

THE ROYAL TOWN PLANNING INSTITUTE

PLANNING AND MINERALS – ANNEXES TO MINERALS POLICY STATEMENT 1

The supply of aggregates, brick clay, building and roofing stone, and onshore oil and gas in England

A response to the Office of the Deputy Prime
Minister on its consultation draft annexes to MPS 1

2005/43

October 2005

INTRODUCTION

1. The Government is seeking comments on four draft annexes to *Minerals Planning Policy Statement (MPS) 1 - Planning and Minerals* – which was itself the subject of consultation ending on 28 February 2005, and is currently being revised. ODPM recognises the importance of ensuring that the texts of the MPS and its annexes are consistent, and, accordingly, will not issue *MPS 1* until comments on the annexes are available, and can be taken into account. The annexes focus on planning matters specific to four sectors of the minerals industry in England –

Annex 1 – Aggregates provision;
Annex 2 – Brick clay provision;
Annex 3 – Natural building and roofing stone provision; and
Annex 4 – Onshore oil and gas provision.

When finalised, the annexes will supplement, have equal status to, and should be read in the context of *MPS 1*, which will set out the general planning policies that apply to all minerals.

2. The current consultation paper is available on the ODPM website at www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_039213.pdf

GENERAL COMMENTS

3. The Institute recognises and endorses the importance of ensuring consistency between *MPS 1* and its annexes, and so can readily understand why *MPS 1* has not yet been issued. In return, however, we hope that ODPM will appreciate that it is difficult to comment on aspects of consistency without having sight of the MPS in its current form.
4. It is understood that ODPM is unlikely to issue any further annexes, in respect of other minerals, at least in the foreseeable future, and that reliance will remain on MPGs read against

the general backdrop of *MPS 1*. If this is the case, we would emphasise the need to say this clearly (presumably in *MPS 1*), and to spell out exactly which parts of which MPGs will remain in place as the source of policy guidance. It also suggests that there would be some merit in publishing *MPS 1* and the four annexes as a single document, to underline the fact that *MPS 1* provides the overall, umbrella policy statement.

5. We are not convinced that there is consistency between the four *Annexes* in the selection of the material that goes into the body of the document and that that is reserved for the appendices. The general principle of restricting MPSs (and, therefore, presumably their annexes) to statements of policy, with descriptive material and guidance relegated to appendices, does not seem to have been applied with any consistency. ODPM may wish to re-visit this aspect before publication.
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ANNEX 1 – AGGREGATES PROVISION IN ENGLAND

DETAILED COMMENTS

1.1 Introduction

6. *Paragraph 1.1.2:* It is noted that *Annex 1, MPS 1*, and the *National and Regional Guidelines for Aggregates Provision in England 2001-2016* (and any future revision of those guidelines), together, will replace MPG 6. We welcome this clear statement of intent, and assume that the message will be carried through into the published document.

1.3 The overall approach

Provision for land-won aggregates in LDDs

7. *Paragraph 1.3.4:* The phrase “MPAs should seek to make provision for the local apportionment...” is weak. There should be more of an imperative if the national, regional and local figures are to add up (see next paragraph, below). Also in *paragraph 1.3.4*, the reference should be to the RSS, rather than “...agreed by the RPB and endorsed by the Secretary of State”. Even if RSS reviews have not been approved by the time *MPS 1* is published, they should be shortly afterwards, and there will then be approved RSSs in place for the remainder of the currency of *MPS 1*.
8. *Paragraph 1.3.6:* The Institute cannot accept the proposition that “*The preparation of MDDs/LDDs provides an important opportunity to test the practicality and environmental acceptability at the local level*”. (This, in any event, appears to be at odds with the reference to use of the Secretary of State’s intervention powers in *paragraph 1.3.9*.) The facility for re-testing regional or sub-regional allocations – whether for housing or minerals - at the local level, once a decision had already been made at a higher level, was a major shortcoming of the outgoing development plan system that the Government appeared keen to remove under the post-2004 Act arrangements. What is the value of national or regional apportionments, if these can be overturned readily at the local level? Instead of encouraging MPAs to go down this road, *MPS 1* should be emphasising the need for realism in distributing regional apportionments. This is underlined by the statutory requirement for the proposals - as a component of the RSS - to be tested through the process of sustainability appraisal, and is reinforced by the need to ensure the general conformity of lower order plans with the RSS. Thus, the environmental considerations, with which the consultation paper is concerned, should already have been taken into account at the regional level, alongside the economic and social implications of the apportionments.

The phasing of land-won provision and landbanks

9. *Paragraph 1.3.10:* We are unclear why ODPM is proposing to overlay phasing policies on landbanks. This seems to be an unnecessary complication. Landbanks for aggregate working have been recognised as an integral part of the planning process for many years and the concept is well understood by all the parties involved. The Institute's message here is a clear one – "if it ain't broke, don't fix it"!
10. *Paragraphs 1.3.11-1.3.15:* The above view is underlined by the lack of clarity in the advice here, which compares unfavourably with the wording on the same issue in the outgoing *MPG 6*.
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ANNEX 2 – BRICK CLAY PROVISION IN ENGLAND

GENERAL COMMENT

11. The Institute welcomes the emphasis on conservation in this *Annex*. This applies both to the conservation of the available reserves (which might only be good housekeeping, but does provide a backdrop of sustainability) and to recognition of the usefulness of local sources of brick clay for building restoration work and to promote local distinctiveness in new building.

DETAILED COMMENTS

2.3 Policies for brick clay provision

Safeguarding of brick clay resources

12. *Paragraphs 2.3.1-2.3.2:* The general policy requirements for safeguarding are set out in *Draft MPS 1*. We understand that there is additional material here because the safeguarding requirements for brick clay are believed to be more stringent. If this is the case, two points arise -
- in the interests of clarity, the reason for this apparent duplication deserves a fuller explanation; and
 - the opportunity should be taken to express the more stringent requirements more robustly.

Supply of brick clay

13. *Paragraph 2.3.4:* We welcome, and endorse, the need to ensure continuing supplies of brick clay for local and specialised markets – local "distinctiveness" is an important element of sustainable communities. There are likely to be considerable fluctuations in this market – something that needs to be recognised and taken into account by the MPA, both in allocating sites and when considering planning applications. The need for a flexible approach might be emphasised in the published version of *Annex 2*.

Consistency of supply/feedstock and provision of sufficient reserves

14. *Paragraph 2.3.6:* The requirement here would be better expressed in terms of striking a balance between the economic and environmental considerations. Like *Annex 1* (see paragraph 7, above), *Annex 2* ignores the statutory requirement for all development plan proposals to be the subject of sustainability appraisal. As an example, the sustainability appraisal would provide a means of identifying where it was justifiable to give local

employment issues greater weight than environmental considerations.

Efficiency of use

15. *Paragraphs 2.3.9-2.3.11:* While applauding the sentiments, the Institute would point out that matters such as the efficient use of brick clay, waste minimisation in extraction, and the quality of clays used for a particular purpose, cannot be readily controlled through the planning system, and so would appear to have little place in an MPS.
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ANNEX 3 – NATURAL BUILDING AND ROOFING STONE PROVISION IN ENGLAND

GENERAL COMMENT

16. As with *Annex 2*, the Institute generally welcomes the preparation of a policy statement on this topic.

DETAILED COMMENTS

3.3 Policies for building and roofing stone provision

Safeguarding of building and roofing stone resources

17. *Paragraph 3.3.2:* We strongly endorse the sentiments here. The retention of the facility to provide stone for restoration or conservation purposes from the original source should be an important consideration.

3.4 Supply of building and roofing stone

General considerations

18. *Paragraph 3.4.2 (6th bullet):* This is something of a hostage to fortune! While, after discussion with the applicant, the MPA will be able to come to its own conclusions on the appropriate length of a planning permission for the small scale extraction of stone, the suggestion that “*some applications might be considered de minimis, not requiring formal planning consent*” is inappropriate in an MPS. In the absence of an application for planning permission, how are “*appropriate*” and “*environmentally acceptable*” to be defined, and by whom? What does “*de minimis*” mean in practice? How is the situation to be explained to an aggrieved neighbour?

Environmental impacts of the extraction of building and roofing stone and efficient use of stone resources

19. *Paragraph 3.4.6 (2nd bullet):* The requirement for an LPA or MPA to determine whether a formal environmental impact assessment (EIA) should be requested (under the EIA Regulations, 1999), for workings of under 25 hectares, applies to all mineral workings below that threshold, and not just to building stone. That being the case, we think that this paragraph should be transferred to the body of *MPS 1*.

Efficiency of use

20. *Paragraphs 3.4.9-3.4.10:* We repeat the remarks made in paragraph 14, above, in respect of brick clay.

ANNEX 4 – ONSHORE OIL AND GAS IN ENGLAND

GENERAL COMMENT

21. There is a stark difference in approach between this and *Annex 1*, for example. *Annex 4* is much more description than policy, and is written very much in the old MPG style. We understand that this arises principally from the need to update *Circular 2/85*, which we assume will be cancelled when *Annex 4* is published, but suggest that much of the material might be placed in an appendix to *Annex 4*, following an approach consistent with that adopted in *Annex 2 and Annex 3*. That said, we imagine that those LPAs involved with the onshore oil and gas industries will find the guidance here extremely useful.

DETAILED COMMENTS

4.3 Minerals planning policies for onshore oil and gas development

22. *Paragraph 4.3.12:* We question the statement “*There is limited flexibility in the siting of these facilities...*” with reference to gathering stations. This is a minor quibble, but surely pipelines can be used to convey the raw material from well sites to gathering stations located in less sensitive areas, whereas the well sites have to be located where the oil or gas is accessible.

20 October 2005