled materials is limited.

A modified MASS could operate as follows:

- 'local aggregate assessments' prepared by mineral planning authorities (MPAs) individually or jointly – the assessments could be akin to the Strategic Housing Land Availability Assessments (SHLAAs) prepared by local planning authorities
- The assessments would include MPAs own assessment of need for aggregates based on average sales over the previous ten years of all aggregates and options for sourcing it
- The assessments would be monitored and reviewed annually and used in making planning decisions and preparation of plans
- Government should provide national and sub national forecasts on total aggregate needs to act as a reality check for local assessments, and provide support for Aggregates Working Parties
- Aggregate Working Parties should survey and monitor data on aggregate supply and local assessments and provide advice to MPAs

Annex 2

Minerals and waste good practice and technical guidance that POS considers should be retained

(Specific parts of these documents that POS considers essential can be identified if required)

MPS 1 Planning and Minerals (2006):

- Annex 1 Aggregates – particularly: provision for land-won aggregates; landbanks;
- Annex 2 Brick Clay;
- Annex 3: Natural building and roofing stone;
- Annex 4: On-shore oil and gas and underground storage of natural gas.

MPS 1 Planning and Minerals Practice Guide (2006) – contains useful guidance on: plan making; determining applications; safeguarding; aggregates supply (MASS, AWP, apportionments and landbanks); and non-aggregate minerals.

National and regional guidelines for aggregates provision in England 2005-2020 (2009) – updated and amended to reflect changes under localism.

MPS2 Controlling and Mitigating the Environmental Effects of Minerals Extraction in England (2005) – particularly: proximity of mineral workings to communities; and Appendix A community consultation and involvement.

MPS2 Annex 1 Dust (2005).

MPS2 Annex 2 Noise (2005) – particularly guidance on noise limits (paragraphs 2.19/2.20).

Consideration should be given to the need for further guidance on specific environmental effects, as was promised in MPS2.

MPG7 Reclamation of Mineral Workings (1996) – updated guidance on restoration and aftercare is needed.

MPG14 Environment Act 1995 – Review of Mineral Planning Permissions (1995) – an update of this guidance is needed.

MPG15 Provision of Silica Sand in England (1996) – an update of this guidance is needed.

PPS 10 Planning for Sustainable Waste Management (2005), Annex D role and composition of a regional technical advisory body – an update would be helpful now, but should otherwise be included in the review of PPS10.

Planning for Sustainable Waste Management: Companion Guide to PPS10 (2006) – updated, particularly to reflect changes at regional level.

PPG18 Enforcing Planning Control (1991)

PPS25 Development and Flood Risk (2010) – particularly on the risk-based approach.

PPS25 Development and Flood Risk Practice Guide (2009).

BGS Minerals safeguarding in England: good practice guidance (2011).

A Practical Guide to the Strategic Environmental Assessment Directive (2006).