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Date 11 April 2016

Dear Sir

MPA submission to DCLG consultation- Technical consultation on implementation of planning changes

The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the recent addition of The British Precast Concrete Federation (BPCF) and the British Association of Reinforcement (BAR), it has a growing membership of 450 companies and is the sectoral voice for mineral products. MPA membership is made up of the vast majority of independent SME companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of GB cement production, 90% of aggregates production and 95% of asphalt and ready-mixed concrete production and 70% of precast concrete production. Each year the industry supplies £9 billion of materials and services to the £120 billion construction and other sectors. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

This consultation appears to be directed at the house building sector but as the consultation does not explicitly exclude other development sectors, including the minerals sector, it was felt important that the MPA should comment. A clear statement on the sectors included and excluded from the consultation would be helpful and in any subsequent secondary legislation, regulation and guidance.

Changes to Planning Application Fees

Our Members do not feel that value for money is currently received from the existing level of fees charged for mineral applications and the current fee levels are not justified by the apparent Officer time spent on dealing with applications. We do not see the requirement for a fee increase especially in relation to mineral applications. In 2004, the maximum fee for a minerals application was £16,500; by 2008, this had risen to £50,000; the cost of an application in 2016 is £65,000. These marked increases in fees over recent years, although being justified towards improvements in the planning service, have routinely failed to deliver and if anything, the standard of service has declined significantly as fees have increased. The additional financial burden of chargeable pre-application consultation meetings with planning authorities and statutory consultees must also be recognised when setting application fees.

A recent industry survey has shown that mineral applications are taking on average 33 months for sand and gravel applications to be determined, and 34 months for crushed

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rock. Bearing in mind the usual extensive pre application discussions undertaken with Mineral Planning Authorities, regulators and other stakeholders, it is frustrating that applications are taking so long to be determined.

We do not agree with the principle of a 'fast track service' proposed by the consultation based on an increased planning fee. Firstly there is a statutory requirement for local Planning Authorities to provide a service, and determine applications within a prescribed time. It seems inequitable to create a two tier service when it comes to processing planning applications. There is currently an acknowledged shortage of planners especially those experienced in minerals planning, and it is therefore not clear how a fast tracked service could be made to work if it cannot be resourced by suitable experienced staff. The concern is that in the event such a system was put in place those developers choosing not to go into a fast tracked system would receive a lesser service than current.

We feel that there needs to be total transparency on how the fees for mineral applications are spent to ensure that Mineral Planning Authorities are not cross subsidising other functions within their departments. One way of ensuring this, and addressing the concerns expressed above, would be to develop centres of excellence for mineral planning which would process applications on behalf local authorities and would make recommendations to individual local authority planning committees. This would have the added benefit of addressing the recognised lack of mineral planning expertise in the system, whilst ensuring the political decision stays local but the mineral planning system becomes more efficient and productive.

Confirmation would be appreciated that any fee increase would not apply to mineral applications as a result of this consultation.

The delivery of a timely planning decision is often frustrated by delays in statutory consultees responding to consultation requests from the Local Planning Authority and greater focus should be applied to ensuring consultees respond in a timely manner, within the specified period. Consultee response periods should be fixed, with the LPA having the ability and mechanism to determine applications if consultees have failed to respond in sufficient time without fear of Judicial Review. It is not therefore seen how a faster service can be guaranteed.

Further, it is imperative that fees continue to be set nationally. A local and regional variation in the fee structure is likely to make accountability harder to assess and could lead to developments being "priced out" of the planning system by an LPA.

It would also be helpful that the fee structure clarifies once and for all that the fee payable where a written request to the relevant local planning authority for confirmation of compliance with planning conditions, is **not** a fee payable to discharge a condition and also this process is **not** relevant if the request is in respect of conditions imposed on a minerals or waste permission. This was clarified in circular 4/2008 but has not been repeated in the current guidance on fees.

Permission in Principle

The statement in the consultation, at paragraph 2.4, that the '*aim is to give greater certainty and predictability within the planning system*' is welcome.

However, a presumption in favour of planning permission for sustainable development within a Plan led system underpins primary planning legislation and the relatively new National Planning Policy Framework (NPPF). It is not necessary to create additional types of consent to further complicate the planning process, but there is a need to ensure that the current presumption in favour is applied, and understood across the planning system along with the plan led system.

If the Plan led system was working properly, the allocation of a site within a Local Plan should be considered permission in principle. It is unclear under the consultation proposal where the allocation of a site in a Local Plan now sits.

In para 2.4 the term "appropriate assessment" is used in a context not associated with the Habitats Directive. Use of such terms may lead to confusion if repeated in regulation or guidance produced to accompany the "Permission in Principle" issues.

If the "Permission in Principle" concept is introduced, it is important that terms such as "locally supported qualifying document" and "locally driven", etc are clearly explained.

Brownfield Register & Small Sites Register

If the government are to promote development on brownfield sites or small sites through their respective registers, it is imperative that these registers take full accordance of Minerals Safeguarding Areas and Mineral Consultation Areas. In order to ensure truly sustainable development, the concept of permission in principle or development of brownfield sites or small sites, cannot apply to MSAs and MCAs.

Neighbourhood Plans

It should be re-emphasised that neighbourhood plans cannot include policies which cover minerals and waste development. Any proposed new development must not negatively impact on minerals and waste policy, developments and associated infrastructure. As above, Neighbourhood plans must take full accordance of Minerals Safeguarding Areas and Mineral Consultation Areas

Local Plans

The clear expectation that local authorities should have a local plan (para. 6.1) needs to be enforced by Government as a matter of urgency. A plan led system cannot operate without up to date Local Plans, and consideration should be given to make it a statutory duty on LPAs to have Local Plans in place and to be reviewed on the required timetable.

The consultation document tries to paint a rosy picture at para 6.2 where it identifies that 84% of Local Authorities have published a Plan. If one looks at the progress of Mineral Planning Authorities only 60% have Core Strategies and only 25% have local plans with site allocations. The link to delivering the Government's housing aspirations and having the building materials available to deliver it must be understood. This is against a background of dwindling aggregate reserves where only 58% of aggregate sold over the last 10 years has been replaced by new consents. To this end we bring to your attention the recent recommendations made by the Local Plans Expert Group to the Secretary of State on the issue and specifically recommendation 46.

Plan making needs to be accelerated by simplifying the process; adopting a template approach and disseminating best practice. This will achieve consistency to hopefully unblock the system.

Testing Competition in the processing of planning applications

The outsourcing of the planning service and the sharing of resources is not a new approach and there may be benefits to a more strategic consideration of minerals applications, whilst retaining the local democratic process of final determination. Applications must continue to be determined within the current national fee structure.

Experiences show that the outsourcing of applications can be "hit and miss", with consultants employed simply on price and not upon experience, thereby having a drastic effect on reducing the quality and indeed timetable for determining applications. Professional standards must be maintained with the LPA and respective "private providers" being equally accountable to delivering a high quality service. In the context of minerals strategic consideration of applications and the sharing of resources could be considered at an AWP level.

S106 Disputes

A resolution mechanism for resolving dispute has merit, and consideration should be given to extend this to mineral planning development as well.

Local Authorities also need reminding that S106 Agreements should only deal with issues that cannot be dealt by condition and which meet all of the five tests set out in the NPPF Planning Practice Guidance on the use of conditions. This is an issue that causes considerable argument and discussion.

Changes to Statutory Consultations on Planning Applications

It is often the case that determination of planning applications is delayed by the failure of statutory consultees to respond to planning consultations in a timely fashion. The proposal to set a limit on the time period within which statutory consultees have to respond is welcomed.

However, this should go further and if there is no response within the permitted timescale then it should be deemed that there is no objection from the statutory consultee concerned.

The practice of statutory consultees putting in holding objections or requests for further information as a tactic to get around time limits for responses also needs to be reviewed.

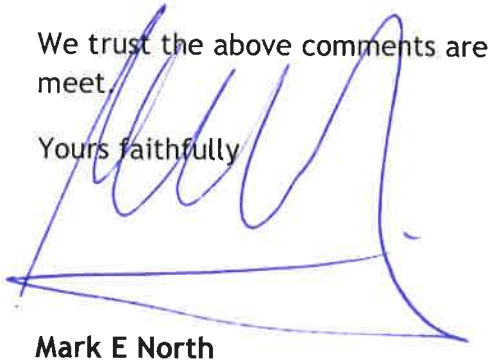
Finally we recommend further changes that would help smooth the way in respect of statutory consultees /regulators namely;

- Combine planning and permitting functions within one Government department e.g. move *'Environment'* or the permitting functions related to environment from DEFRA to DCLG bringing planning and permitting together.

- Re-establish the primacy of the planning permission over permitting. Planning is about what & where, permitting is about how. This structural change would take away departmental conflict and avoid unnecessary duplication.
- To provide clarity, clearly define the duties of regulators and consultees, in accordance with the principles of Sustainable Development.
- Consider merging Natural England with the Environment Agency to bring all environmental permitting together.
- Intervene to make Environment Agency, Natural England and Historic England processes consistent, transparent and timely between national and local offices. This will assist to minimise burden and uncertainty.
- Advice provided by a statutory consultee should be binding on that consultee throughout the life of a planning application. Often, advice changes if the original officer advising on a particular proposal leaves or is replaced. Even pre submission advice, such as the PSS offered by Natural England, which is paid for by the applicant, is not binding and there is therefore no accountability to this process.

We trust the above comments are of help but should wish to discuss we would be happy to meet.

Yours faithfully



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