

1 TOPIC PAPER – LAL M1 – PROCEDURAL AND CONFORMITY MATTERS

LEICESTERSHIRE – MDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

ISSUES AND MATTERS FOR DISCUSSION – MINERALS DEVELOPMENT FRAMEWORK

PROCEDURAL AND CONFORMITY MATTERS

Key Issue: Whether the DPD has been prepared in accordance with the relevant legal requirements.

- 1.1 We do not believe that the County council has paid sufficient regard to national policies and advice contained in guidance issued by the Secretary of State.
- 1.2 PPS12 states in paragraph 4.5 that it is essential that the core strategy makes clear spatial choices about where developments should go in broad terms. We believe that the Core Strategy fails to do this.
- 1.3 PPS12 states in paragraphs 4.6 and 4.7 that core strategies may allocate strategic sites for development. These should be those sites considered central to achievement of the strategy. The Core Strategy fails to do this. We believe that mineral extraction is strategically important and that sites that will deliver this strategy should be identified within the Minerals Core Strategy.
- 1.4 PPS12 states in paragraph 4.13 that the time horizon of the core strategy should be at least 15 years from the date of adoption. The Core Strategy does not comply with this. The very earliest the Core Strategy can be adopted will be in 2009, the plan period proposed within the Core Strategy is to 2021, thus equating to only a 12 year plan period. Furthermore, the plan period for the RSS for the East Midlands is until 2026, to conform to the RSS it is our recommendation that the plan period for the Core Strategy runs until at least 2026.
- 1.5 We are concerned that a number of the core strategy policies go over and above the level of control advocated by national and regional policy. Policies CS1, CS2, CS3, CS4, CS5, CS6, DC14, DC22, DC24, DC 25, DC26, DC27 and DC28 all include the wording ‘...where they will not cause unacceptable harm to the environment or communities’. This wording is too strong and should provide for development to be

able to mitigate any impacts or be clearly justified by a need for the development. For example the final part of Policy DC4 states:

Unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net gain to their condition.

1.6 If Policy DC4 were amended to read ... need for the development or any impacts can be mitigated..., this would provide a suitable approach to be taken through out the core strategy.

1.7 Also by way of example the wording in protecting biodiversity and geological interests, PPS9, bullet (vi), states:

The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

1.8 PPS23, paragraph 26 recommends:

polluting activities that are necessary for society and the economy should be so sited and planned, and subject to such planning conditions, that their adverse effects are minimised and contained to within acceptable limits.

1.9 Policy 27 of RSS8 seeks to protect and enhance the Region's Natural and Cultural Assets. This establishes the need to protect the highest level of designation, to avoid damage and mitigate to ensure no net loss, but that development should be clearly justified by a need.

- 1.10 We recommend that Policies (CS1, CS2, CS3, CS4, CS5, CS6, DC14, DC22, DC24, DC 25, DC26, DC27 and DC28) are amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused.

2 TOPIC PAPER LAL – M2 SPATIAL VISION AND OBJECTIVES

LEICESTERSHIRE – MDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

SPATIAL VISION AND OBJECTIVES

Key Issue – General:

Whether the Spatial Vision and the Objectives are sufficiently focussed, consistent with national policy, aligned to the RSS, spatial and locally distinctive; also whether they give adequate direction to the strategic policies. (National Policy, PPS12, Paras 4.1-4.3)

Specific Issues and Matters for Discussion:

Whether the objectives are focussed on the key issues to be addressed

- 2.1 Lafarge Aggregates Limited (LAL) has an important role within Leicestershire securing the continued supply of aggregates within the County and further afield. The minerals development framework, including the Core Strategy, has a vital role to play in securing the continuity of supply of aggregates from their operations. LAL's quarry at Mountsorrel is a key supplier of crushed rock within Leicestershire and adjoining authorities as far as the south east of the country. Paragraph 4.25 of the Core Strategy correctly identifies that rock reserves within Leicestershire are the nearest to the major market in the South East of England which means that they are of significant importance.
- 2.2 Given the contribution that sites operated by LAL provide to the aggregate apportionment we feel that the key issues faced by LAL over the plan period relate to the key issues facing the county over the plan period. To assist the Inspector we have provided below a summary of the sites operated by LAL within Leicestershire and the reserve issues faced over the plan period.

Brooksby

- Commenced sales in January 2007
- Reserve of 3.14Mt – 15 yrs at 200,000tpa

- Further reserves available – 1.6Mt – 6 yrs which has been promoted as a site allocation in MDF site allocations document
- Recovery and recycling facility for inert and non hazardous waste
- Disposal of inert and non hazardous waste to landfill – up to 150,000tpa which has been promoted for allocation in the WDF

Lockington Extension

- Recently permitted extension – reserve 3 .96mt
- Continuation of aggregates recycling – Hemington has temporary aggregate recycling facility to 31st Oct 2012

Shawell

- Extension has been recently permitted – 3.6mt. Cotesbach Composting plant (50,000tpa throughput) approved in September 08, likely to be operational in September 09 – MRF promoted in WDF / Non Hazardous Landfill approved to 31st December 2044 at an input rate of 300,000tpa

Husbands Bosworth

- A northern extension recently permitted – reserve 0.925mt
- An area to the south west promoted in MDF site allocations document – 0.455mt

Mountsorrel Quarry

- The reserve position at Mountsorrel Quarry is complex, there are reserves available through to 2033. However the operational efficiency becomes more difficult when working at depth. There are significant practical challenges of getting the stone out of the bottom section of benches at equivalent production rates.
- Aggregates recycling operational as part of quarry to 31st December 2033/ Waste transfer station promoted in WDF.
- The percentage of dry stone output despatched via the rail head is now around 70% pa serving about 20 aggregate rail heads throughout the South Midlands, East Anglia, home counties and London area.

2.3 As stated above we believe that the Core Strategy plan period should be until 2026, given the importance of securing these nationally important reserves and the lead in times (approximately 10 years) required for securing planning permission and bringing into operation new reserves we believe the Core Strategy should identify where future mineral extraction will be supported and take place.

Whether the vision is expanded into the key specific objectives that need to be addressed

2.4 In response to the Inspector’s question ‘2’ and in terms of aggregates provision we feel the Core Strategy should include the identification of sites to ensure the security of supply over the plan period. Objective 1 is *‘to make sufficient provision to meet national, regional and local requirements, in particular the sub-regional requirements for aggregates provision’*. The Core Strategy does indicate what the requirements are for aggregates over the plan period, although we recommend that the period be extended to 2026 in line with RSS8. However, the Core Strategy does not provide sufficient guidance on how the apportionment figures will be met. PPS12, para 4.6/ 4.7, recommends the inclusion of those sites considered to be central to achievement of the strategy. The role Leicestershire has in the provision of aggregates suggests that there are a number of key aggregate sites which are central to the achievement of the strategy.

2.5 As stated in Topic Paper LAL – M1, paras 1.5 to 1.10, we consider that Policies (CS1, CS2, CS3, CS4, CS5, CS6, DC14, DC22, DC24, DC 25, DC26, DC27 and DC28) go over and above the level of control advocated by national and regional policy. We also feel that they are not strictly in accordance with Objective 7 of the Core Strategy. Objective 7 promotes the delivery of measures in mitigation or compensation for the effects of mineral development. The aforementioned policies do not provide for the mitigation or compensation of mineral development.

2.6 In response to the Inspector’s question ‘4’, although we support recycling and the production of secondary materials we would highlight that recycled and secondary materials are not always suitable for the wide range of products that primary won material can supply. However these recycled products are not wholly interchangeable with primary products.

- 2.7 In response to questions 8 and 10 we consider that the Objectives of the Core Strategy should reflect locally distinctive and spatial aspects of the County, particularly where they may feed into Core Strategy or Development Control Policies. However, it may be helpful to refer, where relevant, to existing strategies for these aspects. For example, the Charnwood Forest is subject of a landscape character assessment, and a draft vision document for the future of Charnwood Forest is currently being consulted upon. In terms of LAL's sand and gravel operations - Soar and Trent Valley sites (Lockington & Hemington) are part of the "On Trent" project in terms of coordinated working, restoration, land use vision. Soar/ Wreake Valley are part of Strategic Rivers project for the East Midlands catchment area.

3 TOPIC PAPER LAL – M3 SUPPLY: GENERAL MATTERS AND AGGREGATES

LEICESTERSHIRE – MDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

MINERALS –

Key Issue – General:

Whether there is clarity in matters relating to the adequacy of and supply of minerals to be extracted and the appropriateness of the source locations; also whether the proposals are justified. (National Policy: PPS 12, Para 4.1; MPS 1, Para 15; Planning and Minerals Practice Guide, Para 21)

Specific Issues and Matters for Discussion

Whether the strategy for the supply of minerals is supported by the background facts

- 3.1 In response to the Inspector’s question 1 in terms of aggregates, Box 1 and Box 2 on pages 19 and 21 respectively do outline what Leicestershire consider to be the appropriate contribution for the production of aggregates. This is within the section of aggregate minerals supply so does not need repeating in Para 4.5. It is less certain what appropriate contributions are to be made for other minerals within the County.
- 3.2 In response to the Inspector’s question 2, we agree that it would be better to define landbanks earlier in the text.
- 3.3 In response to the Inspector’s question 4, we would support clarification from the County Council as to what would constitute “an adequate and steady supply of minerals”. The Core Strategy should be making an appropriate supply to meet market demand or specified apportionment figures.
- 3.4 We would also welcome clarification as to how “need” would be demonstrated; MPS1, para 14, i., states, ‘*the need for the development, including in terms of*

national considerations of mineral supply and the impact of permitting it, or refusing it, upon the local economy’.

Whether there is clear evidence and guidance on how much extraction of aggregate minerals is intended to take place and how best to maintain an adequate and steady supply.

- 3.5 In response to the Inspector’s question 7 and with regard to the operations undertaken by LAL we can confirm the following reserves, Brooksby 3.14mt rather than 3.45mt, an area of archaeological interest had to be excluded from the original application area. Fosse Way is correct/ Shawell is correct 3.6mt/ Husbands Bosworth is correct 0.27mt.
- 3.6 In response to the Inspector’s question 8 we believe that the Core Strategy policies should not only govern the identification of reserve sites but also clearly identify where future sites should be located.
- 3.7 PPS12 states in paragraph 4.5 that it is essential that the core strategy makes clear spatial choices about where developments should go in broad terms. We believe that the Core Strategy fails to do this.
- 3.8 PPS12 states in paragraphs 4.6 and 4.7 that core strategies may allocate strategic sites for development. These should be those sites considered central to achievement of the strategy. The Core Strategy fails to do this. We believe that mineral extraction is strategically important and that sites that will deliver this strategy should be identified within the Core Strategy. We consider the following LAL sites to be of strategic importance:

Sand and Gravel

- Shawell Quarry;
- Lockington Quarry;
- Brooksby Quarry; and
- Husbands Bosworth Quarry.

Crushed Rock

- Mountsorrel Quarry.

3.9 In response to the Inspector's question 14 we believe that there should be flexibility with regard to landbanks and it be recognised that there may be requirements for sites to come forward that would increase the landbank beyond the end of the Plan period.

3.10 MPS 1, Annex 1, Para 4.1, states:

The landbank indicators are at least 7 years for sand and gravel and at least 10 years for crushed rock. A longer period may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.

3.11 MPS 1, Annex 1, Para 4.2, states:

MPAs should consider and report on the need to review policies in their LDDs as part of their annual monitoring report to the Sec of State. This should be done in time to allow for action before the remaining provision falls below the agreed apportioned level. If review and updating take place regularly then maintaining a landbank beyond the end of the plan period is not an issue.

3.12 The Plan period should be to 2026 in conformity with the RSS. This would result in a landbank of only 4 years for crushed rock at the end of the plan period, therefore additional reserves are likely to be required towards the end of 2026.

3.13 The Local Development Scheme estimates the site allocations document will be adopted in 2011. It is not clear when the MDF will be reviewed. LCC state within Para 13 of their Topic Note on Crushed Rock that the Development Plan is intended to be a flexible system that is continuously rolling forward, and that if shortfalls become apparent that a review of the MDF will be undertaken. We support this flexibility in approach but believe that given the importance of the supply of crushed rock within Leicestershire and the timescales involved in securing replacement reserves and the investment in realising this a landbank of at least 10 years is appropriate and we would recommend longer (at least 15 years). In

securing further reserves it could easily be 10 years of investigation & design, negotiation for mineral rights, pre application consultation, preparation of Scoping/EA and determination of application, approval and implementation of conditional schemes.

- 3.14 The question of setting a longer landbank for crushed rock is a wider issue than for just Leicestershire, with crushed rock reserves from Derbyshire and Somerset also of national importance. There is a consideration that given the national importance of Leicestershire's reserves of crushed rock and the lead in times and investment in developing and extending a crushed rock facility a longer landbank than 10 years is appropriate.
- 3.15 Provided the MDF is subject to regular review then we agree that providing for a landbank beyond of the end of the Plan period becomes less of an issue, as highlighted in MPS1. Nevertheless it should be acknowledged that sites may come forward that will result in an exceedance of the landbank beyond the end of the Plan period, with regard to crushed rock this should not be used as a reason for refusing developing and extending operations.
- 3.16 We support the approach for a preference for extensions at quarries served by rail as identified within the Inspector's question 15.

Whether there is clear evidence and guidance on the locations where extraction of aggregate minerals may take place

- 3.17 In response to the Inspector's question 18, we do not believe that Policy CS2 should contain a presumption against the extraction of rock from new sites.

Whether there would be adequate safeguarding of resources

- 3.18 In response to the Inspector's question 19, we agree with the recommendation that developers be required to demonstrate that they have actively considered extraction.

- 3.19 In response to the Inspector’s question 20, we agree with the recommendation that Policy CS10 should be amended so that the MPA resist the use of high quality materials for inappropriate uses.
- 3.20 In response to the Inspector’s question 21, we recommend that aggregate railheads be protected under both Policy CS10 and Policy DC8. MPS 1, Para 13, recommends safeguarding for existing, planned and potential railheads, wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, particularly coal and aggregates, including recycled, secondary and marine dredged materials. MPS1, Para 16, recommends to safeguard and promote rail links to quarries where there is potential to move minerals by rail. We would seek amendments to both policies that seek to protect railheads at aggregate source as well as the point of delivery.

4 TOPIC PAPER LAL – M4 ENVIRONMENTAL MATTERS

LEICESTERSHIRE – MDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

MINERALS – ENVIRONMENTAL MATTERS

Key Issue – General:

Whether the strategy would secure adequate environmental and landscape protection; support for the objectives of the National Forest and Charnwood Forest; and provision of new habitats, increased biodiversity and other green infrastructure. (National Policy: Planning and Minerals Practice Guide, Para 21; PPS12, Para 4.8)

Specific Issues and Matters for Discussion:

Whether the provisions in respect of environmental protection and enhancement are clear and appropriate

4.1 In response to the Inspector’s question 6, we do not object to reference being made to the potential contribution to floodplain, biodiversity and recreational functions. With regard to operations undertaken by LAL:

- Fosse Way is a small 30 acre site on the Wreake valley, and has a restoration plan back to agriculture.
- Brooksby is not in the Wreake River Valley so isn’t going to contribute to the objectives stated, but it is designed to assist with creating flood water storage for the Rearsby Brook (which is an Environment Agency objective). The site is also planned to have wetland features which will significantly enhance the Rearsby Brook corridor.
- Lockington Quarry is somewhat constrained in restoration design terms by the requirements to satisfy East Midlands Airport on extent, size, design of water bodies to avoid bird strike conflicts. Having said that, the existing quarry and more so the new extension do have some biodiversity elements which will undoubtedly improve floodplain storage, biodiversity and improved public access and potential recreational use of water bodies.

- 4.2 In response to the Inspector’s question 7, we believe that the various policies give sufficient support to both the National Forest and Charnwood Forest. The Core Strategy when read with existing and emerging strategy guidance for both the National Forest and Charnwood Forest provides developers and the public a clear indication on the approach taken to new development. We feel it is important to stress that these two areas are mineral rich, the Charnwood Forest providing much of the County’s crushed rock reserves and through the appropriate restoration of mineral sites significant enhancement of these areas can be achieved. Landscape management programmes and restoration works at Mountsorrel Quarry are being undertaken in close consultation with landscape officers at Leicestershire County Council, Natural England and the local wildlife trust creating an opportunity to provide a real benefit to the longer term aims of the Charnwood Forest.
- 4.3 In response to the Inspector’s question 13, we recommend that Policy CS15 should reflect the approach recommended in MPS1, to ensure that high environmental standards are maintained during operation, and that sites are well restored to after-uses consistent with green belt objectives.
- 4.4 In response to the Inspector’s question 14. We support Policy CS16. The policy and supporting text is realistic in its approach to the transportation of minerals acknowledging that means such as rail or water are not always practicable.

5 TOPIC PAPER LAL – M5 DEVELOPMENT CONTROL POLICIES

LEICESTERSHIRE – MDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

MINERALS –

Key Issue – General

Whether there are clear and appropriate development control policies that, amongst other things, accord with and do not repeat or reformulate national policy and regional policy. (National Policy: PPS12, Paras 4.30 and 5.2; Planning and Minerals Practice Guide, Para 21)

Specific Issues and Matters for Discussion:

Whether there would be inappropriate repetition or reformulation of national policies.

1. Having regard to MPS1, are elements of national policy repeated in Policies CS11, DC1, DC3, DC5, DC7, DC11, DC12, DC13, DC15 and DC16? If so, what amendments would be appropriate?

- 5.1 In response to the Inspector's question 1, we feel that all matters concerning the protection of heritage, countryside and the environment are adequately provided within paras 14 and 17 of MPS1, and therefore are superfluous to the core strategy.
- 5.2 The aim of Policy DC1 is already covered in MPS1 and we do not think it is needed within the Core Strategy. The guidance that is provided within the supporting text could be retained, although we feel that to list the objectives of paragraph 9 of MPS1 is also unnecessary.
- 5.3 Policy DC3, 'Sites of National Historic Importance', repeats the approach recommended in PPG15 and PPG16. Policy DC3 should be amended to remove the protection to Scheduled Ancient Monuments and Listed Buildings.
- 5.4 Policy DC5 seeks to protect the countryside. This policy is a reformulation of the approach recommended in PPS7 for nationally designated areas within the countryside. Leicestershire does not have any nationally designated landscape areas therefore the wording of Policy DC5 is too strong. The guidance provided

within paragraph 5.20 is appropriate. Given the guidance provided within PPS7, Policy DC5 is not required.

- 5.5 Policy DC7 does repeat the advice offered in PPG16. However, PPG16 does recommend that detailed development plans should include policies for the protection, enhancement and preservation of sites of archaeological interest and of their settings. Policy DC7 as written meets the requirement of PPG16 but also offers protection to archaeological remains that are not protected by a national designation. Policy DC7 is in accordance with PPG16 but it does repeat national policy and therefore not in accordance with PPS12.
- 5.6 Policy DC10, 'Agricultural Land', is superfluous to policy contained within PPS7. We recommend that Policy DC10 be deleted.
- 5.7 Policy DC11 seeks to protect the water environment. The aims of this policy is supported, however, they repeat guidance offered in both PPS23 and PPS25. We recommend that Policy DC11 is deleted with reference given to the guidance within PPS23 (Appendix A) and PPS25.
- 5.8 Policy DC12 seeks to protect health and amenity. Provision for the protection of amenity from the adverse effects from noise, dust, vibration, odour, emissions, illumination, visual intrusion or traffic to adjoining land users and those in proximity to the minerals development can be found within MPS2 and PPS23.
- 5.9 Policy DC13 repeats guidance contained within MPS2. We recommend Policy DC13 should be deleted but the supporting text referring to MPS2 be retained. Further comments provided in response to Q19.
- 5.10 In response to the Inspector's question 2, we support the approach of policies DC17, DC18 and DC19.

Whether the provisions in respect of the natural and historic environment are clear and appropriate

- 5.11 In response to the Inspector's question 7. As stated above we consider that Policy DC3 be amended to remove Scheduled Ancient Monuments and Listed Buildings.

- 5.12 In response to the Inspector’s question 10 concerning special landscape areas and landscape features of importance. We feel it has not been clearly shown why the reference to special landscape areas has been included. PPS7, Paras 24 and 25, recommend that utilising tools such as landscape character assessment should provide sufficient protection to landscape areas without the need for rigid local designations. We feel that the term ‘special’ has connotations of national importance, (Special Areas of Conservation, Sites of Special Scientific Interest), the County does not contain any landscapes of national importance and so the use of the word special is inappropriate. We recommend that the reference to special landscape areas is removed from Policy DC4.
- 5.13 In response to the Inspector’s question 11. We believe that Policy DC5 offers too much weight to protecting open countryside. It is acknowledged within paragraph 5.20 that the nature of mineral extraction is that it will almost inevitably have to take place within the open countryside. The guidance provided within PPS7 overrides the need for a policy on the protection of open countryside. We recommend that Policy DC5 be deleted.
- 5.14 In response to the Inspector’s question 13, we agree with Ibstock that the wording of Policy DC5 is too restrictive, and recommend that it is deleted in line with our comments in para 5.13 above..
- 5.15 In response to the Inspector’s question 14. We would agree that regard should be given to Landscape Character Areas when considering the appropriateness of landscaping and new woodland planting.
- 5.16 We would agree that it is sensible that greater emphasis be given to planting within the National Forest area.

- 5.17 In response to the Inspector’s question 15. We do not believe that Policy DC7 adds anything to the content of PPG16 or MPS1 and should therefore be deleted.

Whether the provisions in respect of community and environmental protection are clear and appropriate

- 5.18 In response to the Inspector’s question 19. It remains our concern how the collective effects of different impacts of an individual proposal will be assessed.

- 5.19 MPS2, para 12, page12, states:

With respect to an individual site, the effect of all relevant impacts (i.e. of noise, dust, traffic landscape etc) should be considered objectively. Impacts that are acceptable individually should not be regarded as unacceptable in combination without proper assessment.

- 5.20 There is no national, regional or local guidance available as to what constitutes a proper assessment, without this in place it is difficult to see how ‘the collective effects of different impacts of an individual proposal’ can be included within a policy. We would recommend the deletion of Policy DC13 with the Core Strategy making reference to MPS2.

Whether the provisions in respect of transport are clear and appropriate

- 5.21 In response to the Inspector’s question 20. We would agree that expressing Policy DC14 in positive terms is a better option and agree with the suggested wording – *developers could be required to examine and pursue alternatives to road transport where such opportunities are presented by the location and site.*

Whether the provisions in respect of controlling and mitigating workings and the reclamation of mineral sites are clear and appropriate

In response to the Inspector’s question 22. We feel that wording to the policy is very brief and recommend that further detail is included within the policy that takes on board the guidance provided within the supporting text, paras 5.43 to 5.45.