

AGGREGATES, CEMENT AND READY-MIX CONCRETE MARKET INVESTIGATION

Policy and regulation: aggregates

Introduction

1. This working paper sets out background information, and the views of main and third parties, on the key areas of policy and regulation covering the production and sale of aggregates in Great Britain. The views of main and third parties have been provided to illustrate the workings or impact of a particular policy and regulation on their operations. Our assessment of the impact of policy and regulation on competition is set out in a separate working paper.

2. This paper focuses on the areas of aggregates policy and regulation which featured most prominently in the submissions of main and third parties to us, and as such, is not intended to be an exhaustive list of all the applicable policies and regulations in this market. For the purposes of this paper, we have not made an assessment, or concluded, on the effects of these policies and regulations on competition in the relevant markets, which will be set out in a separate working paper. This working paper covers the following areas of policy and regulation in the aggregates market:
 - (a) the planning regime for the extraction of land-won primary aggregates;
 - (b) the licensing regime for the dredging of marine aggregates;
 - (c) the planning regime for secondary and recycled aggregates; and
 - (d) the Aggregates Levy.

The planning regime for the extraction of land-won primary aggregates

Section overview

3. In this section on the planning regime for land-won primary aggregates, we first provide background information before setting out in more detail: (a) the Managed

Aggregates Supply System; (b) the national planning policy frameworks in England, Wales and Scotland; (c) the key characteristics of the Managed Aggregates Supply System (covering the following areas: security of supply and landbanks; Aggregates Working Parties; and central Government involvement); (d) Mineral Planning Authorities and local Minerals Plans; (e) the views of main and third parties on the Managed Aggregates Supply System; (f) environmental considerations in the planning system; and (g) the planning permission process in England.

Background information

4. In Great Britain, national policy on land use planning, both in general and in particular for aggregates extraction, forms an integral part of the Government's wider economic and environmental policy objectives, and as such the broader objective of 'sustainable development' features heavily as a general planning policy objective.
5. The legal framework in Great Britain within which the current planning regime operates was first set out in the Town and Country Planning laws, and further developed through subsequent legislation, eg the Planning and Compulsory Purchase Act 2004.¹
6. Planning legislation and policy is a devolved matter and in Great Britain, responsibility for developing each nation's planning policy framework lies with the Department for Communities and Local Government (DCLG) for England, the Welsh Government for Wales and the Scottish Government for Scotland.
7. Land-won construction aggregates account for around 75 per cent of all minerals extracted from the UK land mass,² and planning in relation to land-won primary

¹ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html#LUP.

² British Geological Survey: *Managing aggregates supply in England, A review of the current system and future options*, 2008, Section 2.1.

aggregates forms a significant part of the minerals³ planning activities of each national body.

8. The planning systems throughout Great Britain are 'plan-led', whereby the foundation of each system is the preparation of strategic plans by local authorities which set out how they propose land will be used within their local areas. In the case of minerals planning, the relevant local authority—termed a 'Minerals Planning Authority' (MPA) in England and Wales, or a 'Planning Authority' in Scotland—is for England, the County Council, where there are two tiers of local government (counties and districts), or a Unitary Authority elsewhere.⁴ In Wales, the MPA is the County Council or County Borough Council,⁵ and in Scotland, the Planning Authority is a Unitary Authority. Each National Park is also an MPA or a Planning Authority.⁶ For ease of reference, for the remainder of this paper, the term 'MPA' has been used to mean the local planning authorities in England, Wales and Scotland.

9. An MPA's policy on minerals development for its local area is set out in its 'Local Minerals Plan' (in England) or its 'Local Development Plan'⁷ (in Wales and Scotland) (together, the 'Local Plan'), which must take account of the relevant national planning policy, and ultimately forms the local policy framework upon which decisions on individual planning applications are made. Each nation's planning legislation requires that decisions must be taken in accordance with the MPA's Local Plan unless

³ In the UK, 'minerals' are defined in Town and Country Planning legislation as 'all substances in, on or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than for sale'. Source: www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁴ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁵ As defined under the Local Government (Wales Act 1994). Source:

<http://wales.gov.uk/docs/desh/policy/120522planningmineralpolicyen.pdf>.

⁶ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁷ In Wales, the Local Development Plan takes into account the relevant national planning policy framework and the Regional Technical Statements on Aggregates for South and North Wales. In Scotland, the Local Development Plans and also the 'Strategic Development Plans' contain the MPAs' minerals policies. Sources: Welsh Government and Scottish Government.

material considerations indicate otherwise.⁸ Where planning permission (ie formal approval) is granted, it is often with conditions or obligations attached.⁹

10. Aggregates reserves which have the benefit of planning permission for extraction are referred to as 'permitted reserves'. Table 1 below shows the permitted reserves (measured in mega tonnes (Mt), or million tonnes) for land-won primary aggregates in England and Wales only. As at 31 December 2009, total permitted reserves in England and Wales were 3,982 Mt for crushed rock and 565 Mt for sand and gravel, giving a total permitted reserves figure of 4,547 Mt. To put this figure into context, total consumption of primary aggregates (including land-won, marine and imported aggregates) in England and Wales for 2009 was 119 Mt.¹⁰

⁸ The DCLG told us that what constituted a material consideration was a matter for each particular case, but ultimately this was determined by the High Court.

⁹ www.bgs.ac.uk/Planning4Minerals/Glossary.htm#landbank.

¹⁰ British Geological Survey, *United Kingdom Minerals Yearbook 2011*.

TABLE 1 Permitted reserves of land-won primary aggregates in England and Wales as at 31 December 2009

Region	Crushed rock					Sand and gravel					Mt
	Active reserves	Worked in past*	Not yet worked*	Total (excl dormant)	Dormant reserves*	Active reserves	Worked in past*	Not yet worked*	Total (excl dormant)	Dormant reserves*	
South-West	711.9	156.5	-	868.4	305.3	32.2	3.6	4.8	40.5	N/A‡	
South-East	44.9	9.0	4.9	58.8	0.7	63.6	4.6	10.8	79.0	2.0	
London†	-	-	-	-	-	1.7	0.3	-	2.0	N/A‡	
East of England	2.2	1.1	-	3.3	2.9	120.7	14.2	12.5	147.4	2.1	
East Midlands	1,018.4	285.0	-	1,303.5	33.4	54.8	9.4	16.4	80.6	7.3	
West Midlands	217.3	67.8	26.7	311.8	4.6	77.8	25.7	0.2	103.7	3.5	
North-West	307.3	17.8	2.3	327.4	-	30.0	7.6	4.1	41.8	N/A‡	
Yorkshire & The Humber	284.7	16.4	-	301.1	-	28.5	5.5	-	34.0	N/A‡	
North-East	167.3	49.2	-	216.6	23.3	8.7	6.6	-	15.3	1.2	
England	2,754.1	602.8	33.9	3,390.8	370.2	418.0	77.5	48.8	544.3	17.4	
South Wales	286.7	132.2	-	419.0	21.0	1.7	-	-	1.7	0.4	
North Wales	167.8	4.6	-	172.4	1.4	17.3	2.0	-	19.3	0.8	
Wales	454.5	136.9	-	591.4	22.4	18.9	2.0	-	20.9	1.2	
Total	3,208.6	739.7	33.9	3,982.2	392.6	436.9	79.5	48.8	565.2	18.6	

Source: British Geological Survey, *United Kingdom Minerals Yearbook 2011*.

*The term 'worked' refers to 'extraction' activities. Permitted reserves which had been worked in the past or are yet to be worked are deemed by the British Geological Survey to be an 'inactive' site, ie where a site had been developed, but no extraction activity is taking place. Dormant reserves relate to permitted reserves at sites which have been granted planning permission, but where no development has commenced.

†London sand and gravel permitted reserves figures for 'Worked in past' and 'Not yet worked' were labelled 'confidential' in the source material. However, the relevant figures for London have been derived from the available regional figures and the total figures.

‡Some regional figures are not available for reasons of confidentiality. However, total figures remain correct.

Notes:

1. Based on the collation of the results of the 2009 'Aggregate Minerals Survey for England and Wales' (British Geological Survey).
2. N/A = 'not available'.

(a) The Managed Aggregates Supply System

11. Since the Waters Committee, which was appointed in 1946 to advise the Government on the supply of aggregates required for post-war reconstruction, and the Verney Committee of the early 1970s, which made recommendations to ensure that the supply of aggregates would be sufficient to meet the expected growth in their demand, the key objective of planning policy has been to ensure an adequate and steady supply of aggregates to meet the needs of the construction industry with the minimum of adverse environmental impacts.¹¹

¹¹ www.sustainableaggregates.com/overview/policy.htm.

12. This objective was embodied in the adoption of the 'Managed Aggregates Supply System' (MASS) in England and Wales in the late 1970s, and its implementation through national planning policy. In Scotland, whilst the MASS was not formally adopted, the respective planning regimes in England, Wales and Scotland share a number of common features, which we explore later in this paper.

13. The MASS was established to address the long-term and persistent imbalances between the regional supply and demand across the different regions of England and Wales. In particular, the South-East, the East, the South-West, Greater London and North Wales faced significant shortages of aggregates supply, whilst surpluses arose in the East Midlands and the South-West. Only the North-East and South Wales were largely considered to be self-contained.¹² In Scotland, these imbalances were, and continue to be, less pronounced (given Scotland's lower consumption and higher reserves of aggregates), and as such the MASS was not adopted.¹³

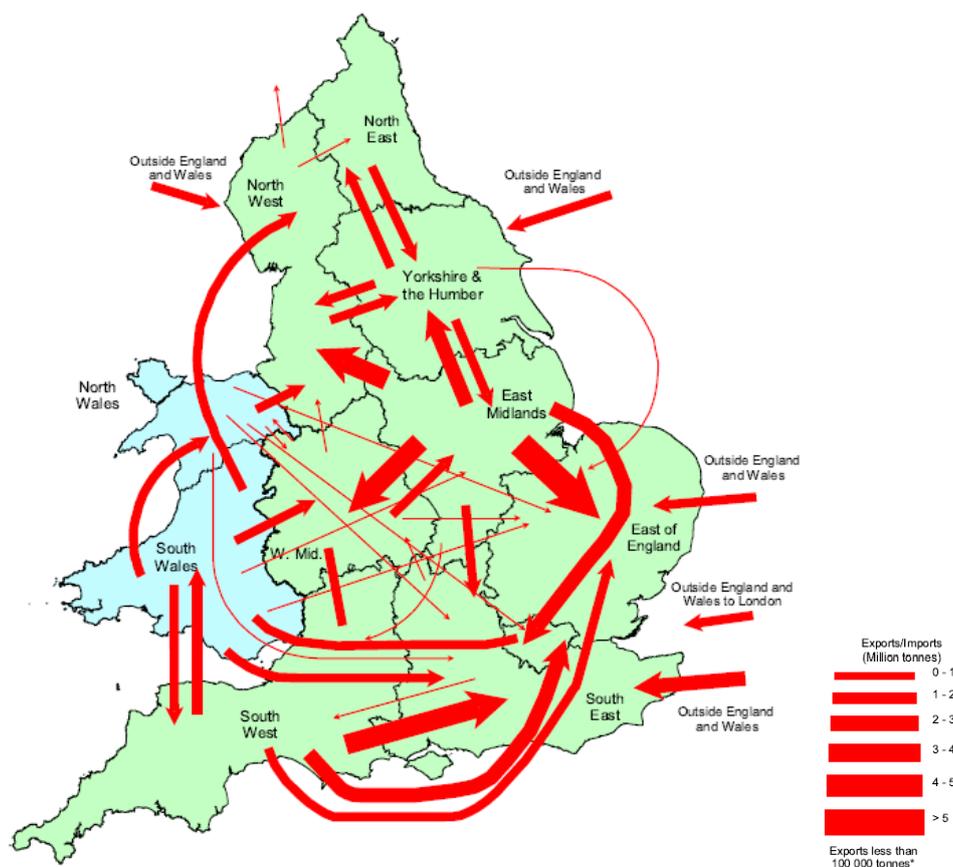
14. Figure 1 below illustrates the interregional flows in 2009 of crushed rock aggregates for England and Wales.

¹² www.sustainableaggregates.com/overview/policy.htm.

¹³ www.sustainableaggregates.com/overview/policy_extended.htm.

FIGURE 1

Interregional flows* of crushed rock in England and Wales, 2009



Source: DCLG, based on its collation of the 'Aggregate Minerals Survey 2009'.

*Exports of less than 25 Kt have not been shown on this map.

†The terms 'exports' and 'imports' generally refer to regional outflows and inflows respectively, unless stated otherwise.

15. The MASS was operated as a fully integrated system in England and Wales until the devolution of Wales in 1998,¹⁴ since when the Welsh Government, whilst mindful of the need for cross-border imports and exports of aggregates between Wales and England, has pursued an increasingly divergent path from England in its policies for minerals planning.

¹⁴ www.sustainableaggregates.com/overview/policy_extended.htm.

(b) National planning policy frameworks in England, Wales and Scotland

16. National planning policy establishes the principles through which the MASS is implemented and supports the legislative and procedural measures that determine how planning decisions are made. As mentioned above, responsibility for developing a national planning policy framework lies with the DCLG for England, the Welsh Government for Wales and the Scottish Government for Scotland,¹⁵ whilst decisions to grant planning permissions are taken by the MPAs.¹⁶

17. Each national planning policy framework adopts a broadly common approach in relation to the role and responsibilities of the MPAs, in particular the surveying, identification and selection of sites; safeguarding the availability of undeveloped sites with suitable reserves of aggregates;¹⁷ and assessing proposals in relation to how sites should be worked and operated, and subsequently restored following extraction.¹⁸

18. In England, the national planning policy framework is called the 'National Planning Policy Framework' (NPPF).¹⁹ It was published on 27 March 2012 and streamlined the former planning policies and guidance notes into a largely self-contained single document.²⁰ In relation to minerals policy for aggregates, the NPPF sets out a more decentralized approach based on local aggregates assessments. Each MPA would be expected to belong to a technical working party called an Aggregates Working Party (AWP) (AWPs are covered in more detail later in this paper), which in turn would have a greater degree of scrutiny of MPA figures. The DCLG told us that the NPPF was part of the Government's commitment to reform planning policy in England, to make it 'streamlined, clearer and less ambiguous'. However, it added

¹⁵ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

¹⁶ www.bgs.ac.uk/Planning4Minerals/CentralGovt_1.htm.

¹⁷ Safeguarding a site prevents a site with potential minerals reserves from being 'sterilized' through restricted access by other forms of surface development. Source: DCLG.

¹⁸ British Geological Survey: *Managing aggregates supply in England, A review of the current system and future options*, 2008, Section 4.4.

¹⁹ www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf.

²⁰ www.sustainableaggregates.com/overview/policy.htm.

that a period of transition was required, which would last until the end of March 2013 to fully replace the former policy framework, with some changes being phased in over time.²¹

19. In a DCLG publication in September 2011, the DCLG acknowledged some of the concerns with the former planning system in England (prior to the NPPF), and set out the following case for reform:²²

Planning is acting as a serious brake on growth, slowing the delivery of much needed new jobs and new business. There is a broad recognition that the [planning] system is slow, complex, bureaucratic and unresponsive. Reform is imperative for our economic recovery ... Combining all national planning policies into one concise document will improve clarity and unblock the system.

20. In Wales, the national planning policy framework comprises 'Planning Policy Wales' and 'Minerals Planning Policy Wales'.²³ It is accompanied by a number of technical advice notes, including 'MTAN1' on aggregates.²⁴

21. In Scotland, the national framework is called the 'National Planning Framework for Scotland 2' (2009), and is concerned with the long-term planning strategy for Scotland until 2030.²⁵ This is accompanied by the Scottish Government's 'Scottish Planning Policy' circulars and planning advice—principally on controlling the environmental effects of surface minerals working and restoration.²⁶

²¹ These transitional measures are set out in the [NPPF](#), Annex 1. Source: DCLG.

²² DCLG document: 'National Planning Policy: Myth-Buster' (8 September 2011): www.communities.gov.uk/documents/planningandbuilding/pdf/1984490.pdf.

²³ www.assemblywales.org/qg10-0006.pdf.

²⁴ Namely, 'Mineral Planning Policy Wales', 'Ministerial Interim Planning Policy Statements', 'Technical Advice Notes', 'Minerals Technical Advice Notes' and ministerial circulars. Source: www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

²⁵ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

²⁶ British Geological Survey: *Managing aggregates supply in England, A review of the current system and future options*, 2008, Section 4.4.

(c) The key characteristics of the Managed Aggregates Supply System

22. We examine below the following key characteristics of the MASS:²⁷ (a) security of supply and landbanks; (b) AWP; and (c) central Government involvement. As mentioned above, whilst the MASS was not formally adopted in Scotland, the respective national planning regimes in England, Wales and Scotland share a number of the MASS's key characteristics.

Security of supply and landbanks

23. As mentioned above, national planning policy is based on securing an 'adequate and steady' supply of aggregates such that there is sufficient supply to meet demand as it arises, but within environmental limits. Planning permission decisions for new and existing aggregates sites must therefore take into account their impact on economic growth, the environment and communities, the pursuit of which contributes to the Government's wider objective of 'sustainable development'.²⁸ In Scotland, where the MASS was not adopted, the planning regime also recognized that an 'adequate and steady supply of minerals' was 'essential to support sustainable economic growth'.²⁹

24. The DCLG told us that in England, without the system of managed aggregates supply (ie MASS), successive Governments had considered that 'local need' arguments in the resource-rich regions would not take 'national need' into account, and therefore in the long term, this could lead to a lack of aggregates supply to areas with high demand, and act as a constraint on development. Therefore, MASS sought to ensure 'resource-rich' parts of the country planned for greater than simply their 'local need', whilst ensuring that 'resource-poor' parts of the country made some contribution to meeting overall demand.

²⁷ www.sustainableaggregates.com/overview/policy_extended.htm.

²⁸ Welsh Government and www.sustainableaggregates.com/overview/policy.htm.

²⁹ www.scotland.gov.uk/Resource/Doc/300760/0093908.pdf.

25. The objective of the MASS to ensure a 'steady and adequate' supply of aggregates also gives rise to the maintenance of 'landbanks' by MPAs to ensure that sufficient planning permissions have been, or are, granted to meet future aggregates demand.
26. In the context of aggregates planning, a 'landbank' is defined as a stock of planning permissions (as measured in years) for permitted reserves to ensure continuity of aggregates production for a set number of years based on current extraction rates ('landbank').³⁰ Table 1 above showed the stock of permitted reserves (measured in tonnes) based on all active and inactive (but excluding dormant) sites.
27. To meet the objective of an 'adequate and steady' supply of aggregates, MPAs in England and Wales, as well as Scotland where the MASS was not formally implemented, are encouraged by their respective national planning policies to maintain landbanks:
- (a) In England, the NPPF states that each MPA should make provision for the 'maintenance of landbanks for at least seven years for sand and gravel and at least 10 years for crushed rock' and that longer periods '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'.³¹ The NPPF also maintained the superseded national policy framework's stance on landbanks that 'large landbanks bound up in very few sites do not stifle competition'.³²
- (b) In Wales, the 'Minerals Planning Policy Wales' guidance document sets out that Welsh MPAs should 'include policies in their development plans [ie Local Plans]

³⁰ www.bgs.ac.uk/Planning4Minerals/Glossary.htm#landbank.

³¹ NPPF, 27 March 2012, www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf.

³² NPPF, 27 March 2012, www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf.

for the maintenance throughout the plan period of landbanks for non-energy minerals which are currently in demand'.³³

(c) In Scotland, Scottish Planning Policy adopts 'the landbank approach ... to ensure that a stock of reserves with planning permission is maintained to ensure adequate supplies of minerals over a minimum 10 year period based on current production levels'.³⁴

Views from main and third parties on landbanks

28. Lafarge Aggregates Limited and Lafarge Cement UK Limited (together Lafarge) told us that landbanks in aggregates planning ensured that MPAs granted sufficient planning permissions to meet local demand, and argued that these should not be regarded in the same light as the supposed 'landbanking' practices of supermarket retailers as what was articulated as a concern by the CC's market investigation into the Groceries market, where (in some local areas) land was purchased by supermarket retailers, with planning permission to construct supermarkets, in order to prevent competitors acquiring sites from which they can compete.³⁵
29. The Welsh Government told us that the policy of landbanks was not to 'landbank permissions' but to ensure that there were adequate reserves in order to maintain supply.
30. The following main parties argued that these 'landbank targets' were not a cap on the number of planning permissions an MPA should grant, but represented minimum targets:
- (a) Tarmac Group Limited (Tarmac) told us that in England, prior to the NPPF, 'landbank targets' were regarded by some MPAs as a 'maximum limit' on the

³³ <http://wales.gov.uk/docs/desh/policy/120522planningmineralpolicyen.pdf>.

³⁴ British Geological Survey: *Managing aggregates supply in England, A review of the current system and future options*, 2008, Section 4.4.

³⁵ [Lafarge response to the issues statement](#), 27 April 2012, Section F.

number of planning permissions because they were unwilling to permit more quarrying than was perceived to be necessary. It added that the NPPF had helped clarify that these were 'minimum' targets.³⁶

(b) Hanson also told us that these targets were not a 'cap', but a 'minimum threshold for permitted reserves', and that under the NPPF, landbanks were to be used principally as an indicator of the security of aggregate minerals supply and the additional provision that was needed to be made for new aggregates extraction and alternative supplies.³⁷

31. A number of main parties argued that 'hoarding' sites with permitted reserves was not a commercially viable strategy:

(a) *Minimum annual rent payments ('certain' or 'dead' rents)*. Lafarge told us that where an aggregates producer leased land for a particular development, the landlord might impose 'minimum annual rents' (unrelated to the precise amount of aggregates extracted) and payable to the landlord in addition to royalties once production exceeded a certain threshold. Cemex UK Operations Limited (Cemex) added that these minimum rents could run into hundreds of thousands of pounds annually, and were 'specifically designed to prevent an operator from landbanking'.³⁸ We note that Cemex's use of the term 'landbanking' was in relation to 'hoarding' permissions, rather than in the context of the term commonly used in the planning regime.

(b) *Recovery of planning costs*. Cemex told us that given the lengthy and costly process of obtaining planning permission, there was a 'clear commercial imperative for implementing it as soon as possible to recoup the costs of

³⁶ [Tarmac response to the issues statement](#), Section 5.4.

³⁷ [Hanson response to the issues statement](#), Section 18.

³⁸ [Cemex response to the issues statement](#), 24 April 2012, Section 8.

obtaining it'. It added that 'holding undeveloped sites in a landbank and/or mothballing previously active sites' did not make commercial sense.³⁹

32. Hanson argued that maintaining a 'prudent level of mineral reserves' (including mothballed sites) was 'commercially reasonable' in order to ensure 'continuity in the supply of reserves to work' by having 'replacement sites available, which can be brought on-stream as required', in particular given the uncertainty of the outcome of a lengthy and costly planning process.⁴⁰
33. Hanson and Cemex both argued that MPAs had statutory powers to prevent aggregates producers from 'hoarding' aggregates sites:
- (a) Hanson told us that under the Town and Country Planning Act 1990, MPAs had powers to make a prohibition order where no extraction had taken place for two years, and where the MPAs were of the opinion that development was unlikely to resume to any 'substantial extent'. Hanson argued that these powers were retained by the MPAs and could be used to address situations where aggregates producers deliberately 'sit on planned reserves'.⁴¹ Hanson added that this view was further supported by the NPPF's statement that MPAs should plan for a steady and adequate supply of aggregates by ensuring that large landbanks bound up in very few sites did not stifle competition.
- (b) Cemex told us that under the Planning and Compulsory Purchase Act 2004, 'all planning permissions contain an implied condition that they must be implemented [including aggregates extraction] within three years'. It added that once a permission had been implemented, if no extraction had taken place over a particular period, which Cemex told us could be as short as six months, then planning permissions typically contained a condition that prohibited any further extraction and

³⁹ [Cemex response to the issues statement](#), 24 April 2012, Section 8.

⁴⁰ [Hanson response to the issues statement](#), Section 18.

⁴¹ [Hanson response to the issues statement](#), Section 18.

triggered 'site restoration obligations'. In relation to sites with older planning permissions, Cemex told us that MPAs could require the termination of extraction operations and then the implementation of site restoration measures at certain inactive sites under the 'Review of Old Mineral Permissions' (ROMP) system.⁴²

The ROMP system is explained in further detail later in this paper.

34. Whilst MPAs do have certain powers to revoke or modify existing planning permissions under the Town and Country Planning Act 1990 (as amended), the use of these powers will generally involve the payment of compensation to the affected aggregates producer, for 'loss of value', unless these powers are used in agreement with the aggregates producer.⁴³

Aggregates Working Parties

35. AWP's were established in England and Wales (but not in Scotland) in the 1970s to provide technical advice on the supply and demand of aggregates to MPAs, national and regional government agencies, and the aggregates industry.⁴⁴ The DCLG told us that AWP's were not decision-making bodies.
36. The Government funds the AWP Secretariat function, and the terms of reference for each AWP are agreed by the National Co-ordination Group. The National Co-ordination Group is chaired by the DCLG and includes the chairs and secretaries from the AWP's as well as industry trade associations and other government departments. It also includes AWP chairs and secretaries from Wales, and the National Assembly for Wales.

⁴² Cemex response to the issues statement, 24 April 2012, Section 8.

⁴³ www.bgs.ac.uk/Planning4Minerals/PlanPermission_6.htm.

⁴⁴ www.communities.gov.uk/planningandbuilding/planningbuilding/planningresearch/researchreports/mineralswasteresearch/aggregateworkingparties/.

Aggregates Working Parties in England

37. In England, there are currently nine regional AWP covering the East, East Midlands, London, North-East, North-West, South-East, South-West, West Midlands and Yorkshire and the Humber. Each regional AWP is headed by a County Planning Officer or equivalent as chair, and core AWP membership is drawn from the DCLG, MPAs and representatives from industry trade associations, eg the Minerals Products Association, the British Aggregates Association, and the National Federation of Demolition Contractors, along with other interested government departments (eg the Department for Environment, Food and Rural Affairs (DEFRA)) and statutory consultees (eg Natural England) and any other interested party.⁴⁵

38. The DCLG told us that AWP monitored aggregates supply for their particular grouping of local authorities; analysed individual MPAs' annual returns on the level of aggregates extraction (including alternatives, such as marine aggregates and imports); supported relevant minerals surveys; and provided technical advice to the decision-making bodies on the apportionment of the amount of minerals extraction for each MPA.

39. In addition, AWP also publish detailed annual monitoring reports for their respective regions that show comprehensive statistics on aggregates planning and the balance of aggregates demand and supply in terms of landbanks. When producing these reports, the AWP take into account the level of permitted reserves, regional demand, and the supply of marine, secondary, recycled and imported aggregates.

⁴⁵ www.communities.gov.uk/planningandbuilding/planningbuilding/planningresearch/researchreports/mineralswasteresearch/aggregateworkingparties/.

These reports contribute to the MPA's determination of whether further planning permissions are required.⁴⁶

Aggregates Working Parties in Wales

40. In Wales, there are two regional AWP's covering North Wales and South Wales. According to the planning guidance document, 'Minerals Planning Policy Wales', the Welsh regional AWP's are responsible for monitoring, and providing a 'regional overview' of, aggregates supply and demand, working alongside the regional AWP's in England to perform their duties.⁴⁷
41. In a review of AWP's, the Welsh Government found that the AWP's' role in: monitoring and delivering the [MASS] is ... seen by stakeholders as both important and necessary. Without the [regional AWP's] it would be far more difficult for the [Welsh Government] to manage the system, to interface with mineral operators, or to achieve the full consensus needed between industry and [MPAs] for the system to work well.⁴⁸

Views from main and third parties on AWP's

42. Comments from main and third parties in relation to AWP's centred on whether the presence of AWP's increased transparency and on the exchange of information between their various members, in particular between aggregates producers:
- (a) Tarmac told us that MPAs, and not the AWP's, compiled the annual monitoring reports, and that data on minerals production and permitted reserves were provided by producers to the MPAs on a confidential basis. It added that the four-

⁴⁶ www.communities.gov.uk/planningandbuilding/planningbuilding/planningresearch/researchreports/mineralswasteresearch/aggregateworkingparties/.

⁴⁷ <http://wales.gov.uk/docs/desh/policy/120522planningmineralpolicyen.pdf>.

⁴⁸ <http://wales.gov.uk/docs/desh/research/planning/rawps/rawpse.pdf;jsessionid=TjsBP72VV6tMDn2D25y9vrHnsyP4QRKybYJQ7sPmCs1wsQvS2GtD!1858592419?lang=en>.

yearly 'Aggregates Minerals Survey' was compiled by the British Geological Society and was available publicly from the Office for National Statistics.⁴⁹

(b) Staffordshire County Council told us that the sharing of information to support the work of the AWP was not a concern, and that given the restrictions placed on the publication of business confidential information, there was a need for even greater transparency and that there should be a requirement to publish national data for all quarrying operations to ensure that MPAs could effectively carry out their responsibilities.⁵⁰

(c) Hanson told us that industry representation on the AWPs, including large and small operators and trade associations, accounted for a relatively small proportion of AWP members, and that there were 'limitations to the information shared between industry players via AWPs and other bodies and there were safeguards in place'. Hanson referred to the 'three company rule', where information was aggregated from at least three companies to preserve business confidentiality. Hanson added that AWPs were technical advisory and not policy-making bodies, and therefore did not make planning decisions on any individual planning applications.⁵¹

Assessment of local aggregates demand

Local assessment of demand in England

43. In England, in order to help MPAs decide how much provision to make, indicative national and subnational guidelines are produced centrally by Government using a variety of national and subnational data incorporated into an econometrics-based model. These guidelines also take into account the expected contribution to overall aggregates supply to be met from marine and secondary/recycled sources. The DCLG told us that, whilst these guidelines were not fixed, the expectation was that

⁴⁹ [Tarmac response to the issues statement](#), Section 5.4.

⁵⁰ Cabinet member of [Staffordshire County Council response to the issues statement](#), April 2012.

⁵¹ [Hanson response to the issues statement](#), Section 17.

the MPAs within each subnational grouping would ‘sub-apportion’ the relevant figure to a local level, which would then be ‘tested’ as part of the plan-making process. Until March 2012, the national and subnational guidelines were the main vehicle for achieving continuity of supply.⁵² However, with the introduction of updated national planning policy, ie the NPPF in England, the approach moved to one determined on the basis of ‘Local Aggregate Assessments’, which shifted the emphasis away from the central guidelines to one based on an assessment of local sales and forecast demand.

Local assessment of demand in Wales

44. In Wales, the Welsh Government told us that as a matter of policy, it had moved away from the central guidelines’ econometric ‘predict and provide approach’, because it had proven to be inaccurate, and that it ‘wanted to take a more sustainable approach and reflect that demand was largely stable and was unlikely to increase and that it should come from a variety of sources’. Instead of these central guidelines, the Welsh Government told us that its technical advice note ‘MTAN1’ on aggregates set the overall demand level in Wales.
45. As mentioned above, one of the responsibilities of the Welsh regional AWP was to provide a ‘regional overview’ of aggregates supply and demand.⁵³ The subsequent apportionment of regional demand to MPA boundaries is primarily based on the recommendations of the Welsh AWP, which are set out in their Regional Technical Statements.⁵⁴ The Welsh AWP and MPAs are also given guidance to plan for

⁵² The DCLG told us that it estimated national demand for the next 15 years based on econometric modelling. The apportionment of demand down to regional level and then down to an MPA level was undertaken with technical input from AWP. When making their planning decisions, the MPAs took the relevant apportioned demand figures into account (source: DCLG). The apportionment of demand to an MPA boundary was based on historic sales.

⁵³ <http://wales.gov.uk/docs/desh/policy/120522planningmineralpolicyen.pdf>.

⁵⁴ www.newport.gov.uk/stellent/groups/public/documents/plans_and_strategies/cont645702.pdf.

minerals development covering the next 15 years, which are then reviewed every five years or earlier.⁵⁵

Local assessment of demand in Scotland

46. In Scotland, where the MASS was not formally adopted, local supply and demand for aggregates are determined at a strategic or local level as required. Local aggregates supply and demand are determined by the MPAs, where their guidance document states that MPAs 'should have regard to the availability, quality, accessibility and requirement for mineral resources in their area when preparing development plans [ie Local Plans]'.⁵⁶

(d) Mineral Planning Authorities and local Minerals Plans

Mineral Planning Authorities

47. As mentioned above, the MPA is the planning body of a local authority, which has responsibility for all minerals planning issues within its area, including the approval of planning applications.⁵⁷ The MPA has the following primary planning responsibilities:⁵⁸

- (a) formulating local policies and plans to guide future developments in line with the relevant national planning policy framework;
- (b) assessing, managing and controlling individual developments that are proposed through deciding planning applications; and
- (c) enforcing, and monitoring, of existing developments to ensure that they operate within the terms of their planning permissions.⁵⁹

⁵⁵ <http://wales.gov.uk/docs/desh/policy/120522planningmineralpolicyen.pdf>.

⁵⁶ www.scotland.gov.uk/Resource/Doc/300760/0093908.pdf.

⁵⁷ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁵⁸ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁵⁹ www.sustainableaggregates.com/overview/policy_extended.htm.

Local Minerals Plans

48. As mentioned above, an MPA's Local Plan sets out its policy on minerals development and forms the local policy framework upon which decisions on individual planning applications are made.
49. In England, guidance on the preparation of a Local Plan is set out in the NPPF, which requires each MPA to:
- ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities [ie MPAs] should ensure that their assessment of, and strategies for, housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.⁶⁰

The NPPF also states that MPAs:

- should work with other relevant organisations to use the best available information to: develop and maintain an understanding of the extent and location of mineral resource in their areas; and assess the projected demand for their use, taking full account of opportunities to use materials from secondary and other sources which could provide suitable alternatives to primary material.⁶¹

50. The DCLG told us that the process for preparing a Local Plan was transparent, with safeguards built in to ensure that the final plan was 'sound'. It told us that when preparing a Local Plan, MPAs should hold meaningful, early, engagement with communities, landowners, businesses and other interested groups, in order to understand each group's aspirations and, where these were different, attempt to

⁶⁰ NPPF, paragraph 158.

⁶¹ NPPF, paragraph 163.

reconcile them through the Local Plan. The DCLG told us that Local Plans were subjected to at least two rounds of consultation, though often many more, before they were eventually submitted to the Planning Inspectorate, who would examine the plan for legal compliance and 'soundness' on behalf of the Secretary of State. All the documents being considered by the Planning Inspectorate must be made publicly available, including through the relevant MPA's website. The Planning Inspectorate will test the robustness of the evidence, and that the views of interested parties have been properly sought and their aspirations taken into account. This examination is held in public, and those parties who have submitted views on the draft Local Plan may request to appear before the Planning Inspectorate to give their evidence.

51. The DCLG told us that planning applications that conformed to the Local Plan would generally be permitted unless material considerations indicated otherwise, eg in the absence of an up-to-date Local Plan, the central guidelines were capable of being a 'material consideration'.

The allocation of sites in the Local Minerals Plan

52. The Local Plan also identifies a list of prospective or 'allocated' sites for future aggregates working, preferred areas or areas of search as well as safeguarding areas, which would normally protect the area against alternative developments which might prevent future access to the minerals.⁶²
53. The DCLG told us that for a site to be allocated in the Local Plan, the onus was on the landowner or aggregates producer to lobby for its inclusion, either by contacting the MPA directly or, as was most common, in response to a 'call for sites' put forward by the MPA as part of the evidence-gathering stage of the Local-Plan-making process. The information that an aggregates producer may be required to provide the

⁶²<http://www.bgs.ac.uk/mineralsuk/planning/legislation/home.html>.

MPA will depend on many issues, including prior knowledge of a known reserve based on its own geological records or evidence obtained from previous Local Plans. However, for any new sites it may comprise: (a) geological evidence on the suitability of the site's mineral deposits, eg content, depth and quality; (b) evidence of the need for the development;⁶³ and (c) an initial assessment of the method of extraction, possible impacts and site restoration.⁶⁴

54. The DCLG told us that the planning system in each nation was discretionary, and therefore a proposed site for development that was not marked out in an MPA's Local Plan did not preclude a planning application for its development or mineral extraction. However, it added that a decision must still be taken having regard to the Local Plan in the first instance.

55. The importance of a site's allocation in the Local Plan was highlighted by Cemex in its submissions to us. Cemex told us that strict adherence by the MPA to the 'site allocations' in the Local Plan restricted the availability of potential sites where planning permission was likely to be granted for minerals extraction. For example, where a site had either been allocated to alternative uses in different markets, or where a site had not been allocated in the Local Plan, Cemex told us that it was more difficult to obtain planning permission. Cemex also told us that MPAs typically identified and included 'only a bare minimum of sites' in their Local Plans, resulting in a shortage of sites available for aggregates development and thereby driving up the royalty rates demanded by landowners. Cemex added that the allocation of sites in the Local Plan was based on, among others, land use criteria and did not generally take account of the commercial needs of individual companies.

⁶³ The DCLG told us that the NPPF now required MPAs in England to identify and include policies for the extraction of minerals resources of local and national importance in their respective areas, and therefore the requirement for the aggregates producer to provide evidence of the need for the development may no longer be applicable.

⁶⁴ www.bgs.ac.uk/Planning4Minerals/PlanPermission_1.htm.

56. Cemex also told us that in relation to the ‘good evidence base’ that was required by MPAs to support the aggregates producer’s argument to allocate a site in the Local Plan, the aggregates producer had to incur upfront costs, which could be quite significant, prior to making a planning application, just in order for a site to be considered for allocation in the Local Plan, with no guarantee that it would be allocated.⁶⁵

(e) Views of main and third parties on the Managed Aggregates Supply System

57. The main and third parties generally acknowledged the necessity of the MASS and judged it to be effective overall in balancing aggregates supply and demand.

58. Aggregate Industries UK Limited (Aggregate Industries) told us that in the absence of the MASS, ‘local planners would resist applications for any more than is required for local consumption which would lead to fewer planning consents, shortfalls in supply and aggregates being transported over greater distances to the detriment of the environment’.⁶⁶

59. Cemex told us that the MASS ‘prevented scarcity of supply, offers a long term vision for the planning system and provides greater certainty and more predictability for planning applications, to the benefit of producers, customers, public administration and local communities’. Without the MASS, Cemex told us that the planning system would be likely to ‘deteriorate’ into a system where ‘planning by appeal’ became the norm.⁶⁷

60. The DCLG described the MASS as an ‘enabling’ system and that its purpose was to ‘ensure’ the supply of aggregates, not to ‘moderate’ it. It added that MASS had

⁶⁵ [Cemex response to issues statement](#), 24 April 2012, Section 8.

⁶⁶ [Aggregate Industries response to the issues statement](#), Section 6.

⁶⁷ [Cemex response to the issues statement](#), 24 April 2012, Section 8.

‘provided the mechanism to deliver long term planning for the supply of aggregates based on sound evidence’.

61. Similarly, in a review of the MASS by the Welsh Government, it found that the MASS was ‘both necessary and working well’ and ‘provides an important degree of confidence to the minerals and construction industries in the long term security of supply’.⁶⁸

(f) Environmental considerations in the planning system

62. The importance of balancing economic growth with the need to safeguard the environment gives rise to environmental legislation being an integral part of the planning process. EU member states are obliged to implement EU Directives and conventions into their national statutory provisions in order to ensure that there are ‘common procedural requirements’ throughout the EU.⁶⁹ Whilst there is no specific EU Directive for aggregates planning, the EU’s environmental Directives and conventions have had a significant influence and impact on the national planning policy framework which applies in Great Britain.⁷⁰
63. Defra is the government body responsible for setting the majority of environmental policies and regulations for the whole of the UK, and it has streamlined the EU’s environmental Directives to create an environmental ‘permitting’ regime in England which governs how sites are operated. In Wales, this is a matter for the environment directorate within the Welsh Government, and in Scotland, the Scottish Government is responsible for transposing EU law into domestic legislation.

⁶⁸ <http://wales.gov.uk/desh/research/planning/rawps/rawpse.pdf;jsessionid=TjsBP72VV6tMDn2D25y9vrHnsyP4QRKybYJQ7sPmCs1wsQvS2GtD!1858592419?lang=en>.

⁶⁹ www.bgs.ac.uk/Planning4Minerals/EU_Influence_1.htm.

⁷⁰ www.bgs.ac.uk/Planning4Minerals/EU_Influence_1.htm.

The EU Environmental Impact Assessment Directive

64. Among the EU environmental Directives, one Directive which featured prominently in the main and third parties' submissions to us was the EU Environmental Impact Assessment (EIA) Directive, whose implementation is the responsibility of the individual MPAs. Under the EIA Directive, for proposed minerals development sites over 25 hectares (250,000m²) in size, a developer must provide an 'Environmental Statement' to the MPA, which contains an assessment of the likely environmental effects arising from the proposed development.⁷¹ For sites less than 25 hectares in size, the MPA may request an EIA if it considers that a proposed development would have a likely significant environmental impact.⁷² The DCLG added that even in the absence of a need for an EIA, an applicant would still need to provide environmental information on the likely effects of their proposal. Depending on the nature of the application, an EIA could involve significant costs in carrying out the necessary studies.⁷³ The DCLG told us that whilst the length of time to complete an EIA depended on many factors, it considered 12 months to be a typical time frame to complete an EIA.
65. The DCLG noted that the extent of regulations covering aggregates extraction was extensive, but stated that this was largely the result of the environmental concerns which were associated with extraction. The DCLG told us that aggregates planning permissions were likely to set a maximum tonnage of extraction (although the applicant could apply to vary this tonnage) including in some cases an annual limit. It added that aside from the size of the known resource, any limit was likely to be influenced by the need to minimize the environmental impact of extraction, and any impact on local communities.

⁷¹ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁷² www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

⁷³ www.bgs.ac.uk/Planning4Minerals/PlanPermission_1.htm.

66. The DCLG told us that the environmental impact of minerals extraction was mitigated largely through planning conditions, although in some instances an environmental permit was required. The Welsh Government told us that environmental considerations would always be important, and it had ‘sought, as a matter of policy to avoid extraction in sensitive areas, or where possible, to try and facilitate [a] shift in supply patterns away from sensitive areas where aggregate[s] could be sourced elsewhere with less impact’.
67. For longstanding minerals planning permissions, the Environment Act 1995 requires a review of old minerals permissions or ROMP every 15 years. The DCLG told us that following a High Court ruling in 1999, which stated that reviews of minerals conditions fell within the scope of the EIA Directive, a further Environmental Statement may need to be prepared as part of a ROMP if continued minerals working was likely to lead to a significant effect. The Welsh Government told us that the need to review planning consents which were old and did not have any planning conditions attached was the driver for the ROMP regime, and that the EIA Directive subsequently affected these developments where appropriate.
68. Cemex told us that these periodic EIAs updated the conditions attached to planning permissions to ensure that they imposed ‘modern requirements for the operation, restoration and aftercare of sites’, and that these added an increasing cost burden to aggregates producers, where failure to do so would result in the loss of the permission. Cemex also told us that whilst environmental regulations applied to all operators, the burden of environmental regulations was disproportionately greater on larger incumbent operators than on smaller new entrants.⁷⁴

⁷⁴ [Cemex response to the issues statement](#), 24 April 2012, Section 8.

69. Hanson told us that the planning regime's objective of safeguarding the environment might lead MPAs to have a preference for granting permissions on extensions to existing sites rather than for new greenfield developments.⁷⁵ Hanson believed that instead of proposing greenfield sites, granting permissions on extensions to existing sites was important for better management of scarce and finite mineral resources. Lafarge also held a similar view that there was a 'natural inclination for [MPAs] to resist granting applications for Greenfield quarries because these are not popular within local communities'.⁷⁶ It added that managing a 'general local resistance to Greenfield quarries supported the need for a top-down managed aggregates supply system'.

(g) The planning permission process for England

70. In England, once an MPA deems that a planning application is valid, it has eight weeks to reach its decision or 13 weeks in the case of applications for major developments, which include 'the winning and working of minerals or the use of land for mineral-working deposits'. If an Environmental Statement accompanies the application, the MPA has 16 weeks to determine the application. Longer time periods for determination may be agreed in writing between the applicant and the MPA.

71. Before reaching a decision on a planning application, the MPA is required to consult with various bodies and allow them an opportunity to comment on applications for specified types of developments before permission can be granted. The consultation process may result in requests for additional information or amendments to the Environmental Statement.

⁷⁵ [Hanson response to the issues statement](#), Section 18.

⁷⁶ [Lafarge response to issues statement](#), 27 April 2012, Section F.

72. An MPA's planning decision notice is the formal approval given to a planning application and will set out how much extraction can take place (so defining what are the permitted reserves),⁷⁷ and typically includes any planning conditions on the aggregates producer, eg in relation to time limits on operating hours and limits on lorry movements.⁷⁸ In considering whether planning permission should be granted, the DCLG told us that an MPA's decision was based on the merits of each planning application and concerned with the use of land, and that competition issues, including the identity of the applicant, were not taken into account.
73. An appeal system is also in place which is aimed at ensuring that MPA decisions are consistent with its policy and procedures.⁷⁹ In England, the aggregates producer has the right to appeal to the Secretary of State if: (a) planning permission is refused; (b) the MPA fails to issue a planning decision notice within its 8-, 13- or 16-week determination period,⁸⁰ or (c) if the planning conditions are not acceptable to the applicant.⁸¹
74. Following the planning decision notice, planning legislation typically requires the development to commence within three years, failing which a planning permission will lapse. The MPA may, however, grant longer or shorter periods for implementing the permission if there are good planning reasons for doing so.⁸²

The views of main and third parties on the planning permission process

75. The DCLG estimated that the planning process from the 'first borehole in the ground' at the testing stage to first extraction could take between 18 months and five years, depending on the complexity of the application. Once planning permission was

⁷⁷ www.bgs.ac.uk/Planning4Minerals/Glossary.htm#landbank.

⁷⁸ www.bgs.ac.uk/Planning4Minerals/PlanPermission_4.htm.

⁷⁹ www.bgs.ac.uk/Planning4Minerals/PlanPermission_4.htm.

⁸⁰ www.bgs.ac.uk/Planning4Minerals/PlanPermission_3.htm.

⁸¹ www.bgs.ac.uk/Planning4Minerals/PlanPermission_4.htm.

⁸² www.bgs.ac.uk/Planning4Minerals/PlanPermission_5.htm.

granted, the DCLG told us that the extraction period for a site could vary, with shorter permissions (for example, three to five years) the norm for sand and gravel pits, and longer permissions (even up to 20 to 40 years or longer) for crushed rock and limestone quarries.

76. General comments from a number of main parties on the planning permission process were that the process was complex, lengthy and costly. Hanson told us that the 'complexity, delays and failings in the development plan process make planning for any facility costly and very time consuming';⁸³ and Aggregate Industries told us that the 'general UK planning system is bureaucratic, slow and expensive. Significant improvements could, and should, be made, within the current national framework'.⁸⁴
77. Cemex provided details of some of the costs of obtaining planning permission:⁸⁵
- (a) MPAs were increasingly introducing pre-application consultation fees for aggregates producers to meet with MPA planning officers, which could be as high as £2,000 in total.
 - (b) Planning application fees were also payable by the developer (up to a maximum of £65,000 depending on the site area). Cemex told us that the Government had recently announced its intention for these fees to rise by 15 per cent, which for a minerals planning application would mean a maximum of around £75,000.
 - (c) In some cases, the conditions which accompanied planning consents extended beyond what was 'reasonable or necessary' for a particular development, eg 'financial contributions to funds to secure wider benefits such as highways improvements', and their compliance could make consented reserves 'unviable'.

⁸³ [Hanson response to the issues statement](#), Section 17.

⁸⁴ [Aggregate Industries response to the issues statement](#), Section 6.

⁸⁵ [Cemex response to the issues statement](#), 24 April 2012, Section 8. Cemex gave the example of one County Council which charges £250 per meeting.

(d) Once planning permission had been granted, MPAs also charged aggregate producers a planning monitoring fee of around £260 per visit, with MPAs often making in excess of six visits each year.

The licensing regimes for the dredging of marine aggregates

Section overview

78. In this section on the licensing regime for marine aggregates, we first provide background information before setting out in more detail: (a) the licensing regime and authorities; and (b) the licensing process.

Background information

79. The activity of extracting aggregates from the seabed, namely sand and gravel ('marine aggregates') is referred to as 'aggregates dredging'. In England and Wales only, marine aggregates account for around 20 per cent of the total supply of sand and gravel.⁸⁶

80. Dredging is carried out by a dredging vessel (dredger) which can either operate while stationary (anchored during dredging) or while in motion by towing a 'drag head'.⁸⁷ Each dredger is typically capable of transporting up to around 10 Kt of marine aggregates from dredge sites direct to the marine wharves, which are typically located close to the point of end use.⁸⁸

81. A marine wharf is used to land marine aggregates which have been dredged. Wharves require a quay, a discharge area and typically a processing plant to filter the aggregates and remove impurities. In some cases, an RMX batching plant might also be co-located at a wharf. The construction of a marine wharf requires planning

⁸⁶ Minerals Products Association (MPA) website (www.mineralproducts.org/iss_key01.htm#).

⁸⁷ www.sustainableaggregates.com/overview/policy_extended.htm.

⁸⁸ 'Marine Aggregate Dredging: Helping to determine good practice' (September 2006).

permission from the MPA, with most wharves located in the Thames Estuary, the South Coast, the Bristol Channel, and the north-east coast of England. There are also wharves in the North-West of England and North Wales.

(a) Licensing regime and authorities

82. From 1968 until 2007, the Government operated an informal and non-statutory permitting system in relation to the dredging of marine aggregates, where marine aggregates producers applying for a dredging permit had to seek an informal view (based on the EIA Directive) from the government department responsible at the time on their proposals. In 2007, this system was replaced by a system of statutory permissions or licensing,⁸⁹ which incorporated the EIA Directive.⁹⁰
83. As part of this change, responsibility for the licensing system was first transferred from the DCLG (the government body responsible at the time) to the Marine and Fisheries Agency, an executive agency of Defra,⁹¹ before being transferred in 2010 to newly-established marine licensing and enforcement authorities ('Marine Licensing Authorities').

Marine Licensing Authorities and Marine Licences

84. The statutory licensing system underwent a number of changes under the Marine and Coastal Access Act 2009, including the establishment of Marine Licensing Authorities in 2010 to operate the statutory licensing system.⁹² These Marine Licensing Authorities also have planning and regulatory responsibilities.⁹³
85. In Great Britain, there are three Marine Licensing Authorities:

⁸⁹ The statutory licensing system was introduced under the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007. Source: www.bmapa.org/what_licence01.php.

⁹⁰ www.sustainableaggregates.com/overview/policy_extended.htm.

⁹¹ www.sustainableaggregates.com/overview/policy_extended.htm.

⁹² <http://wales.gov.uk/docs/desh/policy/110630marinelicenceguidanceen.pdf>.

⁹³ www.bmapa.org/downloads/Mineral_Planning_Marine_Aggregates_Feb2011.pdf.

- (a) The Marine Management Organisation (MMO). The MMO acts on behalf of the Secretary of State and covers the majority of the UK's marine aggregates interests.⁹⁴ It administers the marine licensing regime in 'UK offshore waters',⁹⁵ namely, the 'offshore regions' of England, Wales, Scotland and Northern Ireland and the 'inshore regions' of England.⁹⁶
- (b) The Marine Consents Unit (MCU) of the Welsh Government. The MCU covers Welsh⁹⁷ 'inshore' regions out to 12 nautical miles. In Wales, marine aggregates are dredged from the Bristol Channel and Severn Estuary,⁹⁸ as well as one 'aggregates area' off the coast of North Wales.⁹⁹
- (c) Marine Scotland. Marine Scotland acts on behalf of the Scottish Government and covers Scottish¹⁰⁰ 'inshore' regions out to 12 nautical miles. Marine Scotland told us that it currently did not have a marine aggregates extraction industry within 'Scottish Territorial Waters', ie within the Scottish 'inshore' regions.

86. The Marine Licensing Authorities are responsible for granting a Marine Licence to marine aggregates producers¹⁰¹ (effectively an environmental consent).¹⁰² A Marine Licence is required to carry out dredging within UK waters,¹⁰³ but more specifically a Marine Licence permits dredging in a particular area of the seabed. In some cases, a Marine Licence may be required if a British vessel operates outside UK territorial waters.

⁹⁴ www.bmapa.org/downloads/Mineral_Planning_Marine_Aggregates_Feb2011.pdf.

⁹⁵ The MMO told us that it was responsible only for determining licences within its marine area, as defined under the Marine and Coastal Access Act 2009 (section 42). Source: MMO.

⁹⁶ The MMO covers the 'offshore' waters of England, Wales and Scotland, whilst the 'inshore' seas for Wales and Scotland are covered by MCU and Marine Scotland respectively.

⁹⁷ 'Welsh waters', for the purposes of marine licensing, is the 'area of sea within the seawards limits of the territorial sea adjacent to Wales (0–12 nautical miles). Source: <http://wales.gov.uk/docs/desh/policy/110630marinelicenceguidanceen.pdf>.

⁹⁸ www.bmapa.org/what_licence01.php.

⁹⁹ MCU.

¹⁰⁰ Under the Marine (Scotland) Act 2010, the Scottish Government is responsible for the marine licensing system within the Scottish 'inshore region' of UK waters, out to 12 nautical miles. Source: www.scotland.gov.uk/Topics/marine/Licensing/marine.

¹⁰¹ www.marinemangement.org.uk/licensing/documents/guidance/03.pdf.

¹⁰² www.bmapa.org/what_licence01.php.

¹⁰³ www.marinemangement.org.uk/licensing/documents/guidance/03.pdf.

87. Once a Marine Licence is granted by a Marine Licensing Authority, the marine aggregates producer can only commence dredging operations once it also receives a commercial dredging licence, also known as a 'Production Licence' (to be renamed a 'Production Agreement' from December 2012, from The Crown Estate, which is explained in further detail below).¹⁰⁴
88. The Crown Estate told us that the typical duration of a Marine Licence was around 10 to 15 years, and that subject to acceptability and resources, Marine Licences and Production Agreements could be extended for further terms of 15 years. The MMO told us that individual applications could be for a shorter duration and that, in practice, it was most unlikely that it would issue a Marine Licence for 15 to 18 years, and then extend it for a further 15 years, since Marine Licences were 'time limited' and any request would likely trigger the need for a fresh application. The following time periods apply to a Marine Licence:¹⁰⁵
- (a) A 12- to 18-month 'grace period' during which operations must commence from the date the 'pre-dredge baseline' was last determined.
 - (b) Up to 15 years for the dredging operations to take place.
 - (c) Up to two years for the post-dredge works stage, to allow for any surveys required to assess site restoration. The Marine Licence will terminate once the Marine Licensing Authority has finally signed off the final post-dredge works.
89. The MMO told us that, under certain circumstances,¹⁰⁶ it could vary, suspend or revoke a Marine Licence at any time.
90. The MCU told us that in Wales, the 'Interim Marine Aggregates Dredging Policy' set out the likely durations of Marine Licences as three to seven years in 'precautionary

¹⁰⁴ www.marinemanagement.org.uk/licensing/documents/guidance/03.pdf.

¹⁰⁵ www.marinemanagement.org.uk/licensing/documents/guidance/03.pdf.

¹⁰⁶ As set out under the Marine and Coastal Access Act 2009 (section 72). Source: MMO.

sediment environments', and up to 15 years for 'favourable sediment environments', in line with strategic policy.¹⁰⁷

The Crown Estate and Production Agreements

91. Around 50 per cent of the UK coastline and almost the entire UK seabed out to the 12 nautical mile territorial limit around the UK are owned by The Crown Estate, for which it has full rights to its natural resources and their extraction out to the 200 nautical mile¹⁰⁸ UK Continental Shelf,¹⁰⁹ with the exception of oil, coal and gas extraction. Under The Crown Estate Act 1961, The Crown Estate is charged with maintaining and enhancing both the value of its estates and the revenues derived from them.¹¹⁰

92. The Crown Estate as 'sea bed landlord' for its marine estate (now part of its 'Energy and Infrastructure Portfolio') is responsible for granting Production Agreements to marine aggregates producers once they have been granted a Marine Licence, to commence commercial dredging operations.¹¹¹

93. The Crown Estate told us that a Production Agreement was not tradable, but could be operated by more than one company. However, it added that any change of control in the Production Agreement holder would require prior approval from The Crown Estate for the transfer of the Production Agreement to new ownership.

94. The Crown Estate receives royalties from the marine aggregates producers for every tonne dredged, which amounted to around £16 million in 2006/07.¹¹² The Crown Estate told us that this was its only source of revenue from marine aggregates

¹⁰⁷ MCU and <http://wales.gov.uk/topics/planning/policy/minerals/interimmarine/?skip=1&lang=en>.

¹⁰⁸ www.bmapa.org/what_licence01.php.

¹⁰⁹ www.bmapa.org/downloads/BMAPA_13th_Ann_Report.pdf.

¹¹⁰ There are a few exceptions where the rights to the aggregates in some areas of the seabed may be in private ownership.

Source: www.marinemangement.org.uk/licensing/documents/guidance/03.pdf.

¹¹¹ www.marinemangement.org.uk/licensing/documents/guidance/03.pdf.

¹¹² www.bmapa.org/what_licence01.php.

dredging, and therefore to incentivize marine aggregates to be dredged, it required marine aggregates producers to pay 20 per cent of the annual royalty payments in advance to ensure that they dredged a minimum amount. This was then merged with their royalty payments for materials dredged.

95. During 2011, the UK marine aggregates industry operated over 28 dredgers on 65 Production Licences (to be renamed Production Agreements from December 2012). Around 19 Mt of marine aggregates were dredged in 2011 (down from around 16 Mt in 2010) from The Crown Estate's marine estate.¹¹³ Table 2 sets out the details on each dredging region, including the different holders of Production Licences.

¹¹³ www.bmapa.org/documents/BMAPA%20_14th_annual_review.pdf.

TABLE 2 Summary details on UK dredging regions (based on 2011 data)

Region	Total seabed area licensed (km ²)	Total seabed area dredged (km ²)	Dredged tonnage (Mt)	Number of Production Licences	Production Licence operators
Humber	470	22	2.9	10	British Dredging Ltd,* Hanson Aggregates Marine Ltd, Tarmac Marine Dredging Ltd, Van Oord UK Ltd and Westminster Gravels Ltd
East Coast	265	43	5.3	13	British Dredging Ltd,* Cemex (CEMEX UK Marine Ltd), Hanson Aggregates Marine Ltd, Tarmac Marine Dredging Ltd and Volker Dredging Ltd†
Thames Estuary	42	4	0.8	4	Britannia Aggregates Ltd‡, Cemex (CEMEX UK Marine Ltd), Hanson Aggregates Marine Ltd and Tarmac Marine Dredging Ltd
East English Channel	106	11	4.3	6	Cemex (CEMEX UK Marine Ltd), DEME Building Materials Ltd, Hanson Aggregates Marine Ltd, Tarmac Marine Aggregates Dredging Ltd and Volker Dredging Ltd†
South Coast	148	26	4.2	16	Cemex (CEMEX UK Marine Ltd), Hanson Aggregates Marine Ltd, Kendall Bros (Portsmouth) Ltd, Northwood (Fareham) Ltd§, Tarmac Marine Dredging Ltd, Volker Dredging Ltd† and Westminster Gravels Ltd
South-West (including Wales)	124	8	1.2	12	British Dredging Ltd,* Cemex (CEMEX UK Marine Ltd), Hanson Aggregates Marine Ltd, Llanelli Sand Dredging Ltd, Severn Sands Ltd and Tarmac Marine Dredging Ltd
North-West	119	< 1	0.3	4	Norwest Sand and Ballast Co. Ltd, Tarmac Marine Dredging Ltd and Westminster Gravels Ltd
Total	1,274	114	19	65	

Source: The Crown Estate and BMAPA report: 'The area involved – 14th annual report (Marine Aggregate Dredging 2011)' (www.bmapa.org/documents/BMAPA%20_14th_annual_review.pdf).

*British Dredging Ltd is owned by Cemex. Source: www.cemex.co.uk/aa/pdf/CEMEX%20Marine%20Brochure.pdf.

†Volker Dredging Ltd is a sister company of Britannia Aggregates Ltd.

‡Britannia Aggregates Ltd is a Lafarge JV.

§Northwood (Fareham) Ltd is a JV between Lafarge and Westminster Gravels Ltd.

Note: Totals are rounded from the correct total rather than a summation of the regional figures.

(b) The licensing process

96. Before making an application for a Marine Licence or Production Agreement, the marine aggregates producer must first be awarded exploration and option rights by The Crown Estate through a tender process.¹¹⁴ Whilst these tenders take place regularly (current policy is every two to three years), The Crown Estate told us that Marine Licence or Production Agreement applications could sometimes be made outside the usual tendering process.¹¹⁵ If a viable deposit was located, then an application for a Marine Licence was submitted by the marine aggregates producer to

¹¹⁴ MPA website (www.mineralproducts.org/documents/brochure.pdf).

¹¹⁵ www.marinemangement.org.uk/licensing/documents/guidance/03.pdf.

the relevant Marine Licensing Authority, which, if successful, would then require a Production Agreement from The Crown Estate.¹¹⁶

97. In considering an application for a Marine Licence for dredging marine aggregates, one of the Marine Licensing Authority's responsibilities is to consider its environmental impact. As such, as part of the licensing process for Marine Licences, the marine aggregates producer is required to make various submissions to the Marine Licensing Authority, including, for proposals that by their nature are considered to require an EIA, an Environmental Statement (as required by the EU EIA Directive) and a Coastal Impact Study.¹¹⁷ The Marine Licensing Authority would also consult technical advisers (eg agencies with expertise on the marine environment, including, but not limited to, statutory nature conservation bodies, navigational advisers and English Heritage) and take into account the cumulative environmental impact of extraction on the marine environment, together with any relevant social and economic issues. The MMO told us that it was an EIA Directive requirement that for projects subject to an EIA, an assessment of social and economic factors was generally considered, and that for a 'typical' Marine Licence application, this may include topics such as commercial and recreational fisheries. The MCU told us that some of the relevant social and economic issues it considered included human health impacts and the impact on tourism, and that decisions on Marine Licences were made in accordance with the principles of 'sustainable development'. Any conditions which accompany a Marine Licence would be a requirement of a Production Agreement which is only valid if a Marine Licence is in force.
98. Whilst The Crown Estate could refuse to grant an 'Exploration and Option Agreement' on certain environmental and operational grounds, The Crown Estate

¹¹⁶ www.marinemanagement.org.uk/licensing/documents/guidance/03.pdf.

¹¹⁷ www.marinemanagement.org.uk/licensing/documents/guidance/03.pdf.

told us that this would be unlikely given the significant amount of research which went into making an application for a Marine Licence such that a marine aggregates producer would typically only look to make an application where there was a high likelihood of it being granted.

99. Once dredging activities commence, the Marine Licence holder is required to submit an annual return to the relevant Marine Licensing Authority on the tonnage dredged (or at least one annual return in the case of the MCU). This return is then used by the Marine Licensing Authority to ensure that total removals are within permitted limits.¹¹⁸ Since 1993, The Crown Estate has required all dredgers operating in UK waters to be fitted with an electronic monitoring system which records data on dredging, which are then checked against licence conditions.¹¹⁹ The Crown Estate also audits the tonnage dredged.
100. The MMO estimated the total cost of obtaining the required licences to be between £0.4 million and £0.8 million depending on the scale of the dredging operations and the geology.¹²⁰

The planning regime for secondary and recycled aggregates

Section overview

101. In this section on the planning regime for secondary and recycled aggregates, we first provide background information before setting out in more detail the planning and environmental permitting regime.

¹¹⁸ www.marinemanagement.org.uk/licensing/documents/guidance/03.pdf.

¹¹⁹ www.bmapa.org/issues_area01.php.

¹²⁰ www.marinemanagement.org.uk/licensing/documents/guidance/03.pdf.

Background information

102. Secondary aggregates are produced from the by-products of industrial processes (eg iron and steel production and coal-fired power stations) or minerals operations (eg coal, slate or china clay). Examples of sources for secondary aggregates include blast furnace slag and incinerator bottom ash.¹²¹
103. Recycled aggregates are inert waste materials generated from construction, demolition and excavation activities. These are then processed, eg crushed and screened, either by a mobile or fixed recycling plant.¹²² Fixed recycling plants are generally situated in industrial areas or co-located at a primary aggregates site, typically sourcing their feedstock from within 20 miles. A fixed recycling site's production output can range from less than 20 Kt to over 250 Kt.¹²³
104. Unprocessed feedstock for secondary and recycled aggregates is classified as 'waste' and therefore the sites which process the feedstock into aggregates operate under waste management regulations which are enforced by the Environment Agency (EA). Once processed, secondary and recycled aggregates are no longer classified as 'waste', and are regulated by the applicable planning permission.¹²⁴ In addition, the supply of feedstock for secondary and recycled aggregates is also affected by the 'Landfill Tax', which provides a financial incentive to waste producers to recycle more of their waste materials, rather than disposing of them in landfills. The Landfill Tax is levied on waste producers for each tonne of waste disposed in landfills. The standard rate is currently £64 per tonne for 2011/12, which will increase to £72 for 2012/13 and £80 for 2013/14. Exemptions apply, however, if waste is then

¹²¹ www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_introduction.htm.

¹²² www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_introduction.htm.

¹²³ www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_operation.htm.

¹²⁴ www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_operation.htm.

recycled, and a lower rate applies (£2.50 per tonne) for the use of waste for filling or restoring quarries.¹²⁵

Planning and environmental permitting regime

105. Fixed recycling plants require both a planning permission and an environmental permit, whilst a mobile recycling plant requires an environmental permit depending on the category of the plant.¹²⁶
106. The conditions attached to a planning permission for a fixed recycling plant will vary depending on a number of factors, including the waste materials produced; the source and location of feedstock; the production process; and the duration of waste storage or feedstock before being processed.¹²⁷ Planning permission is granted by the relevant MPA, and an environmental permit is granted either by the EA or the relevant local authority.¹²⁸ The Welsh Government told us that a mobile plant built on an existing minerals site could be a 'permitted development' as part of a site's planning permission, but that it would still need a permit from the EA.
107. Tarmac told us that, whilst the environmental impact of recycled aggregates operations tended to be lower than that of primary aggregates operations, recycled aggregates operations were 'subject to the same rigorous environmental assessments as primary aggregates developments'.¹²⁹

¹²⁵ www.businesslink.gov.uk/bdotg/action/detail?itemId=1085288287&type=RESOURCES#.

¹²⁶ www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_operation.htm.

¹²⁷ www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_introduction.htm.

¹²⁸ www.sustainableaggregates.com/sourcesofaggregates/recycled/rib_introduction.htm.

¹²⁹ Tarmac response to the issues statement, Section 5.4.

The Aggregates Levy

Section overview

108. In this section, we provide background information and the views of main parties on the Aggregates Levy.

Background information

109. On 1 April 2002, the Government introduced a levy on sand, gravel and rock that were 'commercially exploited' in the UK ('Aggregates Levy'). HM Treasury told us that the Aggregates Levy was aimed at:

- (a) internalizing some of the externalities from quarrying, such as dust, noise, visual intrusion and loss of biodiversity'; and
- (b) introducing a price incentive to encourage the use of waste, spoil and recycled aggregates by relieving them from the Aggregates Levy.¹³⁰ As such, the levy is not payable on waste, spoil and recycled aggregates.

110. HM Treasury told us that the Aggregates Levy charge arose when the aggregates became subject to 'commercial exploitation', where a quantity of aggregates was subjected to 'exploitation' if: (a) it was removed from: its originating site; a connected site registered under the same name; or a site where it was intended to be subject to an exempt process but in fact was not; (b) it was subject to an agreement to supply, ie it was sold; (c) it was used for construction purposes, eg to build roads; or (d) it was mixed with anything other than water, eg to make concrete. HM Treasury added that aggregates were regarded as being subjected to 'commercial' exploitation if they were exploited in the course or furtherance of a business. HM Treasury told us that the Aggregates Levy was payable by the person responsible for subjecting the aggregates to 'commercial exploitation' rather than the user, although the amount of levy payable may be taken into account in the producer's selling price. The

¹³⁰ www.sustainableaggregates.com/overview/policy_extended.htm.

Aggregates Levy is also levied on imported primary aggregates when they are first 'commercially exploited in the UK' and not when they are imported. To maintain the international competitiveness of UK primary aggregates, the Aggregates Levy is relieved on UK aggregates which are exported.¹³¹

111. The Aggregates Levy was set at £1.60 per tonne when the levy was introduced on 1 April 2002, and increased to £1.95 per tonne on 1 April 2008 and £2.00 per tonne on 1 April 2009. HM Treasury told us that these increases were intended to reflect inflation, and that a further planned increase to £2.10 per tonne had been deferred until 2013 at the earliest. Annual tax revenues generated from the Aggregates Levy are around £300–£350 million.¹³²
112. HM Treasury told us that as part of the discussions during the passage of the Scotland Act 2012, the Government committed to devolving the Aggregates Levy in Scotland as soon as all the legal challenges against the levy had been fully resolved. It added that the independent Silk Commission, which was considering tax devolution to Wales, would make recommendations about devolution of the Aggregates Levy to Wales.
113. HM Treasury told us that the Aggregates Levy Credit Scheme in Northern Ireland was suspended in 2010, and that the Government was waiting for a decision from the European Commission regarding the scheme's 'state aid' status. It added that the Government was committed to reinstating the scheme as soon as the issue over its status had been resolved.

¹³¹ www.bgs.ac.uk/mineralsuk/planning/legislation/home.html.

¹³² www.sustainableaggregates.com/overview/policy_extended.htm.

Views of main parties on the Aggregates Levy

114. The Majors generally deemed the Aggregates Levy to be an additional 'production cost', which increased their costs, as well as giving secondary and recycled aggregates producers a relative cost advantage over primary aggregates producers:

(a) Cemex told us that the Aggregates Levy provided a 'considerable cost advantage' to secondary and recycled aggregates relative to primary aggregates.¹³³

(b) Lafarge commented that secondary and recycled aggregates had lower production costs because they were produced from waste materials, and did not attract the Aggregates Levy.¹³⁴

(c) Aggregate Industries told us that the Aggregates Levy constituted around 20 to 25 per cent of the average sales price of aggregates, and therefore producers of secondary and recycled aggregates, primarily independents, had a 'significant cost advantage'.¹³⁵

¹³³ Cemex response to the issues statement, 24 April 2012, Section 8.

¹³⁴ Lafarge response to the issues statement, 27 April 2012, Section F.

¹³⁵ Aggregate Industries response to the issues statement, Section 6.