Examination of The New Minerals Local Plan for Staffordshire (2015 to 2030)
Final Draft – June 2015

Friday 1st April DAY 3

Statement of the Mineral Products Association

Restoration of Minerals Sites

Issue: Whether the plan provides for effective restoration of mineral sites in line with national policy and Strategic Objective 4

1. Are all the elements of Policy 6 sufficiently clear and robust to ensure that restoration proposals are implemented effectively and at the earliest opportunity?

MPA Comment
1. The MPA is broadly supportive of the Policy 6 with the exception of the potential conflict between biodiversity in restoration and preservation of high quality soils, the proposals for reviewing restorations schemes every 10 years, and the need for financial provision. As such, with our suggested amendment, we are happy that Policy 6 is robust and clear.

2. What would be the implications of not supporting proposals which are insufficiently “... comprehensive, etc...” in Policy 6.2?

3. Does the Plan provide adequate opportunity for protecting and/or enhancing biodiversity, valued landscapes, heritage assets and their settings?

4. How can the Plan secure restoration schemes which are integrated one with another?

MPA Comment
1. The MPA has no comment to make on these questions in this Statement. However, we may wish to participate in the discussion of these points if it proves helpful to the examination.

5. What is the justification for Policy 6.3 in view of the provisions of the Environment Act? In addition, how would Policy 6.3 be implemented?

MPA Comment
1. The Council must answer the question in the first instance, but in the MPA’s view there are more than enough powers under the Environment Act to carry out a necessary review no less than every 15 years to make this provision in the policy unnecessary and burdensome. Indeed, PPG para 27-192 cites the changes to the Review procedure that came from the Growth and Infrastructure Act 2013 which removed the mandatory nature of reviews.
original ROMP legislation was focused on updating planning conditions for operations with old permissions and conditions not up to current standards. Having been through this updating process once the benefits of further reviews were found to be marginal but the costs and burden significant for both the industry and local government.

2. In this context, the proposal of this policy to mandate updates of restoration schemes every 10 years is onerous and burdensome and frustrates the necessary changes parliament made to previous legislation. As such we believe it should be deleted.

3. It might be argued that PPG para 27-044 gives the mpa comfort to require regular reviews of restoration schemes, but the circumstances of this paragraph are limited to long term working where restoration may not take place for many years (e.g. decades) and an outline scheme is all that is necessary at the outset. In that case it is permissible to require more detailed schemes near the end of the working or at intervals throughout the permission. This situation is not analogous to that which is proposed in the plan and we maintain our objection that Policy 6.3 is unsound being contrary to national policy and guidance.

6. Are Policies 6.4 and 6.5 consistent with NPPF Paragraph 144?

MPA Comment
1. The MPA believes that NPPF (paragraph 144 bullet point 6) is sufficiently clear that “...Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.” Moreover, PPG paras 27-047 to 049 deal with financial guarantees. These say that the normal way for consideration of restoration funding is through planning conditions, and that financial guarantees should only be sought in exceptional circumstances, which don’t apply in this policy. However, even if such exceptional circumstances exist, if the operator is a member of an industry guarantee fund, it should not be necessary to seek a financial guarantee.

2. We have no objection to the mpa assuring itself that sufficient provision has been made by the operator for restoration at the outset. This is normal practice. All our members subscribe to the MPA Restoration Guarantee Fund which is a requirement of membership.

3. It is also unclear how such a policy is going to work. Consider that in the last few years the ownership of sites controlled by Large Aggregates and Tarmac then transferred to the ownership of Lafarge Tarmac and then to Tarmac (all separate legal entities, and all legitimate
changes of ownership) with no discernable effect on the likelihood of restoration being carried out well. How would the policy be implemented in these circumstances? Would the new owners have to entirely unnecessarily submit repeat proposals to the mpa proving adequate financial provision each time the site changed hands? The MPA remain of the view that in cases where sites change ownership the process of due diligence will ensure that financial provision is made by new owners for restoration liabilities. Where this is found wanting and new owners try to renege on their responsibilities it is up to the mpa to draft, impose and enforce planning conditions to deal with the problem to ensure that restoration will be carried out to an agreed scheme and in a timely fashion. In addition, the MPA Restoration Guarantee Fund has never been called upon in its history and financial failure in the aggregates industry is very rare indeed. If this is a problem for the mpa then there exist adequate powers and remedies without recourse to bonds or reviews or additional financial information. The policy should be amended as we suggest to bring it into line with national policy and guidance.