

NATURAL MINERALS RESOURCE PLANNING IN THE UK

INTRODUCTION

To understand the mechanisms of natural resource planning in the UK it is first necessary to understand the national and local government system. Let me explain this, very briefly:-

No doubt as in Ireland, the UK, the National Government develops and manages the laws under which the people and business of the country operate. The UK Government is backed up by a Civil Service of about 500,000 staff. There are now parallel, devolved national assemblies in Wales, Scotland and Northern Ireland.

There is at present no system of regional government although the Government are moving towards this system in England.

Local government operates separately from the national government and in Wales and Scotland consists of District Councils who are responsible for all local functions - education, planning, etc. In Northern Ireland almost all planning is operated by the devolved assembly with little or no involvement by the local Councils. In England, most of the areas close to the cities also have just one level of local government. In the rural areas of England most local Government has two levels - District Councils at the bottom, based around one big town and the County Councils which usually cover 5 - 8 districts and which only deal with the bigger, strategic issues such as education, waste disposal, and of course mineral planning. Thus, where there are two levels of local government, minerals planning is always based at the upper level.

THE PLANNING SYSTEM

The planning system in England and Wales is governed by the Town and Country Planning Act 1990, which itself evolved from a similar Act originally passed in 1947. Under this system, virtually all proposed development from an extension to a house to a major quarry or a hypermarket needs planning permission. In most cases it is the lower tier authority - the District Council i.e. which is responsible for granting, or refusing this permission. For proposals to extract minerals, or deposit waste, however, because of the regional and national importance of these, it is the upper tier authority, the County Council, which is the responsible authority. From here on I will use the examples and terminology, for England as the planning systems in Scotland and Wales are now evolving in slightly different directions.

In coming to a judgement on the pro's and cons of a mineral planning application to extend or create a new quarry, the planning authority - usually the County Council will be guided by their adopted forward development plan - usually, in the form of a mineral local plan. Minerals planning (and particularly aggregates) in England (and until recently Wales) has taken a unique path guided by the advice of two Government Royal Commissions chaired by Sir Ralph Verney and Sir Roger Stevens both of which reported in 1976. Let me now explain, the system using aggregates as the main example.

FORWARD PLANNING IN ENGLAND (The Aggregate Example)

- i. National Planning - All national minerals planning in England comes under the responsibility of the Office of the Deputy Prime Minister, (in London) and is run by a Minerals and Waste Planning Division, headed up by Lester Hicks. They formulate national policy and guidance in the form of Mineral Planning Guidance Notes (MPGs) as well, of course of drafting minerals and planning legislation for consideration by Parliament. For aggregates, the key piece of national guidance is MPG6, last published in 1994, and currently being revised. The key part of MPG6 is the numerical planning guidance for each region. The current document includes a forecast of aggregate demand in England for the next 15 years - 1992 - 2006, then develops a supply scenario for the various components of demand e.g.
 - secondary and recycled aggregates
 - land-won sand and gravel/crushed rock
 - marine dredged sand and gravel
 - imports from Wales, Scotland and beyond

These supply scenarios are then broken down into guidelines "targets" for each of the English regions from which emerge guidelines for the production requirement for land-won sand and gravel and crushed rock for the next 15 years in each region.

There are in fact, almost 15, English Mineral Planning Guidance notes varying from general policy advice (MPG1) to complex technical manuals on noise control (MPG11). There are also special MPGs covering cement, coal and silica sand.

ii. Regional Planning

In England, for mineral planning, and in particular, aggregates, there is a system of system of regional planning which has developed since the mid 1970's following the Verney report. For each of the eight economic planning regions, in England there are what are called Regional Aggregate Working Parties (RAWPS for short). These are technical, advisory bodies chaired, normally by a County Planning Officer and on which sit representatives of the local authorities, of the aggregates industry and of central Government. They collect and analyse aggregate supply and demand data for their region and advise Central Government, local planning authorities and the industry on issues arising from this.

In the context of the Government's MPG6 numerical guidelines for each region, the RAWPs are consulted on these draft guidelines at an early stage and provide the Central Government with an expert view on whether they are realistic in terms both of the regions' potential to supply aggregate over the next 15 years or so and in terms of the environmental capacity of the region to meet that level of supply.

Once the regional guidelines have been finalised by Central Government, the next task of the RAWPs is to take the guidelines figures for provision for land-won sand and gravel and for crushed rock and subdivide these as "targets for provision" for each mineral planning authority - County Council or unitary district Council. This process is known as the sub-regional apportionment exercise - the final RAWP agreed figures then have to be agreed by the regional planning body and the constituent Councils - not always so straightforward, once you have to involved local democracy. At this point, the baton in the process, passes to the mineral planning authorities:-

iii. Local Planning

In Great Britain, local planning is based on a system of Development Plans which are prepared by each local government planning authority and which set out for the next 10 years or so the local Council's land use intentions for their area - where schools, hospitals, houses will be built and where, for example, the highest quality landscape has to be protected from development at all costs.

Where there are two tiers of local authorities, the upper tier – the County Councils are the mineral planning authorities and who are empowered and required to prepare minerals local plans for their area. In the urban areas, where there is only one tier of local authorities – unitary districts – the development plan comprises a Unitary Development Plan (UDP) and includes mineral policies.

For minerals local plans in England, the process is well established. The essence of these plans, which look forward 10 years or so is to make allocations for future working of sand and gravel and crushed rock. The level of allocations is based on an arithmetic calculation of demand which derives from the sub-regional apportionment of the regional guidelines I have mentioned.

Here the process gets complicated because central government requires landbanks of planning permissions to be maintained throughout the plan period. Currently, national policy requires a landbank representing at least 7 years worth of working for sand and gravel and a longer period for crushed rock – say 10 – 15 years. Essentially this means that the minerals local plan has to have sufficient allocations for future working both for its ten year life and for the 7 – 15 year period beyond.

Once the arithmetic of meeting the predicted demand has been sorted out the next task in preparing the minerals local plan is for the planning authority to assess the aggregate resources remaining unsterilised within its areas and then, using a sieve analysis eliminate the areas of environmental constraints such as National Parks, Nature Reserves Ancient Monuments and so on, finally setting-out areas allocated for sand and gravel and/or crushed rock at or above the arithmetic calculation of demand I have mentioned.

In the UK, there is a planning presumption in favour of permission being granted for development, allocated as such in a development plan. Section 54A of the Town and County Planning Act 1990, for instance (England and Wales) states:- “Where in making any determination under the planning Act, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

What this means in practice is that if a mineral operator manages to get his unworked, unpermitted land into one of the minerals local plan allocations he is more or less certain of then getting planning permission when the time comes round to apply.

The downside of this system is, however, that if a mineral operator applies for planning permission on a site not allocated in the plan, he is virtually certain of being refused planning permission.

Once a minerals local plan has been prepared it is then subjected to two successive sets of public consultation. Following the second, more formal consultation on the finalised deposit draft and assuming there are outstanding unresolved points of objection – the whole plan is subjected to a public inquiry, presided over by a Central Government planning inspector. Such public inquiries used to be very formalised with advocacy and cross examination, court-room style by barristers. Recently, they have tended to become more informal, with the emphasis based on round-table discussion, chaired by the Inspector and generally without barristers involved.

The final stage in minerals planning in the UK is getting planning permission:-

iv. Development Control

If a quarry owner wishes to dig or extend a quarry, or put in a new piece of fixed plant, he must, first get planning permission from the local Council. To do this he completes a detailed planning application form describing with the aid of plans and reports every detail of the proposal from the design of the front entrance to the details, for instance, of what crops he will sow on the land once it has been restored back to farmland. If his proposal is for a major new quarry he will also have to prepare a full environmental assessment to comply with EC Directive 97/11/EC.

At the same time the planning application is submitted to the local Council, it is also advertised in the local newspapers and on notices around the site to ensure local residents know of it. The local Council on receiving the application will carry out wide consultations with a number of official and local bodies on the proposals seeking their views. They will usually consult the Agriculture Ministry (DEFRA), the Water Authority, the Government Highways Agency, the District Council and perhaps the Conservation Agencies, as well as local archaeologists, and local residents groups. Once these views have been examined, the applicant may be ordered to change details of his scheme to overcome objections. Finally, after perhaps 6-9 months, the planning application will be considered by a planning committee of the elected members of the local Council and they will decide either to permit it or refuse it.

This decision will be made in the light of views received on the proposal as a result of the consultations and in the light particularly of the requirements of the minerals local plan I have described.

If the planning authority decide to permit it - they will issue a planning permission which is a legally binding document which may well contain 50 or 60 conditions specifying the way the quarry owner implements his permission. These conditions may limit the hours of operation, specify how soils should be stripped, control of the types of filling material and so on.

If the local Council decide to refuse permission, the letter of decision must set out their reasons. The applicant is then allowed 6 months to appeal against this decision. This appeal goes to the national government planning inspectorate. The appeal will usually be heard at a public inquiry presided over by an Inspector. At a public inquiry - the applicant, the County Council and local residents all have a right to speak. After the end of the inquiry the inspector, or the Secretary of State will issue the final decision which will be either a conditional permission or a refusal. Except where there has been a legal mistake in dealing with the appeal, there are no further rights of appeal.

Once a quarry operator gets his planning permission he is free to get on and extract the minerals within the limits of the planning permission conditions and other controls. Throughout the period of operations his work will be inspected by officials from the Planning Authority, from the Public Health Authority, from the Environment Agency, from the Water Authority, from the Mines and Quarries Inspectorate and from the Health and Safety Executive. All of these bodies have legal powers to change and if necessary stop operations if things are going wrong. It is worth noting that in the UK most mineral rights are privately owned and once a planning permission has been obtained the mineral operator needs to negotiate with the land owner to get access. Also planning permissions are now reviewed every 15 years to ensure the conditions on them are kept up-to-date.

Our planning system ensures a very strict control over the activities of the quarrying industry. With growing public environmental awareness and ever more organised local residents groups it is getting harder and harder for our industry to get planning permissions for extraction of further minerals to at least the same rate as current sales levels.

National government policy on minerals is set out clearly in the latest guidance note - "Local planning authorities should ensure that the construction industry continues to receive an adequate and steady supply of minerals at the best balance of social, environmental, and economic cost." However, it is fair to say that this is an important policy that is often forgotten by local planners, when faced with vociferous local objections to a proposed quarry.

CONCLUSIONS

This has been a brief canter through the intricacies of the UK minerals planning resource system looked at using the example of aggregates planning in England. This system is similar for all other minerals except for oil and gas applies, with variations also in Wales and Scotland.

As I mentioned, in Northern Ireland, the system is very different with little or no minerals planning role falling on the local Councils.

Minerals planning in Great Britain is a complex system that has evolved as a special regime within the main planning system since 1947, the main changes coming in significant Acts of Parliament in 1981 and 1990/91. The planning system in England is about to be changed again, significantly in a major Bill currently before Parliament and which will also significantly change the basis of minerals local plans. It is likely that this Bill will emphasise the importance of the emerging Regional Planning Bodies.

In Wales, aggregate planning is taking a slightly different course. Because there is no layer of regional planning in Wales, the Welsh Assembly Government is hoping to strengthen the role and importance of the two RAWPs - North Wales and South Wales - imposing on them both the task of preparing demand forecasts and of assessing the environmental capacity of their area in terms of ability to meet demand. These tasks are new and as yet untried.

In Scotland there has been no system either of RAWPs or of demand forecasting since the mid 1980's. Minerals planning has been guided by National Planning Policy Guidance Note 4 - (NPPG 4). However, the lack of numerical guidance has proved to be an increasing problem, particularly for aggregate planning in the Central lowlands and the Scottish Executive are now moving towards having both a Scottish "RAWP" and numerical guidance.

Ladies and gentlemen – that has been the briefest of forays into the nooks and crannies of the UK minerals planning system – I do hope I have managed to make its complexities, at least a little clear. In some ways, minerals continue to be produced, in spite of the system – it reminds of a quotation from a famous Welsh Labour politician of the 1940’s – Aneurin Bevan – who said of Great Britain -

“This island is made mainly of coal and surrounded by fish. Only an organising genius could produce a shortage of coal and fish at the same time”

Thankyou for your attention.