

Nottinghamshire Minerals Local Plan

Examination in Public

Inspector's Supplementary Questions

Hearing Statement by Mick George Ltd June 2020

Main Matter 2: Vision, Strategic Objectives and Strategic Policies

Strategic Objectives

6 Should Strategic Objective SO1 refer to sustainability in terms of the environmental dimension?

1. No. this is not necessary. Notwithstanding the company's extant objections to aspects of SO1 and SO2 which are not affected by these comments, the Strategic Objectives when considered in the round are almost entirely framed in terms of environmental sustainability. Thus SO1 covers efficiency of use and avoidance of waste, minimising the need to travel and using sustainable transport modes. SO2 is the only SO dealing exclusively with economic and social sustainability and even here the words "environmentally sustainable" are inserted. SO3 and SO6 through to SO8 are concerned exclusively with environmental sustainability, whilst SO4 covers both environmental and economic sustainability, and SO5 covers environmental and social sustainability. The insertion of environmental sustainability in SO1 is therefore superfluous.

7 Does the statement in the penultimate sentence of Strategic Objective SO1 imply that extensions to existing sites will be developed before new sites? If so, does this require clarification?

1. We have certainly read the sentence to mean just that. The following statements should not be construed to imply that the company has withdrawn its objections to an extensions-first strategy, which it continues to oppose.
2. We suggest that the text of the policies, the way the Plan is organised and the evidence contained in the supporting documents support the contention that extensions to existing sites will be developed before new sites. For example, policy SP1 is the main strategic policy

relating to supply. This policy is explicit that the strategy of mineral supply is based on “*b) Give priority to the extension of existing sites, where economically, socially and environmentally acceptable*”, which is further explained in the supporting text (para 3.8) in the following words, “*Within Nottinghamshire the priority is therefore to extend existing sites, in preference to developing new sites...*”

3. Policies MP2 and MP3 deal with minerals provision. In MP2 the policy sets out the adequacy of sand and gravel supply in a hierarchical way of firstly, listing the extraction of remaining reserves at existing sites, then listing extensions to existing permitted quarries, and finally mentioning the sole new site. The same structure appears in MP3 but with the omission of new sites. Lest this be described as just a convenient way to list the minerals supply and carrying no hierarchical overtones, the Site Selection Methodology and Assessment report says on page 48, “*In the Newark area extensions to existing permitted quarries are likely to be adequate to maintain supplies in this area and therefore new sites may not be required. However new quarries will be needed near Nottingham as extensions to existing quarries are not possible.*” This is a clear indication of the hierarchical approach of the Plan.
4. However, it may be that the question is also seeking whether the strategy is not only hierarchical but also successive. In other words, should the one new site allocated only be worked once all extensions and existing permitted reserves are worked out first? This is unlikely since the Sand and Gravel Delivery schedule (appendix 1) shows two things. One, the new site is in a different supply zone to all other sites except East Leake which the new site is intended to be in part of replacement of, and two it is shown as contributing to supply from 2019. This is a clear indication that such categories of provision are not intended to be sequential.

8 Is the prioritisation of extensions to existing sites consistent with the Planning Practice Guidance (ID:27-010-20140306)?

1. MGL consider it is not. The only way that it could be considered consistent with PPG is if extensions could be clearly shown to be superior in environmental performance in comparison with new sites in every case. We submit that the Plan has not shown this. The Sustainability Appraisal (SA) gives a detailed assessment of each proposed site with reference to sustainability criteria and I propose to look at some aspects of these to demonstrate my argument. However, a number of general observations are appropriate first. One, the SA report itself (para 2.15) acknowledges that the numerical scoring is not intended to be definitive, but to highlight comparisons between sites. This seems to admit the highly subjective nature of the exercise and the corresponding need for a robust defence of the judgements involved. Two, it should be noted that no opportunity has been given to challenge these assessments as they apply to omitted sites. Three, it is evident that there are

inconsistencies between sites which are difficult to justify. Four, little account seems to have been taken of the balancing consideration in PPG 27-010 of cumulative impact. Five, to illustrate some points I have used the company's proposed site at Flash Farm but merely as an example which we know very well. The comments should not be construed to imply that MGL is trying to promote the site for inclusion in the Plan.

2. The only consideration relating to land efficiency which is the main justification for the extensions over new sites policy is SA Objective 9: Promote more efficient use of land and resources. All sites whether allocated or omitted have either a score of +1 if they are an extension or 0 if they are a new site. This is a minor difference compared to some of the other criteria and their importance, such as effects on landscape, air quality, water, and human health which can score up to -3. Although it may be said that the new sites score less favourably than the extensions, this is because of their location, not because they are new sites. Evidently, it does not make much difference in efficiency terms to be either kind of site.
3. Second, some of the 'extensions' could be considered new sites in their own right. For example, Langford North is such a large site that calling it an extension belies its size at 8 M tonnes. It could quite easily be treated as a standalone site with its own access and plant because of this.
4. Three, there are inconsistencies between assessments. (The following is only a selection of inconsistencies that the company has identified). First, in respect of consistency of assessment over time. The company's Flash Farm site was first proposed for adoption in the previous attempt to formulate a Minerals Local Plan for Notts in 2014. Its SA scores in 2016 were -10 and +1 (operational and long term respectively). For the same site and the same SA criteria the site now scores -13 and +3. However, it not clear why the scores have changed so radically to disadvantage it in the operational phase. Second, the scores do not appear in at least some respects to be rational. For example, the scores for soils conservation for Langford North and for Flash Farm are presented in the table below with the text of the assessments for comparison.

Sustainability	Operational	Long Term	Commentary	Mitigation
LANGFORD NORTH 8. Protect high quality agricultural land and soil.	-1	-1	42% of the site area is Grade 3a which is best and most versatile agricultural land and 58% is Grade 3b.	Restoration of an appropriate proportion of the site to high quality agricultural land if that is possible.

<p>FLASH FARM 8. Protect high quality agricultural land and soil.</p>	<p>-2</p>	<p>+2</p>	<p>Just over half of the site is Grade 2 and 3a (best and most versatile) agricultural land. It is stated that the proposed restoration would ensure no permanent loss of best and most versatile soil resources with the ability to re-establish all high quality agricultural land.</p>	<p>Not applicable</p>
--	-----------	-----------	---	-----------------------

5. Just under half of Langford North is BMV land and presumably this will be restored back to original grade in the restoration proposals leading to either no or minimal net loss of quality alongside a mainly water based restoration. My esteemed colleagues in Tarmac are more than equal to this task. Conversely, just over half of Flash Farm is BMV land (a much smaller area) and is intended to be refilled with suitable inert fill and all BMV land will be returned to its original quality or higher since the main limitation on the land is droughtiness caused by excessive permeability in the underlying gravels. Since the gravels are to be removed this enables a more suitable substrate to be substituted. Again, the company is well experienced in improvements of this nature. There is therefore not a hair's breadth between them in the performance of soils conservation which makes the scores inexplicable.

6. The Council's analysis of the cumulative impact of site allocations is to be found in the SA report paragraphs 6.62 – 6.85 and summarised in para 9.12. There are no references to cumulative impact in the site appraisal matrices of Appendices C and D. The overall approach to analysis of cumulative impact is to say that there are "*particular difficulties and uncertainties associated with predicting cumulative effects...*" (para 6.62 passim). The following analysis is very broad brush and not at the same level of detail as consideration of individual environmental impacts. The analysis stops short of making a judgement that such cumulative impacts as are identified are acceptable. The analysis of the Newark allocations is remarkable in that it fails to acknowledge that the allocations will join up several sites which the company complained of in a 2013 submission to the County Council in the following way "*creating an almost unbroken line of mineral working along the A1133 from south of Collingham to beyond Girton, a distance of over 10 km.*" MGL does not consider the evidence shows that cumulative impacts have been adequately addressed by the Council in its site selection process.

7. One final aspect of the Council's extensions-first policy is that it creates monopolies. A brief analysis of the reserves information in Policy MP2 shows the following (I have not carried out a

similar exercise for minerals sales but this is likely to mirror the situation relating to reserves). The main source of sand and gravel supply in the county is the Newark area, which accounts for 49% of existing reserves. One company currently controls 79% of these reserves, and including allocations this proportion will rise to 90%. Indeed, after 2027 this will become a total monopoly as the one other competing site in the area closes.

8. The Idle valley is also a major source of reserves accounting for 41% of the total sand and reserves of the county. Here, the same company currently controls 83% of existing reserves which will fall slightly to 76% of reserves once allocations are factored in. After 2026, I calculate that this company's market share of reserves in this area will be 96% due to the closure of competing, shorter term sites.
9. This situation has been directly created by the Council's site selection policy (and indirectly by its stance over the provision level) which makes it extremely difficult for new entrants such as MGL to enter the market or even for established operators who want to replace worked out sites with new ones to maintain their presence.
10. This is not a company bashing exercise, nor is the company claiming that the Council has deliberately favoured incumbent operators over new ones. However, the Council's policy is not only against the spirit of national policy to create a competitive economy, but is also in our view contrary to NPPF para 207 (g) which states that mpas should "*ensur(e) that large landbanks bound up in very few sites do not stifle competition*". Creating a monopoly of supply by one operator is certainly against that intention and the extensions-first policy is not sound by reason of being contrary to national policy, not positively prepared, not justified and not effective.

9 Should Strategic Objective SO4 refer to safeguarding all mineral resources rather than those of economic importance?

1. No comment

Strategic Policies

10 Should text (or a footnote) be added to paragraph 3.5 to refer to the exception in paragraph 177 of the National Planning Policy Framework (the Framework)?

1. No comment

11 In paragraph 3.8 what is the rationale for the priority to extend existing sites?

1. I have already extensively discussed this in my answer to question 8 above.

12 Is Policy SP1 (1) (b) consistent with national policy in terms of prioritising the extension of existing sites?

1. Again, we consider it is not. Our research shows that about 40% of mpas have extension only or extension first policies. The approach is a hangover from national policy current from the mid 1990's. Both MPG1 and MPG6 published in 1996 (paragraphs 61 and 69 respectively) explained the approach at some length saying that it may be generally preferable to adopt a policy of allowing extensions to existing minerals workings rather than allowing mineral workings at new greenfield sites, as a means of minimising environmental disturbance. However, both documents were at pains to say that a general preference for extensions to existing workings should not be construed as a policy for protecting existing suppliers or constraining competition. However, that is exactly what has taken place in this situation. And of course, any claimed advantages of extensions must be balanced against the continuation of impacts at the extended site, and any cumulative impacts.
2. Moreover, when we look at the 'extensions' it is apparent that the two largest (which have the greatest impact as barriers to entry) are extremely large. Indeed, both are larger than most new site proposals, and at Langford North this is a site that could easily be considered as a standalone site in its own right. In this respect, an argument of sterilisation if the mineral were not worked in this way could not be seriously maintained. Unfortunately, we cannot go back to previous national policy statements to see what assumptions lay behind them and in particular what policy makers had in mind by the term extension. However, I would say that it would have traditionally been unusual for extensions to be as large as this. This is backed up by an observation that the still current North Yorkshire Minerals Local Plan dating back to 1996 allows 'small scale' extensions from existing sites not otherwise allocated in the plan.
3. Let me say at this point, that neither I nor MGL are opposed to extensions as a concept. We accept that there can be many advantages to extensions. Indeed, it is true to say that all parts of the industry depend on them to continue their businesses when their initial planning permissions draw to a close. But when extensions last for 20 years, and when they are far bigger than new sites, it is stretching the concept.

4. It is not obvious that all extensions will be superior to new sites, which is why I consider national guidance (following on from the downgraded national policy of the 1990's) is at pains to say that all proposals should be treated on their merits. Certainly, the focus of 1990's policy was on lower levels of environmental disturbance. In this respect, the SA report should not be seen as the final word on this issue. If we use the concept of landtake or the mean yield of sites (defined as gross area divided by mineral tonnage), then we get some interesting comparisons. To illustrate this I have used the company's t Flash Farm site for convenience and knowledge together with Langford North as the largest of the allocations. Flash Farm has a 32 ha extraction area from which it will produce 3.08 M tonnes. This amounts to a gross yield of 97,000 tonnes per ha. In contrast, Langford North is 121 ha (the extraction area might be smaller than this) producing 8.00 M tonnes. This amounts to a gross yield of only 66,000 tonnes per ha. Therefore every 100,000 tonnes extracted at Flash Farm would need just over 1 ha, whereas at Langford North the equivalent landtake would be 1.5 ha; a much less efficient disturbance of land.
5. In short, we do not accept all things considered, that the policy is right in this instance. Following it through, it creates massive adverse competitive effects over time, and distorts the market. For example, the industry is highly integrated and most mineral produced by companies is used internally or sent to so-called 'fixed outlets', which are manufacturing units using consistently large quantities of material to make concrete products. In many instances no material will be sold on the open market. So what will happen when a company with existing value added facilities in Nottinghamshire no longer has access to its own source of mineral in the county? Will it give up its business and cede its market share to its surviving competitor? The short answer is no, it will import if it can. Where such imports occur as short haul cross boundary movements, there will not usually be much of a problem. However, where they occur over longer distances they represent an unnecessary and unsustainable transfer of mineral from one area to another that should be avoidable in an equitable planning policy regime.
6. Again, we are not opposed to sites being extended. The solution to the problem is to recognise the true level of need and to plan for additional sites with an enhanced productive capacity. This allows companies, other than the favoured incumbent, to continue their business and for new entrants to improve the competitive edge of the industry and help to keep prices down for the construction industry.
7. In conclusion we are of the view that the policy is contrary to paragraphs 80 and 81 of NPPF. In particular, policies and decisions do not create the conditions in which businesses can invest, expand and adapt; neither do the policies support economic growth or support an industry

with high levels of productivity, which should be able to capitalise on its performance and potential. Finally, it fails to address potential barriers to investment.

13 Should Policy SP2 refer to the need to achieve a net gain in biodiversity?

1. No comment

14 The requirements of paragraph (1) (a) of Policy SP3 to reduce greenhouse gas emissions and move towards a low-carbon economy relate to the first sentence of the policy and paragraphs (b) and (c) relate to the second sentence. Should the policy be re-structured accordingly?

1. No comment

15 Does the requirement of paragraph (1) (a) of Policy SP3 to move towards a low-carbon economy effectively implement the requirement of section 1 of the Climate Change Act 2008?

1. I assume that what is intended by this question is whether the policy should reflect the target for reduction of carbon by 2050 contained within the Act and to impose that target on each planning proposal for minerals. The target is a 100% reduction (i.e. net zero) of emissions compared to the baseline of 1990.
2. I see several problems with this. First, it has been widely advertised that the 2050 target is 'zero carbon' but it is not often appreciated that it is a net zero target to be compared to the base year of 1990, which must be known for any meaningful action to be taken. This can be achieved at national level where the target applies, but not at the local level where the information is simply not available. Second, NPPF does not obligate local policy be aligned to the target but refers to the planning of new development which contributes to climate change mitigation (paras 150, 151, 153). Third, the net figure must include both increases in emissions represented by higher outputs and reductions in terms of taking carbon out of the atmosphere, which the industry is very good at doing. Fourth, I am not aware that the data is sufficiently available at the site level for measurable targets to be used.
3. Since 2009 the Minerals Products Association (MPA) has produced an annual Sustainability Report which can be downloaded from its website. This contains a number of metrics to chart progress towards sustainable operations. For example, I have sometimes used the metric for the CO² emissions for the processing of land won sand and gravel (kg/t). In 2007 this stood at 4.0 kg/t and by 2018 it had reduced to 2.7 kg/t, a reduction of 67.5%. However, what the 1990 figure was I have no idea but it was unlikely to have been less than the 2007 figure. Interestingly, a WRAP report from 2007 said that the carbon footprint for the production of recycled aggregates was about 50% higher than for primary aggregates processing; the carbon

saving benefit of recycling coming from the reduced mineral miles of transporting the material to its final destination.

4. The industry also plants high numbers of trees (503, 448 in 2018), hedgerows (7.6 km in 2018 down from 13.2 km the year before) as well creating priority habitats (8,327 ha to date in 2018). This information is not recorded in carbon terminology in the form of carbon sinks but I guess it could be so that the industry could demonstrate its contribution to climate change targets more directly.
5. In terms of what MGL are doing in the field of vehicle emissions, as of January 2017 66% of the Company's fleet consisted of Euro 6 vehicles. Currently, 62% of the tipper, artic and concrete vehicles are Euro 6 and 35% are Euro 5. The Company has begun an extensive replacement system for its Euro 4 and Euro 5 vehicles and it is expected that within the next 2 years the Company's fleet will consist entirely of Euro 6 vehicles. In addition, since January 2016, the Company has only purchased plant machinery and vehicles which utilises Ad-blue to significantly reduce exhaust emissions. Euro 6 is the sixth incarnation of the European Union directive to reduce harmful pollutants from vehicle exhausts. Introduced in September 2015, the Euro 6 standard aims to reduce levels of harmful emissions which includes nitrogen oxide (NOx), carbon monoxide (CO), hydrocarbons (THC and NMHC) and particulate matter (PM), which is basically soot from diesel cars. The knock-on effect of reducing these pollutants can also mean improved fuel economy and lower CO² emissions.
6. I have also regularly used information on the reduction in mineral miles for applications compared to the status quo which is linked to the average carbon used to transport a tonne of aggregate by road. Quite impressive figures can be produced for carbon savings for relatively small quantities of mineral if long distance imports are substituted by indigenous production. However, I feel bound to point out that if I am correct that the Plan's strategy referred to above will lead to persistent and high imports, then the strategy can be said to be actively working against its own policy to reduce carbon emissions from aggregates supply.
7. Returning to NPPF, it must be assumed that national policy has been drafted having taken into account statutory targets and translated legislation into local action. I therefore note that there is no reference to zero carbon in NPPF. In terms of climate mitigation (the reduction in greenhouse gases [GHG]) national policy emphasises reduction in GHGs by the location of development, its orientation and design (para 150). Planning policies should identify opportunities to draw on decentralised, renewable or low carbon energy (para 151). Finally, planning applications are to be determined with these principles in mind (para 153). The MLP implements this policy in large part, although the minimisation of unnecessary imports as a reflection of the need to travel and thereby of reducing carbon emissions, has not been given sufficient emphasis in my view.

8. In conclusion, it is reasonable for the policy to be worded as it is, and for paragraph 3.34 to be used as an aide memoire for applicants to chart the ways in which their proposals meet the aspirations for carbon reductions, However, I would caution against any reference to statutory targets or for applicants to be forced to try and quantify their proposal's contribution to such targets, which I think goes beyond national policy and is effectively impossible.

16 Is the use of the word 'should' in Policy SP3 effective, or should alternative terms such as 'must' or 'will' be used?

1. I am relaxed about the presence of the word 'should'. The meaning is clear enough and is not improved in my view by the alternatives suggested, although it will depend on what other changes are proposed for the policy. Given my reservations above about quantification of impacts, I fear the change to more directive language would be counter-productive.

17 Should Policy SP3 refer to the need to address the potential for cumulative impacts upon climate change?

1. Although this is a laudable idea in that it would explicitly recognise the sector's role in combating climate change there do appear to be practical difficulties in its implementation. If the Council finds it difficult to identify with any confidence ordinary cumulative impacts at site level, then what hope is there for applicants to assess this adequately? There is no reference to the cumulative impacts of sites on climate change in the SA report chapter 6, and there are question marks in the effects box of the site assessments in Appendices C & D for criteria 7 – climate change impacts. Unless the Council can suggest an acceptable methodology for this in the supporting text, it leaves applicants with no guidance about how to go about this.

18 Should paragraph 3.31 and Policy SP3 (1) (a) use the term 'minimise' rather than 'reduce'?

1. I think it should be remembered that the net zero target for carbon enshrined in the 2008 Act as amended, is not actually a no carbon-at-all policy but is referenced to the baseline. The use of the word 'minimise' is very strong, and would not be possible to show at the site level as discussed above. It will be a long time before manufacturers produce enough plant and equipment which is carbon free, so this could not be achieved at any site at present. In the circumstances, it is appropriate that applicants are required to reduce greenhouse gas emissions rather than minimise them and to work gradually towards the target which is still 30 years away.

19 Is the requirement of Policy SP4 (2) (a) for new mineral workings and related development to be within close proximity to markets sufficiently clear?

1. I consider that the current policy wording is adequate to convey that minerals miles should be minimised and that local quarries are the most sustainable form of minerals working there is. However, the corollary to this is that repatriating imports by substituting them with local material is also a necessary aspect of this aspiration.

20 Should the last sentence of paragraph 3.42 read “However, restrictions on barge sizes upstream of Cromwell Lock may restrict the viability of barging minerals upstream to Nottingham from the Newark area”?

1. Yes.

21 Should further text be added to paragraph 3.49 to refer to national policy in securing a net gain in biodiversity? I suggest the following, but the Council may wish to suggest alternative wording: “It is therefore important that new minerals development is correctly managed and to ensure that no adverse impacts occur to designated sites, or priority habitats and species as far as possible. Policy SP2 promotes a biodiversity-led restoration approach which seeks to maximise the biodiversity gains resulting from the restoration of mineral sites and a net gain in biodiversity”.

1. We are relaxed about the intention to achieve net biodiversity gain since almost every mineral site can do this. The only qualification we have is over the current biodiversity metric which is still undecided, particularly since this has not been designed with minerals in mind. There are concerns that whereas the concept, and the metric specifically, has been developed to address other types of development where net gain is rarely delivered e.g. housing, infrastructure, the metric should be applied differently in the case of minerals recognising that mineral extraction is temporary, and net gain can be delivered, but over a prolonged period of time until the site is fully restored. Consequently, mineral development should not be penalised for biodiversity losses at the start of working, which is what the metric as currently formulated does.
2. In addition, feedback on the application of the Metric 2.0 has not long ended (February 2020) whilst mandatory biodiversity net gain would not become relevant until after the passing of the Environment Bill. The company would not object to a specific reference to the concept of biodiversity net gain if the Inspector thought this was necessary, but we would object to a specific reference to the metric.

22 Should supporting text be added in relation to air quality, including its potential effect on biodiversity?

1. No comment

23 What is the justification for the wording "Economically important" in parts 1 and 2 of Policy SP7? Is this wording consistent with paragraph 204 (c) of the Framework?

1. No comment

24 Is the statement in paragraph 3.90 that secondary processing facilities will not be safeguarded by the County Council consistent with paragraph 204 (e) of the Framework?

1. No.

25 Should any secondary processing facilities which are located on mineral workings be identified and safeguarded?

1. No comment

26 The safeguarded wharves should be shown on the Policies Map.

1. No comment