



## SCOTTISH EXECUTIVE

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31 August 2005

Dear Consultee

### **CONSULTATION ON DRAFT SCOTTISH PLANNING POLICY 4: MINERAL WORKING**

I enclose a consultative draft copy of *Scottish Planning Policy (SPP) 4: Mineral Working*, inviting your comments. When finalised it will replace *NPPG 4: Land for Mineral Working*.

The draft reflects developments in policy, legislation, etc. and also draws on practical experience of implementing earlier policies. In doing so, account is taken of research that considered the relevance of the policies in NPPG 4. This research is available at [www.scotland.gov.uk/library5/environment/rlmw-00.asp](http://www.scotland.gov.uk/library5/environment/rlmw-00.asp). The research concluded that guidance should continue in its present form but be refreshed. The draft policy has been prepared following consultation with a stakeholders group representing local authorities, the industry and community and environmental interests.

#### **Responding to this consultation paper**

We are inviting written responses to this draft consultation document by 25 November 2005. Further copies of the document are available by telephoning (0131) 244 7543. The document is also available on our web site: [www.scotland.gov.uk/planning/](http://www.scotland.gov.uk/planning/)

**Please send your response to: [Spp4@scotland.gsi.gov.uk](mailto:Spp4@scotland.gsi.gov.uk) or to:**

Sandra Carey  
Scottish Executive Development Department  
Planning Division  
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If you have any queries, contact Graham Marchbank by emailing [graham.marchbank@scotland.gsi.gov.uk](mailto:graham.marchbank@scotland.gsi.gov.uk) or by telephoning 0131 244 7525.

We would be grateful if you could clearly indicate in your response the sections or paragraphs to which you are responding. Any further comments may also be included. This will aid our analysis of the responses received.

#### **For future engagement:**

If you wish to access this consultation online, go to <http://www.scotland.gov.uk/view/views.asp>  
You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is, if you prefer to submit your response by e-mail to [spp8@scotland.gsi.gov.uk](mailto:spp8@scotland.gsi.gov.uk)

#### **SEConsult**

A new email alert system for SE consultations (**SEconsult**) allows stakeholders to register and receive a weekly email containing details of all new SE consultations (including web links). SEconsult complements but in no way replaces SE distribution lists, and is designed to allow stakeholders to 'keep an eye' on all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We encourage you to register.

#### **Next steps in the process**

Please complete and return the Respondent Information Form enclosed with this letter as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard and treat it as confidential. Where respondents give permission for their response to be made public, they will be made available to the public in the Scottish Executive Library and on the Scottish Executive consultation web pages by 16 December 2005. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or otherwise publishing them. You can make arrangements to view responses by contacting the SE Library on 0131 244 4550. Responses can be copied and sent to you, but a charge may be made for this service.

Yours faithfully,



**Graham Marchbank**  
**Senior Planner**

## RESPONDENT INFORMATION FORM SPP4: MINERAL WORKING

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name:

Postal Address:

Consultation title: **Scottish Planning Policy 4: Mineral Working**

1. Are you responding as: (please tick one box)

- (a) an individual  (go to 2a/b)  
(b) **on behalf of** a group or organisation  (go to 2c)

### INDIVIDUALS:

2a. Do you agree to your response being made available to the public (in SE library and/or on SE website)?

- Yes (go to 2b below)   
No, not at all

2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

- Yes, make my response, name and address all available   
Yes, make my response available, but not my name or address   
Yes, make my response and name available, but not my address

### ON BEHALF OF GROUPS OR ORGANISATIONS:

2c. Your name and address as responders **will be** made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

- Yes   
No

### SHARING RESPONSES/FUTURE ENGAGEMENT

3. We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

- Yes   
No

## THE SCOTTISH EXECUTIVE CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general, Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

Typically Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses.<sup>[1]</sup> Copies of all the responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4550).

All Scottish Executive consultation papers and related publications (e.g., analysis of response reports) can be accessed at: Scottish Executive consultations <http://www.scotland.gov.uk/consultations>

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

If you have any comments about how this consultation exercise has been conducted, please send them to:

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<sup>[1]</sup> [www.scotland.gov.uk](http://www.scotland.gov.uk)



SCOTTISH EXECUTIVE  
Development Department

# **Scottish Planning Policy**

## **SPP 4**

# **Mineral Working: Consultation Draft**

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## PLANNING SERIES:

- **Scottish Planning Policies (SPPs)** provide statements of Scottish Executive policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.
- **Circulars**, which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change.
- **Planning Advice Notes (PANs)** provide advice on good practice and other relevant information.

Statements of Scottish Executive policy contained in SPPs and Circulars are material considerations to be taken into account in development plan preparation and development management.

Existing National Planning Policy Guidelines (NPPGs) have continued relevance to decision making, until such time as they are replaced by a SPP. The term SPP should be interpreted as including NPPGs.

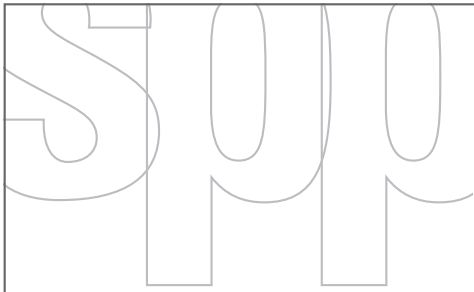
Statements of Scottish Executive location-specific planning policy, for example, the West Edinburgh Planning Framework, have the same status in decision-making as SPPs.

The National Planning Framework sets out the strategy for Scotland's long-term spatial development. It has the same status as SPPs and provides a national context for development plans and planning decisions and the ongoing programmes of the Scottish Executive, public agencies and local government.

**Important Note:** in the interests of brevity and conciseness, Scottish Planning Policies do not repeat policy across thematic boundaries. Each SPP takes account of the general policy in SPP1 and highlights the other SPPs where links to other related policy will be found. The whole series of SPPs should be taken as an integral policy suite and read together.

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## SUMMARY

Minerals are vital to the Scottish economy, providing essential primary raw materials for industry. Construction aggregates, supplemented by recycled and secondary aggregates are the foundations of the built environment. When finalised, this SPP replaces NPPG 4, and provides the policy framework that planning authorities should use when preparing their development plans and in determining planning applications. The SPP reflects up-to-date planning policy and changes are based on a review of NPPG 4's effectiveness.

The Executive supports a positive approach to minerals planning. The SPP recommends a systematic approach to planning for minerals that includes survey, monitoring, safeguarding, site selection, operation and site restoration. Related policies should be clearly set out in development plans. To aid the planning process, the Executive intends to resume minerals production surveys in association with the industry in 2005.

Mineral working may have an impact on local communities and the environment. The planning system must ensure that all minerals proposals are fully assessed so that extraction only takes place where those impacts can be made acceptable. This SPP, supported by a positive development plans framework, rigorous development management decisions and proactive enforcement, can help to ensure that the benefits of minerals developments are not obtained at the expense of unacceptable impacts on either communities or the environment. Planning authorities should reflect this policy in their development plans and when considering planning applications. Mineral working can conflict with conservation of the natural and built heritage, green belts and the best agricultural land. These factors also need to be taken into account.

Mineral working can provide employment in rural areas, bringing associated economic benefits, supplying local needs and minimising long distance haulage. The market areas of the city regions consume the greatest volumes of minerals and planning authorities for areas serving those markets should maintain a 10 year supply of construction aggregates at all times to ensure continuity of supply subject to other planning considerations. It is now left to planning authorities to make any provision considered appropriate for coastal exporting quarries, taking into account environmental and community considerations. Specialist and seldom-worked minerals, e.g. dimension stone (stone that can be cut or shaped to a specific size for use in structures or decoratively in buildings) and slate, also require to be safeguarded in development plans to provide continuity of supply, conservation of the resource and certainty to the communities affected by operations. Industry input to that process is key.

This SPP highlights only the broad thrust of development management practice which derives from policy in other SPPs, PANs, Circulars and guidance, cross referenced as appropriate. The development management section concentrates on conditions, monitoring, review and enforcement underlining the long-term nature of minerals operations.

SP4

## INTRODUCTION

1. Minerals are an important national resource. There is a continuing need for an adequate and steady supply of minerals for a variety of purposes. Equally, working must be fully reconciled with policies to protect local communities and the wider environment. This Scottish Planning Policy (SPP) sets out the planning policy framework for the extraction of minerals to achieve this aim. It excludes opencast coal and associated minerals such as clays for brick-making. Separate guidance on these minerals is given in SPP 16.

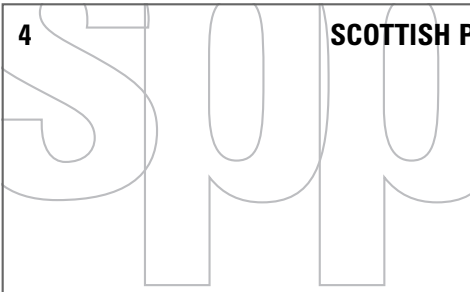
## POLICY CONTEXT

### MINERALS AND THE ECONOMY

2. The availability of minerals is essential to support economic development and prosperity. The minerals industry provides raw materials for construction, manufacturing, agriculture and other specialist sectors. The Executive recognises the strategic importance of the construction industry to the economy and the need for minerals to serve it. The construction of housing, roads, schools, commercial and industrial buildings all depend to varying degrees on a continuing and steady supply of construction aggregates. The industry is a significant employer in Scotland, providing important direct employment opportunities for 3000 people, many in rural areas.
3. Scotland has rich and varied resources including material suitable for construction aggregates (sand and gravel and crushed rock), silica sand and brick clay. Other mineral resources, such as limestone, dimension stone, slate, peat, metalliferous and more specialised minerals are important too but less plentiful.
4. Continuity of supply depends on the availability of land with workable deposits having planning permission for extraction. Planning authorities should determine the acceptability of individual development proposals in accordance with development plans and other material considerations, including the policies in this SPP. A landbank approach is applied to the provision of aggregates (see paragraphs 42-44) because of their importance to the construction industry.

### MINERAL EXTRACTION AND THE ENVIRONMENT

5. The process of extraction can sometimes be disruptive and if not managed and regulated satisfactorily lead to adverse environmental and community impacts. The location of mineral workings will reflect underlying geology so mineral resources can only be worked where they are found. In particular locations, proposals may be controversial if potential problems are not resolved and managed satisfactorily. Without care and adequate controls, there may be a legacy of dereliction or degraded land after operations have ceased.



6. Provision has to be made for the extraction of minerals in accordance with the principles of sustainable development and environmental justice. These principles are reflected in the Executive's support for the use of recycled and secondary aggregates and cullet (recovered glass) which can reduce waste and ease the pressure on primary resources. The contribution from recycled and secondary aggregates including substitutes for aggregate derived from other industrial processes has reached 18% and may have the potential to meet more than a quarter of Scotland's needs for construction aggregates but varies regionally. With grant support through the Waste and Resources Action Programme (WRAP) and in association with SEPA to meet the emerging objectives of the National Waste Plan, the Executive seeks to increase the amount of construction and demolition waste that is recycled, thus stimulating the market for secondary aggregates.

### **ENVIRONMENTAL JUSTICE**

7. "A Partnership for a Better Scotland"<sup>1</sup> commits the Scottish Ministers to delivering sustainable development; putting environmental concerns at the heart of public policy and securing environmental justice for all of Scotland's communities. A key element of environmental justice is ensuring that communities are provided with accessible information and with the opportunities to participate in decision making in order to provide them with a greater say over the environments in which they live. Environmental Justice policies should also recognise that communities are entitled to enjoy acceptable living conditions, particularly if there are other developments within close proximity that also have a significant impact on both communities and their environment. The planning policy implications are set out in paragraphs 15-21.

### **OBJECTIVES FOR MINERAL WORKING**

8. A sustainable approach to mineral extraction should reconcile the need for minerals with concern for the environment and communities by:
  - safeguarding minerals as far as possible for future use;
  - ensuring a steady and adequate supply is maintained to meet the needs of society and the economy;
  - encouraging sensitive working practices during mineral extraction that minimise the environmental and transport impacts and once extraction has ceased ensure sites are reclaimed to a high standard or enhance the quality of the wider environment;
  - promoting the use and recycling of secondary materials in development plan policies in addition to those for the release of sites for primary materials;
  - protecting international, national and locally designated areas of acknowledged natural or built heritage quality from damage; and
  - minimising the potential adverse impact of minerals extraction on communities.

<sup>1</sup> <http://www.scotland.gov.uk/library5/government/pfbs-00.asp>

## PLANNING POLICY FOR MINERALS EXTRACTION

### DEVELOPMENT PLANS

9. The purpose of development planning is explained in SPP 1. Section 25 of the 1997 Act requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. For minerals, the key *strategic* aim is to provide policies and land allocations that do not prevent mineral working yet accommodate community and environmental interests. The focus should be on those outcomes rather than the process.
10. When developing a planning policy framework, planning authorities should have regard to resource availability, the quality of the deposits and their suitability for working. A planning authority's view of mineral resources should lead to the examination in development plans of preferred areas and areas of search, with a reasoned justification for the safeguarding of such areas or particular sites or the criteria to be satisfied by an acceptable proposal. In identifying search areas, planning authorities should liaise closely with operators and use other verifiable sources of information to identify aggregates, non-aggregate construction and other minerals. Safeguarding deposits including scarce minerals and those of lesser quality from permanent development (possibly through phasing) that would otherwise prevent or hinder extraction where they are or may be of commercial interest is essential.
11. When preparing and reviewing plans, planning authorities, in consultation with operators, should look at the operation and effectiveness of previously identified areas of search. If there is little prospect of applications being made, or changed circumstances show that consents are unlikely to be forthcoming, planning authorities should look to modify or delete the search area from the plan.
12. Development plans, particularly local plans and minerals subject local plans, should set out details for mineral working in the area drawing on the considerations set out in this SPP. Where there is a concentration of mineral workings, a minerals subject local plan may be the appropriate means of setting out local authority policies, proposals and opportunities. Supplementary planning guidance (SPG) that has been subject to public consultation will have a role where the local plan has been recently adopted. SPG should not be regarded as a substitute for adequate development plan coverage of minerals planning issues.
13. Development plan policies should ensure the effects of mineral extraction do not have a significant negative impact on the interests and amenity of local communities, the built and natural heritage or other economic sectors important to the local economy.<sup>2</sup> They should require a high standard of restoration and aftercare; and provide for beneficial after-uses when mineral working has ceased. They should facilitate the recycling and re-use of material in waste tips

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<sup>2</sup> In the context of PAN 50 and its annexes, Controlling the Environmental Effects of Surface Mineral Workings

and construction and demolition wastes at appropriate general industrial locations or minerals sites.

14. Planning authorities should explain their policy on planning agreements in their development plans. SPP 1 *The Planning System* provides further background. In this way the minerals industry will be aware of the specific requirements that they may need to address.

### **WORKING WITH COMMUNITIES**

15. Where mineral extraction takes place close to communities or they are affected by the transporting of minerals, extraction can be regarded as an unwelcome environmental intrusion and nuisance, particularly by those living closest to where extraction is to take place. To minimise anxieties and foster inclusion, it is therefore crucial that communities have access to sufficient information to participate fully in decisions that will affect their quality of life. When preparing development plans, the Executive expects planning authorities to identify community sensitivity and look to overcome difficulties in principle by working closely with communities. Operators developing proposals should work closely with communities in pre-application discussions.
16. Where planning permission has been granted, operators should engage with communities on the manner in which the terms of the planning consent are to be implemented. A community liaison or an advisory panel can be established to promote mutual understanding and to ensure that concerns are addressed properly and quickly. Liaison committees or good neighbour agreements<sup>3</sup> may have a role where they offer communities increased involvement with the way in which sites operate, ideally where the company agrees to standards higher than the legislative minimum.
17. To offset impact to local communities, benefits in the form of new community facilities or community trust funds offered or sought should only be treated as material considerations in planning applications if they meet the tests set out in Circular 12/1996 on planning agreements. Attempts to secure unreasonable provision unrelated directly to the proposed development or general benefits for the wider community, should not form part of the assessment. Scottish Ministers already allocate aggregates levy sums to the Community Environmental Renewal Scheme with over half the funding allocated to community environmental renewal grants. Community funds must be carefully crafted to ensure that they do not compromise the consideration of the planning application. Any benefits should accrue to the locality and not the local authority's other priorities and that they address direct impacts arising from site operations. Section 75 agreements provide a context for delivering community funds and financial bonds.

### **PROXIMITY TO SETTLEMENTS**

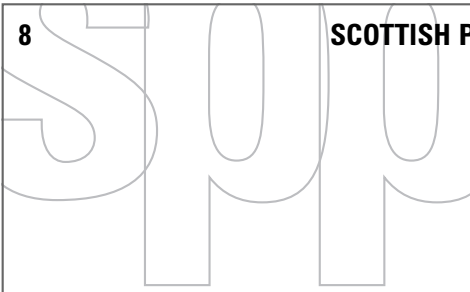
18. Where mineral working is to take place close to communities it will be important for proposals to address fully the implications for such communities in order to

<sup>3</sup> The White Paper: Modernising The Planning System (2005) intends to work up proposals for a system allowing for Good Neighbour Agreements.

minimise local difficulties. As a general rule, standard buffer zones should not be set. Instead, planning authorities and operators, in consultation with local communities, should seek to agree a buffer distance that is reasonable, taking into account the specific circumstances of each individual proposal. This will include its size, duration, location, method of working, local topography and the characteristics of the various environmental effects likely to arise and the mitigation that can be achieved. **Consultees are asked for a view on whether a 500m. buffer (specified in SPP 16 for opencast coal sites) is appropriate for this SPP.** Where provided for in consents, buffer zones should be measured from the site boundary rather than the closest working face.

### CUMULATIVE IMPACTS

19. Planning authorities should ensure that proposals, or extensions to existing sites, will not lead to a disproportionate burden of negative environmental impacts on settlements. This will be particularly important if there are already two or more operational, or consented, sites that could raise similar impacts within 5 km of any nearby settlement. Such sites will include other minerals sites, opencast coal sites, landfill sites and other developments with significant environmental effects. Flexibility may be necessary in relation to operational scale, where one site may be close to closure, under remediation or two or more sites provide minerals for different purposes.
20. In such circumstances, planning authorities should seek an assessment from the applicant of the likely cumulative impacts of additional workings, if approved, on all settlements within a radius of 5 km of the site. This should include site design, likely further increases in road traffic, period and intensity of disturbance to communities and the length of time and severity of landscape impact. The developer should demonstrate what measures will be taken to mitigate likely cumulative impacts. If adverse cumulative impacts cannot be mitigated adequately, permission should be refused. Future applications in the same area may be considered, other things being equal, if neighbouring sites have ceased to operate and have been restored.
21. Deposits of scarcer minerals may be concentrated within a geographical area. Planning authorities should, following consultation with industry and local communities, use their development plans to set out appropriate policies or criteria. Meeting the need for the mineral may not be the over-riding consideration. Scarce minerals will still need to be extracted in a way that addresses cumulative impacts. There may, however, be exceptional circumstances which justify approval, for example, when there is the need for a scarce mineral and there are no reasonable alternatives that can be worked economically or there is a national industrial requirement for its extraction. Unless adverse cumulative impacts are considered to be acute, such exceptional circumstances can outweigh a material risk of disturbance or environmental damage. The period and phasing of working should be tightly controlled through planning conditions and monitored by the planning authority to ensure minimum disruption to local communities and the environment



## LOCATIONAL CONSIDERATIONS

### CONSERVATION OF THE NATURAL AND BUILT HERITAGE

22. Within the wider framework of sustainable development, the Executive is committed to safeguarding and, where possible, enhancing Scotland's biodiversity, natural and built heritage, and this commitment extends beyond designations of international, national and local importance. This may impose constraints on development but, with careful planning, the potential for conflict can be reduced. NPPG 14: *Natural Heritage* sets out the policy on how to assess development proposals whilst protecting, conserving and enhancing natural heritage interests. PAN 60: *Planning for Natural Heritage* addresses SNH's Landscape Character Assessment (LCA) programme. LCAs can be of value in informing the outcome of individual minerals proposals. NPPG 5: *Archaeology and Planning*; PAN 42: *Archaeology* and NPPG 18: *Planning and the Historic Environment* provide detailed guidance and advice on assessing the effects of proposals on archaeological sites, scheduled monuments and the historic environment. Planning permission should only be granted where there will not be a significant adverse effect on the qualities for which a natural or built heritage area has been designated.

### GREEN BELTS

23. The Executive's current policy on green belts is set out in SDD Circular 24/1985. Pressure to maintain and improve green space quality around towns and to improve opportunities for accessibility, recreation and leisure can be reconciled with minerals extraction. However extraction is tied to the presence of the resource and can be a continuous development of several phases over a long period. To remain compatible with green belt objectives, very clear reasoning will be necessary to justify mineral workings within green belts. Developers should demonstrate that the development can be concealed within the landscape and that by reclamation it can revert to a compatible use. Minerals developments that would result in the removal of dereliction, land instability, or poor land drainage may be appropriate provided the site can be reclaimed to a use that is compatible with the principles of green belt policy, commands community support and meets standards agreed by the planning authority. A consultation draft of SPP 21: *Green Belts* was published on 5 August 2005 to strengthen and improve policy on green belts, to protect important open land and support long-term settlement planning.

### AGRICULTURAL LAND

24. The Executive's policy on the protection of agricultural land is set out in SDD Circular 18/87 (as amended by SOEnD Circular 25/1994). Prime quality land is a national resource and should normally be protected against permanent irreversible development. Mineral deposits may lie beneath both prime quality and lower category agricultural land. Reclaiming land to a high standard is now feasible, through careful restoration and aftercare. The demand for valuable raw materials for industry, and the contribution which such a development might make to the diversification of the rural economy, together with the current

pressure to reduce agricultural output may, in appropriate circumstances, offer an opportunity to remove valuable minerals and have the site restored to a quality which would allow it to contribute to any upturn in the demand for agricultural production.

## RURAL ECONOMY

25. Mineral working has an important role to play in supporting the economy of rural communities through the provision of employment. However, in many areas tourism and recreation support local economies which, to varying degrees, depend on the quality of the environment. Where this is the case, the likely long-term or cumulative impact of mineral extraction on other local economic activity will be a relevant material consideration. The qualities of settlements reliant on environmental assets to sustain rural life and attractive as locations for promoting investment may be more economically important in the long-term than new minerals operations. In this particular context, SPP 15: *Planning for Rural Development* provides guidance in relation to new and economic development and on the value of enhancement in former mining areas. As in green belts, the views of the planning authority and the extent to which community support may exist for minerals development will be important in resolving the approach taken in development plans. Recreation and tourist facilities can nevertheless be an acceptable after-use for existing minerals sites once working has ceased. They may benefit from other after-uses such as nature conservation or from environmental improvement schemes.

## ADDRESSING OPERATIONAL ISSUES

### ENVIRONMENTAL IMPACT ASSESSMENT

26. A key part of a planning application will be the consideration of the environmental effects of working. The mineral operator should provide information in support of the planning application on the visual impact (including landscaping proposals); operational aspects including the mitigation of potential sources of pollution, noise, dust, vehicle movement; blasting; and restoration and aftercare. (Advice on controlling the environmental effects of surface mineral workings is given in PAN 50 with Annex A on controlling *Noise*, Annex B on *Dust*, Annex C on *Traffic* and Annex D on *Blasting*). These and other environmental considerations should form part of an environmental impact assessment (EIA). EIA is mandatory for quarries where the surface area of the site exceeds 25 hectares or peat extraction where the surface area exceeds 150 hectares. For sites under those thresholds and for the extraction of minerals by marine or fluvial dredging, the need for EIA will arise if the proposal is judged likely to have significant environmental effects.
27. The need for EIA (either for new sites or for extensions to existing sites), will be determined by the nature of the proposed development and the sensitivity of the location. Screening proposed developments in environmentally sensitive

locations for EIA is a crucial consideration.<sup>4</sup> If EIA is required, operators and planning authorities should work closely to ensure that all relevant environmental issues are carefully identified so that unnecessary delays are avoided following the registration of the planning application. Operators should allow sufficient time for the preparation and submission of an environmental statement, particularly if more complex or seasonal issues are likely to be raised.

## TRANSPORT

28. Where feasible, new sites should be guided to locations which reduce journey distance and thereby contribute to reducing energy consumption and pollution. A Transport Assessment (TA), submitted in support of an application, should assist the planning authority in coming to a view on the development's transport impact. Construction aggregates are generally transported no more than 60 km by road before they become uneconomic, although longer distances may be practical for other higher value minerals. This effectively defines a single Central Belt market area covering the Dundee, Glasgow and Edinburgh city regions, where, to reduce impact on communities, the motorways and trunk roads will generally be part of the preferred haul routes from production sites.
29. Where there are significant transport impacts on local communities, alternative routes should be agreed or a dedicated haul route provided. Where rail, coastal or inland shipping are not viable alternatives to road haulage, the key issues are usually related to site access, vehicle control and monitoring under the conditions of the extraction site's planning consent. Further guidance on transport considerations is given in SPP 17: *Planning and Transport*.

## NOISE

30. Noise on site, arising from blasting, drilling, crushing, the operation of machines and fixed plant and the transporting of materials, should be controlled so that it can be mitigated satisfactorily avoiding becoming a source of disturbance off site. Unless trees are dense and mature they do not provide an effective barrier to noise or dust and it is preferable to have a ridge, baffle mound or other solid feature between a mineral operation and nearby settlements.

## DUST

31. Likely exposure to dust arising from mineral extraction is a material planning consideration. Health concerns can also arise as a result of anxiety among residents close to a proposed site if they believe emissions to be damaging to health. This makes it all the more important for good communications to exist between operators and communities to help allay anxieties.
32. Concerns over the likely effects of dust emissions should be assessed against the existing body of scientific, medical and epidemiological evidence. These effects have been explored in detail by the Committee of Medical Effects on Air

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<sup>4</sup> Circular 15/1999 and PAN 58

Pollutants (COMEAP), a panel of independent experts which advises UK health departments; the Expert Panel on Air Quality Standards; and in the University of Newcastle-upon-Tyne study, *Do Particulates from Opencast Coal Mining Impair Children's Respiratory Health?* (1999). The Newcastle study highlights the need to ensure proposals are assessed against the objectives in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland. These objectives are set for pollutants of particular concern for human health, together with dates by which they should be achieved.

33. The Newcastle Study contains a framework to guide the assessment of the implications of proposals on the objective for PM10 particulates. The research suggests that this assessment framework will also be relevant to mineral working generally and should be adopted when drawing up and considering proposals for new sites, or extensions or modifications to existing sites, if there is a residential property or other sensitive establishment within 1 km of any site activity with the potential to generate dust e.g. haul roads, crushers and stockpiles. In doing so, use should be made of information collected by local authorities in undertaking their responsibilities for Local Air Quality Management (LAQM). Account should also be taken of developing good practice and Scottish Executive Air Quality and Planning Guidance<sup>5</sup> and the National Society for Clean Air's planning guidance on LAQM.<sup>6</sup>
34. Operators should provide sufficient information to enable a full assessment to be made of the likely effects of development, including likely on-site diesel consumption, together with proposals for appropriate control, mitigation and monitoring. When considering proposals, planning authorities should have regard to the environmental acceptability of likely dust emissions, including the cumulative impact at residential properties and on other sensitive uses. Where effects cannot be adequately controlled or mitigated, planning permission should be refused.

## **GROUNDWATER AND SURFACE WATER**

35. There is a substantial body of legislation to ensure watercourses or groundwater, are protected. Suspended solids and acidic drainage, even in small amounts or concentrations, can be harmful to fluvial habitats. To protect groundwater, the European Directive on Groundwater (80/68/EEC) was transposed into Scottish law by the introduction of the Groundwater Regulations 1998. These regulations forbid the introduction of certain substances (denoted as "List I substances") into groundwater, and also place limitations on the extent to which other substances ("List II substances") may be permitted to enter groundwater. Mineral working, which constitutes an 'activity' under the Groundwater Regulations, poses little risk of introducing List I substances into groundwater, but it has substantial potential to lead to the migration of several 'List II' substances. The Code of Practice for the Owners and Operators of Quarries and other Mineral Extraction Sites was published by the Scottish Executive in 2003

<sup>5</sup> <http://www.scotland.gov.uk/library5/planning/aqpg-00.asp>.

<sup>6</sup> [http://nscaorguk.site.securepod.com/pages/topics\\_and\\_issues/air\\_quality\\_guidance.cfm](http://nscaorguk.site.securepod.com/pages/topics_and_issues/air_quality_guidance.cfm).

and provides advice on the control of pollution from non-mineral pollution sources during mineral operations. It also identifies the need for the assessment of the risk of release of List I and List II substances from storage of excavated materials in stockpiles or backfilling, prior to the activity being undertaken. SEPA's groundwater protection policy<sup>7</sup> is an important reference. Surface waters in rivers, lochs and on the coast which may be disturbed by mineral working also need to be managed. The Scottish Executive is working with SEPA on controlling point source pollution and other impacts on the water environment.<sup>8</sup> From 1 April 2006 the Water Environment (Controlled Activities) (Scotland) Regulations 2005 will regulate activities that have the potential to impact on Scotland's water environment and will, amongst other things, fulfil the requirements of the Groundwater Directive. The Groundwater Regulations 1998 will therefore be repealed with effect from 1 April 2006. In practice, however, the requirements on operators in respect of groundwater will not change and updated guidance will be available from SEPA in due course.

### ENVIRONMENTAL PROTECTION

36. Communities in the vicinity of minerals sites expect to see compliance with planning conditions intended to provide for environmental protection. For minerals permissions, the preparation, monitoring and reporting of operators' environmental audits by the planning authority in consultation with community interests, is also an integral part of environmental management now being adopted in many industrial sectors. There are a number of other statutory environmental protection regimes e.g. PPC licensing for mobile plant such as crushers, that are separate but complementary to the town and country planning system. PAN 51 *Planning and Environmental Protection* gives advice on the relationship of the two systems. PAN51 will be revised during 2005. Planning authorities should not seek to control or over-ride, through planning measures, matters that are the proper concern of the relevant authority, except where the planning interests can be clearly distinguished.

### MINERAL WASTE

37. The Executive's policy is to minimise the quantity of waste produced. Material from mineral working deposits including extraction and processing materials such as overburden, waste rock and fines, may be used where suitable for a variety of purposes, e.g. substitutes for primary aggregates, although reprocessed primary by-products are also key to site restoration.
38. The Executive also seeks to maximise the use of alternatives where practicable and environmentally acceptable. Planning authorities should identify suitable sites or locational criteria where the processing of secondary materials, particularly construction and demolition wastes can take place.

<sup>7</sup> SEPA Policy 19 : Groundwater Protection Policy for Scotland [www.sepa.org.uk/groundwater/lpg.htm](http://www.sepa.org.uk/groundwater/lpg.htm)

<sup>8</sup> Scottish Executive Environment Group Controlled Activities Regulations 2005: Policy Statement and Regulatory Impact Assessment

39. The Executive will implement the EC Directive on the management of waste from the extractive industries over the next two years. The Directive provides for measures, procedures and guidance to prevent or reduce as far as possible any adverse effects on the environment, in particular water, fauna, flora, soil, air and landscape, and any resultant risks to human health, brought about as a result of the management of waste. The implications of the Directive may be reflected in SPP 4 as the proposals develop. Further guidance will be issued in due course.

### **RESTORATION, AFTERCARE AND AFTER-USE**

40. Proposals for phased working and progressive restoration and provisions for aftercare and after-use should be integral to planning applications. Those proposals can also address visual impact during the life of the site, addressing the locational impact of operations, design, layout and phasing. During operations, detailed working and phasing programmes and final proposals may need to change. However, if these are benchmarked at the time of consent, they provide a basis on which to agree non-material variations or new applications for revised proposals. The level of detail necessary at the outset should be sufficient to establish proposed outcomes that meet the terms of development plan policy and mitigate community and environmental impact. Once mineral working has ceased, the land should be reinstated to a standard suitable for other agreed uses at the earliest opportunity, facilitated by restoration during the life of the operation and subsequent aftercare. Minerals unsuitable for the market should not be stockpiled if they can aid progressive on-site restoration. The policy in this SPP carries no presumption either in favour of or against further uses such as landfill or land raising which should be considered in the context of development plan policy, NPPG 10 *Planning and Waste Management*, and the National Waste Plan.
41. Financial guarantees are an appropriate means of reassuring communities of operators' commitment and ability to meet their restoration and aftercare obligations. In order to address the risk of land falling derelict, planning authorities should ensure that consents are associated with a financial bond unless the operator can demonstrate to the satisfaction of the planning authority that their programme of restoration, including the necessary financing, phasing and aftercare of sites, is sufficient. This could include reliance on an established and properly funded industry guarantee scheme.<sup>9</sup> Financial guarantees need to reflect the scale and type of mineral extraction proposed and avoid imposing costs on operators beyond what is necessary. Calculation of the financial guarantee should ensure that it covers the full cost of restoration and aftercare, including professional fees. The financial guarantee should be reviewed at regular intervals to ensure that it is in line with the overall costs of restoration and aftercare. Further advice is given in PAN 64: *Reclamation of Surface Mineral Workings*.

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<sup>9</sup> For example the Quarry Products Association operates a Restoration Guarantee Fund which includes all members' quarries.

## ADDITIONAL POLICY GUIDELINES FOR INDIVIDUAL MINERALS

### CONSTRUCTION AGGREGATES

42. Local authority boundaries do not always provide an adequate basis for market definition and provision of supply. The Executive's view is that the city regions for the four largest cities should form the market area for the provision of construction aggregates.
43. To achieve an adequate supply, planning authorities within city regions should work jointly to provide a landbank of permitted reserves taking into account lead-times and any evidence provided on the contribution from imports, secondary and recycled materials. This should be equivalent to at least 10 years extraction at all times for the appropriate part of the city region market area. This requirement will also extend to some adjoining local authorities, particularly in the Central Belt, where their output contributes to the main market area in the city regions. Elsewhere it will be the responsibility of individual planning authorities to decide on the time span of the landbank appropriate for their area. However, new consents should not be permitted if they are in locations which in planning terms are unsuitable. The scale of the landbank should be set out in the local plan.
44. Borrow pits, commonly associated with roads, construction projects or agriculture, allow for the extraction of minerals near to or on the site of the associated development. Other than within the scope of permitted development rights, borrow pits will require planning consent in the normal way. The availability of construction aggregates generally may overcome the need for borrow pits so applicants will need to demonstrate the particular operational, community or environmental benefits of such proposals. They should be time-limited consents, tied to the particular project with full restoration proposals set out.

### RECYCLED AND SECONDARY AGGREGATES

45. As part of its commitment to sustainable development, the Executive wishes to maximise the contribution from the recycled and substitute sectors. Development plans should provide for the recycling of construction and demolition wastes, secondary material extracted as a consequence of winning primary minerals and the reworking of waste from other industrial processes. The latter will require the identification of areas for storage and processing. PAN 63: *Waste Management Planning*, provides appropriate advice on site selection.

### COASTAL EXPORTING QUARRIES

46. It is for planning authorities to consider the identification of search areas for coastal exporting quarries. Local authorities should decide, in consultation with local communities, whether they intend to make provision in their development

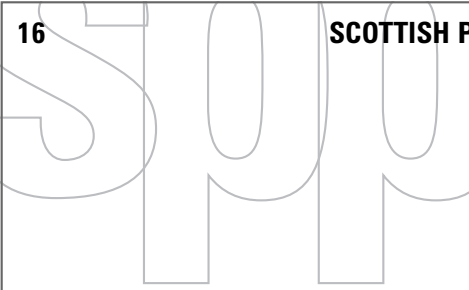
plans for coastal exporting quarries subject to the following considerations. Primary industry remains a significant employer in rural areas. Where environmental stewardship through a planning permission and the operator's working practices can be sustained and where there is support from rural communities, new coastal exporting quarries may be acceptable at a limited number of locations. Where provision is to be made for identified coastal exporting quarries or at specific sites, the development plan should in addition set out the criteria to be satisfied for coastal exporting quarries and their associated infrastructure. The general framework of Scottish Planning Policy and specific policies in this SPP provide the context.

### **NON-AGGREGATE CONSTRUCTION MINERALS**

47. Scotland contains a number of non-aggregate construction minerals such as limestone for cement making, clays for bricks and pipes, dimension stone and slate. Where brick clay is associated with coal measures, SPP16 applies. Planning authorities should identify and safeguard non-aggregate construction mineral resources within their area and provide for their working, subject to the principles set out in this SPP.
48. Dimension stone and slate are particularly important in repair and maintenance of existing buildings (half of all activity in the construction industry) and as a bespoke material in new buildings, contributing to the Executive's policy on the historic environment, improving housing conditions, sustainable development and 'Designing Places'. The demand for and scarcity of consented reserves of building stone requires additional reserves to be identified and safeguarded in development plans. Reopening dormant and maintaining active sites, supplemented by information held on workable reserves is important in providing for future supply. Reserves are often worked on small sites and intermittently over a long period. Providing certainty to the industry will allow it to bring forward the necessary planning applications at appropriate times. Limestone resources at Beith which have the potential to supply the cement industry should continue to be safeguarded by the Ayrshire Joint Structure Plan.

### **PEAT**

49. Domestic peat cutting is traditional in many areas of Scotland. Commercial peat cutting is different in nature and scale and raises particular environmental concerns. The use of peat is primarily related to horticulture, as either a growing medium or a soil improver. As a matter of policy, Scottish Ministers wish to encourage the use of peat substitutes, although there are a limited number of specialist uses (e.g. distilling) for which alternatives do not exist. The working of peat will only be acceptable in areas of degraded peat which has been significantly damaged by human activity and where the conservation value is low. Areas of peat that retain a high level of nature conservation interest or are important for their archaeological interest and value as CO<sub>2</sub> sinks should be protected and conserved for the benefit of future generations.



### **METALLIFEROUS AND OTHER SPECIALISED MINERALS**

50. Scotland contains a wide range of metalliferous minerals but few are currently being worked. There are also specialised minerals such as talc, honestone and industrial sands. Both metalliferous and specialised minerals occur in a very limited number of localities. In particular, dependent upon the quality of the resource, the market for glass-making silica sand will be of wider significance than the local area. Against other planning consideration, sites appropriate for the working of unconsented reserves of silica sand should be identified by planning authorities and safeguarded in development plans from other forms of permanent use. Likewise, metalliferous and other specialised mineral resources should be identified and safeguarded by planning authorities in their development plans and should provide for their working, subject to the principles set out in this SPP.

### **ENERGY MINERALS**

51. Apart from Opencast Coal (see SPP 16), energy minerals are of limited significance since the ending of deep coal mining in Scotland. There may be potential for the extraction of gas (methane) from the deeper coal deposits through developing extraction technologies. The technical requirements and facilities are similar to conventional on-shore oil and gas extraction.

## **DEVELOPMENT MANAGEMENT**

52. Mineral operators should have regard to the development plan context when preparing their detailed planning applications. The application should demonstrate the measures proposed to mitigate the effects of working, both on the environment and on nearby communities. Planning authorities should ensure that the impacts identified in either environmental statements or other information supporting planning applications can be mitigated satisfactorily, otherwise the development should be refused.
53. As appropriate, applications should be informed by both the Environmental Impact Assessment (where an EIA is required) and by pre-application discussions with planning officials. Minerals applications are likely to benefit from the supplementary information that can be provided in a Transport Assessment (TA). The applications should also provide information on the restoration, afteruse and aftercare of the workings; benchmarked from the outset to accommodate the potential for future variations over the life of the operations.

## PLANNING CONDITIONS

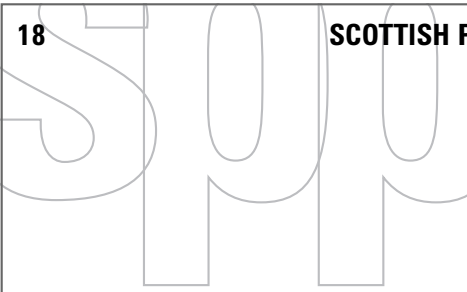
54. If approved, planning permission will be subject to detailed conditions.<sup>10</sup> Effective monitoring and, if necessary, enforcement of these conditions is necessary to ensure high environmental standards and to maintain the credibility of the planning system. The Executive is pursuing the need for a statutory fees regime to recover the costs of monitoring and enforcing mineral permissions from operators. In the meantime, planning authorities should ensure that effective management is in place to monitor the conditions attached to planning permissions. Conditions should take account of the circumstances of specific proposals and the need to provide for liaison with local communities, including where extensions to existing sites are proposed.
55. The planning authority should seek to minimise the number of planning conditions needed but ensure that they cover visual or landscape character impacts; operational aspects including dust and noise, traffic impact; community interests; restoration e.g. enhancement of biodiversity; aftercare and afteruse e.g. recreation and access; and monitoring. Where appropriate, conditions may be supplemented by an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, where its use is consistent with Circular 12/1996.

## ENFORCEMENT

56. Scottish Ministers attach great importance to effective enforcement and a wide range of powers is available; their use being at the discretion of planning authorities. Any action should be based on whether an alleged breach would unacceptably affect public amenity or the use of land or buildings meriting protection in the public interest. The general public may associate minerals operations with the practice of the poorest practitioners or the effects of illegal operations.
57. Mitigating potential environmental impacts at minerals sites relies in some places on enforcement of conditions. Enforcement powers available to planning authorities are summarised in SPP1, paragraphs 62-64 and are explained in PAN 54 and Circular 4/1999. To bridge the gap between self-regulation and planning authority enforcement resources and to deliver clear and guaranteed community benefits the Executive intends to proceed with plans to introduce a new statutory charging regime to recover the costs of monitoring and enforcing minerals permissions from operators. Further consultation on a rate per visit, with the number of visits capped is likely. The regime would complement planning authorities' powers.
58. Additionally, the enforcement powers of planning authorities, if proactively deployed, provide assurance to communities that sites will be managed and operated in accordance with conditions. Such powers are strengthened in the presence of a sound link between the planning consent and a financial guarantee.

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<sup>10</sup> See Circular 4/1998 – The Use of Planning Conditions in Planning Permissions and its addendum on Model Planning Conditions.



## **REVIEW OF OLD MINERAL PERMISSIONS**

59. Planning authorities are required to review the conditions attached to mineral permissions every 15 years. Guidance on the procedures to be applied is given in SODD Circular 34/1996 and SEDD Circular 1/2003. Those procedures provide an important opportunity to ensure that up-to-date operating and environmental standards are put in place. When preparing and considering proposals for new working conditions, operators and planning authorities should take account of the operational considerations set out in this SPP.

## **MONITORING**

60. Given the importance of minerals to the economy, the Executive intends in 2005 to work with the minerals industry to carry out a survey of minerals production in Scotland. The survey will supply the data to assist a planned approach to minerals provision including market areas, market demand for individual minerals and construction aggregates addressing wider issues such as the role of coastal exporting quarries. Opportunities in the recycled aggregates markets will be informed by a survey of 2003 arisings of commercial and industrial waste due to report in February 2005.

## **CONCLUSION**

61. Planning authorities should take this SPP into account when preparing or updating development plans and for development management purposes. The Executive looks to planning authorities to steer proposals to environmentally acceptable sites and to refuse consent where they judge such developments would be contrary to the guidance set out in this SPP.
62. This SPP also sets out the factors that the Scottish Ministers will take into account when considering development plans, appeals or planning applications coming before them.

## **ENQUIRIES**

63. Enquiries about the content of this SPP should be addressed to Graham Marchbank, 2-H, Victoria Quay, Edinburgh, EH6 6QQ (0131 244 7525) or by e-mail to [graham.marchbank@scotland.gsi.gov.uk](mailto:graham.marchbank@scotland.gsi.gov.uk). Further copies can be obtained by telephoning 0131 244 7543. This SPP and other SPPs, PANs and a list of circulars can be viewed on the Scottish Executive website: [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning).



