

Telford & Wrekin Local Plan: Statement of Common Ground between Telford & Wrekin Council and Mineral Products Association

July 2016

Introduction

This Statement of Common Ground has been prepared jointly between the parties consisting of Telford & Wrekin Council (“the Council”) and Mineral Products Association with regard to the submitted Telford & Wrekin Local Plan 2011-2031, to assist the Inspector during the examination of the Plan.

This Statement:

- Shows Mineral Products Association representations on the Telford and Wrekin Local Plan Publication version, during the consultation period February 2016 – March 2016.
- Shows the Telford & Wrekin Council response to Mineral Products Association representations.
- Sets out suggested further minor changes for consideration by the Inspector, agreed by Telford & Wrekin Council and Mineral Products Association.
- Indicates areas where common ground has not been reached and Mineral Products Association objections to the Local Plan are still outstanding.

Background

The Council and Mineral Products Association have been working together throughout the preparation of the Plan in respect of Mineral Policies, in particular: Policy ER2 Mineral Safeguarding, Policy ER 3 Maintaining supplies, Policy ER 4 Sand and gravel resources and the Policies Map. Telford & Wrekin Council and Mineral Products Association have maintained a positive working relationship when discussing the above. This dates back to dialogue established before the Regulation 19 (Publication) Version of the Local Plan to the present date.

During the preparation of the Local Plan, Officers from Telford & Wrekin Council and Mineral Products Association met on 7th October 2015 to discuss mineral policies and mapping. Subsequent email exchanges requesting amendments to policy and supporting text were agreed at this stage, with a number of items to be agreed.

Following this, Mineral Products Association made four representations on the Regulation 19 (Publication) Version of the Local Plan (February 2016 – March 2016).

Mineral Products Association and Telford & Wrekin Council met on 22nd April 2016 to discuss outstanding issues and proposed changes following their representations on the Local Plan Publication consultation. Minerals Products Association proposed some minor modifications and Telford & Wrekin Council and Mineral Products Association agreed to draw up this statement of common ground, with subsequent discussions to develop and finalise this document.

Common Ground between Telford & Wrekin Council and Mineral Products Association

The table below provides:

- A list of Mineral Products Association representations to the Local Plan Publication (with ID, policy reference and nature of comment).
- Telford and Wrekin Council's response to Mineral Products Association representations.
- Outcomes of the discussion between Telford & Wrekin Council and Mineral Products Association on 22 April 2016.

ID	Policy Ref	Type of Comment	Mineral Products Association Comment	Telford & Wrekin Council Response	Outcomes of discussion between Mineral Products Association and Telford & Wrekin Council
27 6	ER 3	Object	<p>Policies ER 3 & 4 Representation</p> <p>The Policies are UNSOUND because</p> <ul style="list-style-type: none"> • They are not in accordance with national policy and guidance <p>These two policies are the only ones dealing with aggregate minerals. The main problem with them is that they are development management policies and there is no overarching strategic statement of policy commitment in the plan.</p>	<p>No change. Telford & Wrekin Council sees no reason to change this policy to add a strategic statement.</p> <p>Telford & Wrekin believes that policy ER3 is sufficiently robust and complements the range of policy and guidance available.</p>	<p>Mineral Products Association to maintain this representation.</p> <p>Mineral Products Association believes a strategic statement on mineral provision is required and that it is an important issue for the industry.</p>

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			<p>By way of comparison the adopted Shropshire Core Strategy contains strategic statements for minerals which meet the requirements of national policy (NPF paras 143 and 145). The relevant parts of Shropshire Policy CS20 say this,</p> <ul style="list-style-type: none"> • <i>Encourage greater resource efficiency by supporting the development and retention of waste recycling facilities which will improve the availability and quality of secondary and recycled aggregates in appropriate locations as set out in Policy CS 19;</i> • <i>Maintaining landbanks of permitted reserves for aggregates consistent with the requirements of national policy guidance. Shropshire will provide for an appropriate contribution to the sub-regional apportionments for sand and gravel and crushed rock and proposes to maintain the current level of production and current percentage regional contribution...</i> <p>The policy wording for Shropshire was agreed with the MPA before going to Examination, so we are content that this is an adequate framework for minerals.</p> <p>The Publication version of the Plan contains no explicit statement of commitment to contribution to the joint landbank, no policy commitment to minimum landbanks, no commitment to achieving a steady and adequate supply of aggregates, and no specific mention of encouraging the</p>	<p>The Technical Paper: Minerals (EiP references B6d) covers this.</p>	

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			<p>production and use of recycled and secondary aggregates. All of these are required content of local plans by NPPF paras 143 and 145.</p> <p>The situation could easily be remedied by either incorporating the above considerations in each policy or by splitting the policies; one to deal with strategy, and one to deal with the combined approach to sand and gravel and crushed rock.</p>		
27 7	ER 4	Object	<p>Policies ER 3 & 4 Representation</p> <p>The Policies are UNSOUND because</p> <ul style="list-style-type: none"> • They are not in accordance with national policy and guidance <p>These two policies are the only ones dealing with aggregate minerals. The main problem with them is that they are development management policies and there is no overarching strategic statement of policy commitment in the plan.</p> <p>By way of comparison the adopted Shropshire Core Strategy contains strategic statements for minerals which meet the requirements of national policy (NPF paras 143 and 145). The relevant parts of Shropshire Policy CS20 say this,</p>	<p>No change. Telford & Wrekin Council sees no reason to change this policy to add a strategic statement.</p> <p>Telford & Wrekin believes that policy ER4 is sufficiently robust and complements the range of policy and guidance available.</p>	<p>Mineral Products Association to maintain this representation.</p> <p>Mineral Products Association believes a strategic statement on mineral provision is required and that it is a important issue for the industry.</p>

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			<ul style="list-style-type: none"> • <i>Encourage greater resource efficiency by supporting the development and retention of waste recycling facilities which will improve the availability and quality of secondary and recycled aggregates in appropriate locations as set out in Policy CS 19;</i> • <i>Maintaining landbanks of permitted reserves for aggregates consistent with the requirements of national policy guidance. Shropshire will provide for an appropriate contribution to the sub-regional apportionments for sand and gravel and crushed rock and proposes to maintain the current level of production and current percentage regional contribution...</i> <p>The policy wording for Shropshire was agreed with the MPA before going to Examination, so we are content that this is an adequate framework for minerals.</p> <p>The Publication version of the Plan contains no explicit statement of commitment to contribution to the joint landbank, no policy commitment to minimum landbanks, no commitment to achieving a steady and adequate supply of aggregates, and no specific mention of encouraging the production and use of recycled and secondary aggregates. All of these are required content of local plans by NPPF paras 143 and 145.</p>		
258	10.2.1	Object	The Policies Map is UNSOUND because it:	Comments noted and welcomed. The	The suggested changes to be

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			<p>It is not justified by the evidence, or at least it is not possible to be sure that it is consistent with the evidence on mineral resources</p> <p>It is not effective in that the Policies Map will not protect all minerals of economic value</p> <p>It is not in accordance with national policy and guidance</p> <p>The MSA does not show the individual minerals that are being protected contrary to national good practice guidance. In other words, there should be multiple MSAs – one for each mineral being protected. The BGS guidance strongly implies that is good practice because the characteristics of individual minerals will differ and the treatment of the mineral in planning terms will differ accordingly. For example, prior extraction of sand and gravel is much more likely than for limestone or other hard rocks. Not identifying each mineral makes and not listing the minerals affected makes it difficult to assess whether all economic minerals are being protected.</p> <p>The MSA boundaries do not appear to reflect the boundaries of the BGS Mineral Resources Map for Shropshire contrary to national good practice guidance.</p> <p>We were not able to identify all minerals shown on the Resources Map, e.g. quartzitic sandstone, and since there is no separate MSA for this material it is impossible to check if it included. No explanation has been given for this.</p>	<p>following changes will be incorporated as a minor modification:</p> <p>-Map all BGS minerals and buffers individually on Map 4 and the Interactive Map, utilising BGS data.</p>	<p>submitted as part of this Statement.</p> <p><u>However</u>, no change to be made in regards to environmental designations as Mineral Products Association accept that all environmental designations have been included in the MSA and therefore withdraw the objection.</p>

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			<p>However, it could be an issue of finding the right notation for the MSAs on the Policies Map to make them distinctive, and of separately distinguishing different mineral types. Clarification would be appreciated.</p> <p>The MSA boundaries do not appear to overlap with environmental designations contrary to national good practice guidance. It is not possible to determine if environmental designations are included within the MSA because the notation is indistinct.</p> <p>The MSA boundaries do not appear to have a buffer applied to them contrary to national good practice guidance . A buffer should be applied in order to capture development proposals on the edge or near the edge of the mineral outcrop that although contain no mineral may have a deleterious effect on the ability to extract the mineral in the future. We suggest a suitable buffer would be 200 metres for sand and gravel and 500 metres for hard rock.</p>		
259	ER 2	Object	<p>Policy ER2 Representation</p> <p>Although the policy is a brave attempt to be positive about mineral safeguarding we believe the approach will not work and merely confuses the issue. We struggle to explain the elements of safeguarding to lpas unfamiliar with the concept (sometimes unsuccessfully) and to advocate close attention</p>	<p>Comments noted. The changes to Policy ER 2 will be incorporated as a minor modification (refer Appendix F to Doc A5).</p> <p><u>However</u>, no change</p>	<p>The suggested changes to Policy ER 2 to be incorporated as a minor change.</p> <p>Please refer to the Minor Modifications Schedule June 2014 (Prefix 47).</p>

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			<p>to the BGS safeguarding good practice guidance, which we had a hand in producing (also sometimes unsuccessfully). To the extent that lpas depart from that guidance usually results in us objecting to plans and attending Examinations to uphold good practice.</p> <p>The Policy is UNSOUND because it:</p> <ul style="list-style-type: none"> It is not justified by the evidence It is not effective in that the policy is unworkable and partial in its effect It is not in accordance with national policy and guidance <p>There is a logical progression to formulating policy for mineral safeguarding;</p> <ul style="list-style-type: none"> Identify the areas of mineral bearing land Apply a buffer to them to avoid development on the edge of the mineral area sterilizing mineral within it by proximity effects Wash through environmental designations to be consistent with other constraints and to guard against some types of development that might be acceptable in such areas but would still sterilise minerals (e.g. pipelines) Wash through urban areas to capture the opportunities for prior extraction that redevelopment sometimes 	<p>in regards to extending the MSA including buffers into the Telford urban area.</p>	<p>However, no further changes to be made in the Local Plan at this stage in regards to extending the MSA and buffers into the urban area. Mineral Products Association believe in extending the MSA with a suitable buffer and consideration of extending the buffer into the edge of the urban area to pick up development that might affect mineral interests in the MSA by proximity to it. The Council's position remains the same, given that:</p> <ul style="list-style-type: none"> - Applying the MSA based on the geological occurrence of

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			<p>presents, and to safeguard against proximity effects on the edge of the urban areas</p> <p>Map the designation by each mineral type so prospective developers know what they are looking for and can adjust mineral assessments and prior extraction plans accordingly</p> <p>Adopt appropriate policies to protect mineral and mineral infrastructure including exemption criteria to screen out the vast majority of non qualifying development that will have no impact on mineral safeguarding, and require mineral assessment in planning applications</p> <p>There is equally a logical progression for the consideration of development management proposals:</p> <p>Provide guidance to developers about the content of mineral assessments</p> <p>Be careful to not miss development that whilst is not located on mineral bearing land or on mineral infrastructure sites, will have an impact because it introduces sensitive land uses in close proximity to minerals or infrastructure, thereby making them less likely to be worked in future, or the infrastructure to be affected adversely or abandoned</p> <p>Encourage the location of development outside of mineral bearing areas completely if at all possible.</p>		<p>minerals would cover almost the entire area of urban Telford;</p> <ul style="list-style-type: none"> - Identifying the full extent of the resources available may place onerous requirements on developers and the Council to provide/assess data on mineral resources when applications for non-minerals development are made in the urban area when the encouragement of regeneration

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			<p>Establish the need for development in the MSA as a first step. If not needed, refuse permission</p> <p>If development is needed, encourage developers to either avoid the worst impacts on minerals by design, e.g. if the mineral is in part of the site consider using that for where the SUDs will go, or set apart that land as POS, or locate building footprints as far away from mineral as possible</p> <p>If that can't be done, consider prior extraction and either use the mineral on site in the development or make it available on the general market</p> <p>If that can't be done, consider whether the need for the development is so strong that it outweighs the presumption that mineral should be safeguarded</p> <p>At the same time consider other matters which might justify development in a MSA in exceptional circumstances, such as temporary development, minor works or changes of use that do not adversely affect the mineral interest, etc.</p> <p>So with these principles in mind, here is why the MPA believes Policy ER2 and the Policies Map are UNSOUND because,</p> <p>The form of the policy is couched in positive terms and does not reflect the negative approach (presumption</p>		<p>and economic development is one of Telford & Wrekin's priorities. Excluding the urban area and allowing proposals to be considered as they happen removes this burden;</p> <ul style="list-style-type: none"> - Prior extraction could result in delay to essential development in the urban area; - The policy in no way prevents the extraction of minerals, in appropriate

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			<p>against) that NPPF adopts against non mineral development being permitted in MSAs (NPPF para 144 bullet point 7).</p> <p>The policy needs an overarching statement at the beginning to reflect the strategic intent of the policy. At present, it reads too much like a development management policy without any such strategic content. A model form of such a statement is as follows,</p> <p><i>All mineral resources within Mineral Safeguarding Areas will be protected from unnecessary sterilisation by other development.</i></p> <p>The first criterion of the policy does not make sense as it is currently phrased. It says that proposals for non mineral development in MSAs will be supported if the development can be sited to avoid mineral areas. However, by definition MSAs contain economic minerals, so the criterion could be considered to be redundant because it is unlikely it would ever be used. What the criterion might be addressing is a situation where mineral is found in only a part of a large site, so there would be flexibility for locating the footprint of buildings in the parts of the site devoid of mineral.</p> <p>How this could be translated into a criterion for a policy</p>		<p>circumstances , in the Telford urban area.</p>

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			<p>though, is another matter. The point it is making is valid but on balance it might be best to simplify the policy and mention this in the supporting text where there is scope to explain fully what is meant by it.</p> <p>However, the first criterion is also dangerous from the point of view of proximal sterilisation. As presently phrased it allows development where it avoids mineral bearing areas, but this is only one consideration. Development off mineral can still have devastating effects on adjacent mineral by introducing proximity effects. As it stands the first criterion will not achieve its intention of protecting valuable mineral.</p> <p>We note there is no requirement in the policy for developers to carry out prior extraction if this is feasible. Policy ER 2 reads as follows,</p> <p><i>“The Council will support non-mineral development within the Mineral Safeguarded Area provided that... iii The prior extraction of minerals would have unacceptable impacts on neighbouring uses local amenity or other environmental assets such as land stability”</i></p> <p>However, the model form of the same policy in the BGS guidance says,</p> <p><i>Planning permission will not be granted for non-mineral development that would lead to the unnecessary sterilisation</i></p>		

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			<p><i>of mineral resources within a Mineral Safeguarding Area,.. unless ... The mineral can be extracted to the satisfaction of the MPA without unacceptable community and environmental impacts prior to the development taking place;"</i></p> <p>The model form assumes that prior extraction will be the default approach to non mineral development, whereas the Council's version does not require prior extraction, and does not bring to bear another precondition which is the necessity of the development as advised in national policy. NPPF para 143 bullet point 5 says the lpas should, "<i>set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for nonmineral development to take place;</i>" This means that the need to develop in an MSA must be established first, and then only when it is necessary to proceed, should prior extraction be considered. The policy as drafted does not do this.</p> <p>Criteria vi to xv set out exemption criteria. However, criteria xiv and xv duplicate the substance of criteria ii and iv and are thus redundant.</p> <p>The most confusing part of the policy then follows the criteria in the form of the next two paragraphs. In order to address the fact that the MSAs do not cover urban areas (para 10.2.1.3 of the Local Plan), the</p>		

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			<p>policy addresses non mineral development outside of the MSAs. This says that where the potential for prior extraction has been identified it will be required and will be permitted provided it meets the policy for development management of minerals. The problem with this statement is that by definition MSAs contain economic minerals, and minerals should not occur in economic quantities outside of MSAs; otherwise, the designation becomes meaningless. So the requirement will be redundant as it is not likely that mineral will occur in these circumstances. If mineral in urban areas is valued sufficiently to warrant consideration for prior extraction it should be included in the MSA.</p> <p>Second, it is not clear who will identify the potential for prior extraction. Will this be developers who will probably have no interest in doing so, or will it be the Council, in which case what criteria for identification would be used?</p> <p>Because prior extraction is a requirement for sites outside MSAs this and the following paragraph are perversely the only statements requiring prior extraction in the whole policy. It is not expressly required within MSAs even though this is where the mineral occurs.</p> <p>The statements in these two paragraphs of the policy are</p>		

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			<p>actually quite good – as long as they apply to sites within MSAs. For sites outside MSAs they are mostly useless.</p> <p>The correct way to plan for the urban areas as suggested above is to include them in the MSA where they bear mineral and to screen out irrelevant development proposals by exemption criteria. This is recommended good practice. The alternative approach chosen by the Council is unwieldy and ineffective, and will create more problems than it solves. The policy approach needs to be rethought.</p> <p>The last paragraph of the policy deals with mineral infrastructure, which we suggested to the Council, and although we generally support what has been proposed it does not fully accord with our suggestions. For example, we recommended a buffer of 200 metres around existing infrastructure for consideration of effects of new development on that infrastructure (not to be confused with a ban on all development within the distance if there are no significant effects), and we proposed a negative approach consistent with NPPF para 143 bullet point 4.</p>		

Conclusion

Based on the above information, Mineral Products Association is satisfied with the majority of changes proposed by Telford & Wrekin Council at this stage. A number of minor changes have been agreed and will be put forward to the Inspector as part of the Examination in Public. Telford & Wrekin Council and Mineral Products Association have agreed to address a number of issues in further detail at Examination in Public.

Statement of Common Ground

Signed on behalf of Telford & Wrekin Council		
Name and position	Signature	Date
Vincent Maher Strategic Planning Programme Manager		15/09/16

Signed on behalf of Mineral Products Association		
Name and position	Signature	Date
Malcolm Ratcliff		7 th September 2016

