Department of the Environment
Welsh Office

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MINERALS PLANNING GUIDANCE:

PLANNING AND COMPENSATION ACT 1991: INTERIM DEVELOPMENT ORDER PERMISSIONS (IDOS) - CONDITIONS

INTRODUCTION

1. With effect from 25 September 1991, the Planning and Compensation Act 1991 (the "1991 Act") introduced new provisions for dealing with permissions for the winning and working of minerals or the depositing of minerals waste, originally granted under Interim Development Orders (IDOs). These were permissions granted after 21 July 1943 and before 1 July 1948, which have been preserved by successive planning Acts as valid planning permissions in respect of development which had not been carried out by 1 July 1948. They are referred to in the 1991 Act as "old mining permissions". The Act requires holders of such permissions to apply to the mineral planning authority (mpa) for registration of the permission and subsequently to apply for determination of the conditions to which the permission is to be subject, if they wish the permission to continue to have effect.

2. The Government takes the view that this is an important opportunity to secure improved operating and environmental standards. Minerals are vital to the economy but it is essential that they are extracted in an environmentally acceptable way. They therefore look to the minerals industry in the first instance to demonstrate a commitment to raising standards and operating as good environmental neighbours, and to mineral planning authorities to recognise that, in relation to working sites, conditions should not be imposed which would fundamentally affect the economic structure of the operation. The Government believe that in this way, and with good will on all sides, both the need to provide proper protection for the environment and amenity and the reasonable expectations of mineral operators can be accommodated.

3. MPG8 sets out the procedures to be followed in applying for registration and for the determination of conditions. This MPG gives advice on the considerations to be taken into account by applicants and mpas in preparing and determining the conditions to which registered permissions should be subject. It is for applicants in the first place to submit schemes of conditions for the consideration of the mpa, and for the mpa to determine whether the submitted conditions are acceptable or should be modified or added to in the light of the particular circumstances of the case and the following guidance. Applicants have a right of appeal to the Secretary of State against the imposition of unreasonable conditions. But in all cases, it is expected that applicants will seek to submit conditions which provide proper environmental protection and ensure that future operations are carried out to an acceptable standard having regard to the reasonable expectations of both residents and mineral operators.

4. The Act provides that, in the case of permissions where no operations for the winning and working of minerals or the depositing of minerals waste have been carried out to any substantial extent in the two year period ending with 1 May 1991 ("dormant" permissions), development may not recommence until a scheme of conditions has been finally determined. In any other case (ie "active" permissions), an application for determination of conditions must be made to the mpa within twelve months (or such longer period as the mpa agree) of the application for registration of the original permission having been granted by the mpa or finally determined as valid on call in or appeal.

5. This distinction will prevent the reactivation of dormant permissions without proper planning conditions; will avoid applicants having to prepare and submit schemes of conditions too far in advance of their need to work the site; will ensure that schemes that are prepared and submitted are appropriate to the circumstances pertaining at the time; and, will ensure that the workload for both applicants and mpas is more evenly spread.

6. The purpose of schemes of operating and restoration conditions is to ensure that in a relatively short period of time, all valid IDO permissions for the winning and working of minerals or the depositing of mineral waste will be subject to acceptable standards having regard to the planning circumstances and to the safe, efficient and economic operation of the site, and that the land covered by the permission will be suitably restored as soon as practicable.

7. The conditions which may be imposed on an IDO permission may include any conditions which could be imposed on a grant of planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste, and may be imposed in addition to, or in substitution for, any conditions which attached to the original grant of permission. They must, however, include a condition that the winning and working of minerals or depositing of mineral waste must cease not later than 21 February 2042, except where the original permission is already time-limited. General advice on the types of conditions that may be appropriate to permissions for the winning and working of minerals and the depositing of mineral waste is given in paragraphs 55 to 130 of, and Annex 2 to, MPG2 ("Applications, Permissions and Conditions"). However, in introducing the provisions on IDOs during the passage of the 1991 Act through Parliament, Sir George Young made clear the Government's intention that, for working sites, a distinction should be drawn between conditions that deal with the environmental and amenity aspects of working the site, which should not affect the asset value, and conditions that would fundamentally affect the economic structure of the operation. Conditions that would significantly affect the asset value would be more appropriate for mpa reviews under the provisions introduced by the Minerals Act 1981. [HOC Official Report 16 May 1991 Col 448]. Applicants should therefore have regard to that statement, the advice in MPG2 and MPG7, and to the following paragraphs in drawing up the conditions to which they propose the IDO permission should be subject. Similarly, mpas should have regard to that statement, the advice in MPG2 and MPG7, and to the following paragraphs, in considering applications and in determining conditions. In all cases, conditions should be:

* necessary
* relevant to planning
* relevant to the development
* enforceable
* precise
* reasonable in all other respects.

The following paragraphs give advice on the particular considerations to be taken into account in drawing up and considering schemes of conditions for IDO permissions.

GENERAL CONSIDERATIONS

Consultations

8. Applicants should note that applications for determination of conditions must be accompanied by the appropriate certificates that the necessary publicity and notification requirements have been complied with, as if it were an application for planning permission for the winning and working of minerals or the depositing of mineral waste. The current requirements are set out in paragraph 43 of MPG8, but applicants should note that these may change and should consult the mpa if in doubt. In addition to these statutory requirements, applicants are encouraged to explain fully and as early as possible the nature of their proposals indicating the ways in which they intend to deal with the various environmental and amenity factors. Where proposals relate to larger sites or sites that may be worked over many years, it may be particularly helpful for the applicant to discuss the issues at an early stage with the local community – for example by arranging public meetings and exhibitions. In addition, applicants are strongly advised to consult with the relevant statutory bodies – eg English Nature, the National Rivers Authority, the Historic Buildings and Monuments Commission etc, local authorities and other organisations whose interests may be affected, before submitting a formal application to the mineral planning authority. Technical issues such as drainage, access arrangements, working methods, pollution control, restoration and afteruse should also have been discussed with the appropriate bodies.

9. Similarly, whilst the provisions of the Town and Country Planning General Development Order 1988 relating to consultations before the grant of planning permission do not statutorily apply to IDO conditions applications, mineral planning authorities should have regard to these general requirements and carry out such consultations as they see fit before determining the application. In considering the need for consultations mpas should also have regard to any consultations carried out by the applicant prior to submission of the application and the extent to which the submitted proposals reflect the views of consultees. Unnecessary duplication of consultation should be avoided.

Conditions

10. In considering the types of conditions that will be appropriate in any particular case, regard should be had to all material planning considerations including: the type of mineral; the nature and extent of existing working; the location and planning history of the site; land quality and proposed after-use; and, the availability of suitable restoration materials. Distinctions will need to be drawn between "dormant" permissions, where full modern conditions will be generally appropriate, and "active" permissions, where it is necessary to distinguish between conditions which deal with the environmental and amenity aspects of working the site and conditions which would fundamentally affect the economic structure of the operation – eg conditions which would significantly restrict the total quantity of mineral that could be extracted, or the rate at which it could be extracted having regard to the existing investment in and the current structure of the operation.

11. However, further distinctions may need to be drawn depending on the nature and extent of existing workings. Full modern conditions will always be appropriate to "dormant" permissions where no working has taken place for a number of years. But exceptionally, where an applicant can demonstrate that a "dormant" permission has been active in recent years; that operations have been only temporarily suspended; and, that the imposition of full modern conditions would fundamentally affect the economic structure of the operation, it may be appropriate to apply a degree of flexibility.

12. Full modern conditions will also generally be appropriate to currently unworked land comprised in a permission where only a relatively small part of the total land covered by the permission has been or is currently being worked. However, where an applicant can demonstrate that an area of currently unworked land contains workable reserves, that there are definite plans for the extraction of those reserves, that the planned extraction forms an integral part of the economic structure of the operation, and that the imposition of full modern conditions would fundamentally affect that economic structure, it may similarly be appropriate to apply a degree of flexibility.

13. As conditions under the 1991 Act may only apply to IDO permissions (in so far as they have been finally determined as valid following an application for registration of the permission – see MPG8), regard should be had to any later planning permissions for winning and working or depositing of mineral waste on adjacent land which forms part of the same planning unit, and to later planning permissions or consents – eg for waste disposal – which partly overlay land which is subject to IDO permissions. In such cases, it may make sense to consider the planning unit as a whole to ensure that the conditions to be attached to the IDO permission and those attached to the later permissions are not incompatible. However, where this would imply conditions which do not meet acceptable standards, applicants and mpas should consider negotiating a new consolidated permission for the whole unit, to ensure that the mineral can be extracted in an environmentally acceptable way and the site restored to a suitable after-use.

14. In all cases, it will be necessary in preparing and considering schemes of conditions, to identify sensitive property and areas which are, or could be, adversely affected by the development and to seek ways in which the impact can be mitigated or avoided – for example, through the provision of buffer zones and/or baffle mounds, or restrictions on working hours and/or appropriate noise limits. Particular attention should be given to areas of environmental or ecological importance such as National Parks, AONBs, National Nature Reserves, SSSIs, features of archaeological interest and the built heritage; and, to the proximity of residential or other sensitive property such as schools and hospitals. Consideration should also be given to the need to avoid adverse effects on the quality or quantity of groundwater resources where these are particularly vulnerable or in short supply.

15. In relation to "active" permissions, and in the exceptional circumstances outlined in paragraphs 11 and 12 above, where the applicant can demonstrate that buffer zones or other limits on the extractive area cannot be complied with without fundamentally affecting the economic structure of the operation, the applicant and mpa should consider whether equivalent or better protection can be provided by other means, or whether there is other land where extraction would be acceptable. Clearly land which is not under the control of the applicant, or over which the applicant cannot negotiate control, or which already forms part of approved reserves, would not constitute an adequate substitute for the applicant foregoing reserves which form part of a valid IDO permission.

16. It is expected that all responsible minerals developers will wish to work their sites in an environmentally acceptable way and be recognised as good neighbours. At the same time, it has to be accepted that, in some cases there will be limits to what can be achieved without fundamentally affecting the economic structure of the operation. Nevertheless, it is to be hoped that in

preparing schemes of conditions applicants will seek to achieve the greatest possible improvement in environmental standards and will, where possible, voluntarily offer limits on extractive areas, depths and rates of output, where this is the only way of avoiding unacceptable environmental damage.

Ancillary Mining Development

17. Existing ancillary mining development on land to which an IDO permission relates may have been carried out under permitted development rights granted under successive General Development Orders (GDOs); under the terms of the IDO permission itself; under a separate specific planning permission; or, before planning controls began. The requirements to apply for registration and determination of conditions apply only to IDO permissions for development consisting of the winning and working of minerals or involving the depositing of mineral waste. It is not necessary therefore to apply for registration of GDO rights or of a separate planning permission for ancillary mining development.

18. However, a condition imposed on an IDO permission following an application for determination of conditions, may include any condition which may be imposed on a grant of planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste. Such conditions may include any conditions which a mineral planning authority thinks fit, including conditions for regulating the development or use of any land under the control of the applicant for the purposes of or in connection with the development authorised by the permission. Nevertheless, the power to impose planning conditions is constrained by the general limitations imposed by the Courts ie that any condition must fulfil a planning purpose, must fairly and reasonably relate to the development permitted and should not be manifestly unreasonable.

19. Permitted development rights granted under GDOs are granted in relation to the land defined in the particular part or class of the GDO and not in relation to a specific planning permission. If they are removed, they are removed in relation to the relevant piece of land, not in relation to one particular permission or another. Conditions imposed on an IDO permission could therefore withdraw the permitted development rights granted under Part 19 of the 1988 GDO (see MPG5) for future ancillary development on land to which the IDO permission relates. Conditions could also be imposed regulating the future operation of existing ancillary mining development on land to which the IDO permission relates, regardless of the powers under which the ancillary development had been carried out, provided that the predominant use of the ancillary development is in connection with the development authorised by the IDO permission and that the imposition of such conditions is expedient for the purposes of the development so authorised and fairly and reasonably relate to that development. However, it is established policy that as permitted development rights have been granted by Parliament they should not be withdrawn nor restrictions placed on them unless there are exceptional and sound planning reasons for doing so. Furthermore, in relation to active sites, conditions should not place restrictions on the future operation of existing ancillary development such as to fundamentally affect the economic structure of the operation.

20. Equally, conditions imposed on an IDO permission should not require the alteration or removal of ancillary mining development already carried out on land to which the IDO permission relates except as part of a condition requiring the reinstatement, reclamation or restoration of that land, and only then where the ancillary development relates to the development authorised by the IDO permission. That is, a condition could reasonably require the removal of plant, machinery, buildings etc associated with the winning and working of minerals or the depositing of mineral waste as part of a condition requiring the reclamation of the land once mining or tipping operations cease, but a condition requiring the removal of plant, machinery, buildings etc which are not primarily related to the development authorised by the IDO permission and which may need to continue operating even after the development permitted by the IDO permission has ceased, would not fairly and reasonably relate to the development permitted by the IDO permission, would be manifestly unreasonable and should not be imposed.

21. The illustrative guide to conditions in Annex A should assist applicants in preparing their applications. It is to be hoped that the guide will be generally appropriate to all IDO permissions, both "active" and "dormant", but the nature of the conditions applicable, and the extent to which they will be necessary, will vary according to the particular circumstances. In considering submitted schemes therefore, mpas must look at each case on its merits, having regard to the considerations outlined above and to the general principles set out below.

PRINCIPLES TO BE APPLIED TO THE PREPARATION OF SCHEMES OF CONDITIONS AND TO THEIR CONSIDERATION BY THE MPA

Conditions relating to access, traffic and protection of the public highway

22. Conditions dealing with measures to prevent dust, mud and spillages on the public highway will be appropriate to all sites, and conditions relating to the display of agreed vehicle routes may be appropriate to some sites. It will not generally be appropriate to expect the construction of new accesses or exits to sites covered by "active" permissions, except where this can be accomplished without significantly affecting the structure of the existing operations or design of the quarry. Nor would it be appropriate to expect a new access to be provided on land which is not under the control of the applicant: although it is always open to an applicant to offer to negotiate a new access as part of the application package. It should also be borne in mind that problems with existing accesses and exits may be reduced by minor alterations to the design (eg improved visibility splays, or ensuring the traffic can only turn one way). Planning conditions cannot control the right of passage over public highways, however, it is open to applicants to offer voluntary agreements on traffic management schemes to provide, for example, for traffic to and from the site to only use specified routes and to regulate traffic levels at particularly sensitive times of day.

Working programme

23. Working programmes should be produced for all sites to ensure that operations are designed in such a way as to protect areas of environmental and ecological importance and the amenity of nearby residential and other sensitive property – including, where appropriate, the provision of buffer zones. However, conditions limiting *extraction areas* or placing restrictions on *depths of working*, will not generally be appropriate to "active" or recently active permissions where these would fundamentally affect the economic structure of the operation, particularly if equivalent or better protection can be provided by other means – eg through the control of noise and dust levels. Conditions placing restrictions on depths of extraction on active sites will only be justified in exceptional circumstances where there are no other adequate means of protection and extraction would cause demonstrable harm to essential water resources. Applicants are therefore strongly advised to consult the National Rivers Authority on ways of protecting essential ground water resources before submitting conditions for sites where it is proposed to work near or below the water table.

24. Conditions should not place limits on *the annual output* from the site to control the rate at which the resource is depleted. However, it should also be recognised that these permissions were originally granted at a time when available technology would have restricted the rate at which extraction could take place and consequently the amount of traffic leaving the site. Existing accesses may not be suitable to take significant increases in traffic volumes because, for example, of the proximity of residential property. Where such problems cannot be resolved by alterations to access roads or by other means, it may be appropriate in some cases to impose conditions limiting the rate of output to preclude substantial increases in traffic in the future. Any such conditions should not place inflexible limits on the annual output from the site, but should relate to an average annual output over a period of years to enable the operator to respond to the demands of the market. Conditions which significantly restricted the rate of output from the quarry which could be achieved having regard to existing investment in and the existing structure of the operation, would affect asset values and should not be imposed except by agreement with the applicant.

25. In deciding what conditions are appropriate on *working hours*, it should be remembered that it is not the hours of working themselves which cause disturbance but the environmental effects associated with the operation – eg traffic, noise, dust etc. Equally, the nature of the extractive and associated processing operations may require a complex shift system to enable the operator to respond to the demands of the market. Restricting working hours may not therefore in itself achieve environmental improvements, particularly if production is intensified during the shortened working period. Additionally, significant restrictions on the hours currently worked at active sites eg forcing a reduction from two shift working to single shift working, would be likely to have a significant effect on the asset value, and should not be imposed. Nevertheless, it is important that permissions should be subject to conditions governing working hours. Where the existing or proposed working hours of a site are reasonable conditions should ensure that these are adhered to. In other cases, consideration should be given to whether there is scope for achieving environmental improvements eg by requiring marginally later starts and/or earlier finishes than are currently operated at the site.

26. Applicants and mineral planning authorities should therefore have regard both to the *illustrative guide to conditions on working hours* in Annex A, and

to the circumstances of the particular case. In relation to active sites, regard should be had to the current working hours of the application site and of other mineral sites in the area, to the need not to affect fundamentally the economic structure of the operation, and to whether conditions limiting noise levels and traffic movements at different times of the day and night can provide equal or better protection. Longer working hours, including 24 hour working, may be acceptable where the location of the site and/or other conditions can ensure that residential and other sensitive property do not suffer adverse effects.

27. It should also be remembered that restrictions on working hours combined with appropriate conditions on noise, dust and traffic levels, may provide a preferable solution to minimising the impact on nearby property, than the imposition of buffer zones restricting the total quantity of mineral that can be extracted.

28. *Noise conditions* should be imposed which limit the impact of noise on sensitive properties as appropriate at different times of day. That is, limits should be set so that noise levels at sensitive properties do not exceed a certain range during specified periods. Noise limits should be set at the site boundary or sensitive property at a level to ensure that the noise reaching the relevant properties falls within the specified range, and so that monitoring can take place on land controlled by the mineral operator or at the noise sensitive property itself. Further advice on the control of noise from surface mineral working will be given in MPG11 and applicants and mpas should have regard to that advice when published.

Conditions for Reclamation of Sites – Landforms, Restoration, Aftercare and After-use

29. All permissions should be subject to appropriate restoration and, where relevant, aftercare conditions; and should make provision for reclamation to an appropriate after-use as soon as practicable.

30. Applicants may find the advice and information in MPG7, The Reclamation of Mineral Workings, useful in preparing their schemes to submit to mpas, and for sites operated by the cement industry, the advice in MPG10 – particularly Annex C. Similarly, mpas should consult the advice in MPG7 as regards any necessary consultations on restoration, aftercare and after-use before determining scheme applications.

31. The majority of mineral workings are reclaimed for agriculture, forestry or amenity after-uses, and applicants should consider which of these options would be most appropriate. "Agriculture" is defined in section 336(1) of the 1990 Act. "Forestry" in this context means the growing of a utilisable crop of timber. "Amenity after-use" is a broad category which includes open grassland for informal recreational use, basic preparation for more formal sports facilities, amenity woodland, lakes for water recreation, water storage and balancing reservoirs, and both wet and dry areas for nature conservation and landscaping. Any other after-uses, such as residential or industrial development, or buildings and infrastructure associated with formal sports and leisure facilities, would require a separate planning permission, as would the use of the void for the disposal of controlled waste. In the latter case a licence would also be required from the waste disposal authority under the Control of Pollution Act 1974 (advice on this can be found in DOE Circular 13/88 (Welsh Office Circular 19/88), and in Waste Management Paper No 4 (1988 edition)).

32. Standard procedures for new planning applications for mineral workings include a requirement for mpas to consult the Agricultural Development and Advisory Service (ADAS) of the Ministry of Agriculture, Fisheries and Food (MAFF) – or in Wales, the Welsh Office Agriculture Department (WOAD) – in cases where mpas consider agriculture to be the most suitable after-use. Similarly, if an mpa considers forestry is the most appropriate after-use, the Forestry Commission must be consulted. Each of these organisations has a statutory duty to advise mpas on whether the particular after-use is suitable for a mineral planning application, before a decision is reached and before the mpa can impose an aftercare condition for agriculture or forestry. The Department has advised (eg in MPG7) that in most cases pre-application discussions of working and reclamation proposals with relevant parties are valuable. In the case of IDO permissions, it is for the applicant in the first instance to prepare a scheme of conditions for submission to and determination by the mpa. If an applicant considers that agriculture or forestry would be the most suitable after-use of the site, they are advised to seek early informal advice from ADAS or the Forestry Commission, at a level of detail similar to pre-application discussions for new sites, to assist in choosing the most suitable after-use and preparing a scheme of conditions for determination by the mpa.

33. There is no equivalent statutory consultee for the broad range of "amenity" after-uses. However useful contacts for particular schemes include English Nature (formerly the Nature Conservancy Council), the Countryside Commission,

(in Wales these two organisations are now combined as the Countryside Council for Wales (CCW)), the Forestry Commission, the Regional Councils for Sport and Recreation, the Royal Society for Nature Conservation (RSNC), the Royal Society for the Protection of Birds (RSPB), and the Game Conservancy.

34. The appropriate level of detail and precision in the conditions to be attached to permissions will vary according to the circumstances of the particular case. More detail should be provided for shorter life sites (eg where mineral extraction or the depositing of mineral waste will cease within 5 or 10 years). For sites which will continue for a longer period, it may be preferable to have conditions which require the mineral operator to submit detailed schemes for final landform/ contours of the site, restoration (ie replacement of soil materials) and aftercare (ie management of the restored soils and planting and maintenance of vegetation) when a particular phase has been reached or at a set date or dates. There should also be provision to ensure that the mineral operator will bring forward and implement a scheme for final landform, restoration and aftercare should the site cease operation for any reason before the end date as contained in the time limit condition.

35. It is expected that applicants will make provision for full restoration and, where relevant, aftercare wherever possible. However, the type of restoration that will be appropriate in any particular case will depend on a number of factors: in particular the nature and extent of existing workings and the availability of suitable restoration materials. In preparing and considering proposals for restoration and, where appropriate, aftercare conditions, regard should therefore be had to:

a. the type of mineral or mineral waste;

b. whether or not the site is currently operational and extraction/tipping has already taken place over a major part of the whole area;

c. the existing or proposed depth of excavation and the relationship between this and the level of the water table;

d. the long term stability of faces at sites which are to remain unfilled or partly filled;

e. the desirability of conserving features of geological interest;

f. the nature and amounts of soils and soil-making materials available within the site and their suitability for growing vegetation for the intended after-use (eg whether there are any particular chemical or physical problems or, for some older-established sites and/or hard rock quarries, the lack of much soil making materials);

g. the nature and amount of mineral waste to be generated on site and whether it is to be back-filled into a mineral void;

h. whether there is an existing licence to deposit controlled waste as landfill within the site, and the conditions attached to this;

i. the topography, altitude, climate, landscape features and wildlife habitats of the site;

j. the general character of, and planning policies for, the surrounding area;

k. any planning conditions or voluntary agreements for reclamation which apply to surrounding non-IDO mineral land worked in conjunction.

36. Aftercare can only be used to bring the land to a required standard which is defined in general terms according to the intended after-use. In respect of sites where an agricultural after-use is proposed, only exceptionally is it likely to be either feasible or practicable for MAFF to undertake a pre-working survey of the land before the mpa gives its decision on the scheme of conditions. Such a survey may be most appropriate where large parts of a site remain undisturbed and currently in agricultural use, especially if it is high quality land, so that the "required standard" would be as in Schedule 5, paragraph 3(1) of the 1990 Act (referred to as section 30A(9) of the 1971 Act in MPG7). In other cases, the appropriate "required standard" to be achieved at the end of any aftercare period will be that the land is "reasonably fit for that use" as in Schedule 5, 3 (2) of the 1990 Act (section 30A(10) of the 1971 Act in MPG7).

Consents required from other statutory agencies

37. Planning permissions do not convey any consents that may be required from other statutory authorities. Equally, planning conditions should not seek to control matters that are the proper concern of other statutory agencies, except where planning interests are clear and the conditions in the non-planning consents, authorizations or licences are not sufficient to protect those interests. This is particularly relevant in the field of pollution control. Care should be taken therefore to avoid conditions on matters which the relevant pollution control authority (such as the National Rivers Authority, Health and Safety

Executive, Her Majesty's Inspectorate of Pollution, and Waste Regulation Authorities) judges can be satisfactorily regulated under their own separate powers. However, there may be circumstances when planning conditions may properly impinge on matters that are subject to other statutory controls eg to limit noise levels to avoid statutory nuisance action being taken at a later date, or where the pollution control standards for the particular operation or process are insufficient for the site in question when the environmental effects of the development as a whole are considered. Before proposing or imposing conditions which are primarily related to pollution control applicants and mineral planning authorities should consult the appropriate pollution control authority.

ILLUSTRATIVE GUIDE TO CONDITIONS

Time Limits

Conditions should provide for the date on which the winning and working of minerals or depositing of mineral waste must cease. In cases where the original permission is not already time-limited, the Act provides that the permission must be subject to a condition that the winning and working of minerals or depositing of mineral waste shall cease not later than 21 February 2042.

Access, Traffic and Protection of the Public Highway

Conditions should provide for the cleanliness of roads leading to and from the public highway and of vehicles leaving the site. Conditions cannot restrict the right of passage over the public highway, but may control access to or from the highway and may provide for the display of on-site signs showing recommended vehicle routes.

Examples include: surfacing quarry access roads with tarmacadam or other suitable material, sheeting of loaded lorries, and installation and maintenance of facilities for the cleaning of wheels and chassis of vehicles prior to leaving the site to prevent dust and other debris being carried onto the public highway; provision of wider splays where access road joins public highway to improve visibility; redesign of access or exit so that traffic can only turn one way; requiring agreed vehicle routes to be displayed at quarry exits.

Working Programme

i. working scheme

Conditions should provide for the way in which the site is to be worked.

For example, conditions specifying:

a. the limit of excavations – surface area and depth (or limits on size and height of minerals waste deposits), as appropriate;

b. limits on the output from the site, or rate of depositing of minerals waste, as appropriate;

c. the phasing of operations;

d. the location, design, phasing, treatment and maintenance of baffle mounds and minerals waste deposits;

e. the location and design of any acoustic fencing;

f. the movement and placement of overburden;

g. the location, design and formation of the main haul routes and, where appropriate, access to public highway, such as to minimise disturbance in the vicinity of the site.

(NB limits on extraction areas, depths of working and rates of output from active sites should not be imposed except in the circumstances and having regard to the considerations outlined in paragraphs 23 and 24).

ii. Soil Removal and Storage

Conditions should provide for the management and maintenance of topsoil, subsoil or any other soil making materials.

For example, conditions specifying:

a. the location, size and management of any existing stockpiles of soil and soil making materials (including where incorporated in existing baffle mounds);

b. the amounts of soil materials in unworked areas and their preservation for use in restoration and landscaping;

c. the methods of stripping and storage of these materials so as to cause least damage to soil structure;

d. the location, design, phasing and management of these additional stockpiles of soil materials;

e. the potential for recovery of soil making materials from overburden for use in restoration.

iii. Hours of Operations

Conditions should provide for the times and days on which specified operations may or may not be carried out.

For example: Except in emergencies, or with the prior agreement of the mpa –

a. no operations, other than water pumping, servicing, maintenance and testing of plant or other similar work, to be carried out except between the following times:

[0700 hours and 1900 hours] Mondays to Fridays; and
[0700 hours and 1300 hours] Saturdays;

b. no servicing, maintenance and testing of plant to be carried out between [2200 hours and 0700 hours] on any day;

c. operations for the formation and subsequent removal of material from any baffle mounds and soil/ overburden storage areas which would adversely effect occupied residential property not to be carried out except between the following times:

[0800 hours and 1800 hours] Mondays to Fridays; and
[0800 hours and 1300 hours] Saturdays;

d. no working on Sundays, Bank Holidays and National Holidays.

The precise nature of the condition and the times specified will depend upon the circumstances of the particular case. Longer or shorter hours may be appropriate, but conditions should not be imposed which would conflict with the advice in paragraphs 25 and 26 above.

Environmental Protection

i. Dust

Conditions should provide for the emission and propagation of dust to be minimised.

Examples include: requiring water bowsers, sprayers or similar equipment to be used to minimise dust emissions from the site; suspension of movement of soils, overburden and minerals waste during adverse weather conditions; enclosure of dust emitting plant and machinery.

ii. Noise

Conditions should provide for specified noise limits to avoid public nuisance having regard to the nature of the operations to be carried out and the impact on noise-sensitive property at different times of the day; and, for monitoring to ensure that the limits set are not exceeded. Conditions may provide for the

erection of acoustic screens, the maintenance of efficient silencers on engines and plant, and the erection of baffle mounds prior to the extraction of minerals.

Further advice on the control of noise from surface mineral working will be given in MPG11.

iii. Blasting and Vibration

Where appropriate, conditions should provide for limits on the timing of blasts and on ground vibrations received at noise or vibration sensitive properties; for monitoring to ensure that the limits are not exceeded; and, for methods to be employed minimising air overpressure.

For example: Except in emergencies,

– no blasting shall be carried out on the site except between the following times:

[1000 and 1200 hours] and [1400 and 1600 hours] on Mondays to Fridays; and [1000 and 1200 hours] on Saturdays;

– there shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays;

– audible warning shall be given prior to the commencement of any blasting operations.

– ground vibration as a result of blasting operations shall not exceed a peak particle velocity of [6 mm/sec] [10 mm/sec] in 95% of all blasts measured over any period of [6 months] and no individual blast shall exceed a peak particle velocity of [12 mm/sec] as measured at vibration sensitive buildings. The measurement to be the maximum of three mutually perpendicular directions taken at the ground surface.

– prior to the commencement of any blasting operations a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the mpa for approval.

– prior to the commencement of blasting operations details of the methods employed to minimise air overpressure from blasting operations shall be submitted to the mpa for approval.

NB: the precise levels of peak particle velocity that will be acceptable will depend on the type of mineral being worked, the blasting operations being carried out, and local circumstances. Generally, individual blasts should not exceed 12 mm/sec ppv. Average levels should not exceed 10 mm/sec ppv and usually will not be below 6 mm/sec ppv, in 95% of all blasts, although lower levels may be appropriate in certain circumstances. The appropriate monitoring period must be a period which, relative to the length of time over which blasting is to be carried out, will ensure that the 95% confidence level is being met. In all cases, it will be necessary to ensure that planning conditions do not cut across good and safe practice under Mines and Quarries legislation and advice should be sought from HM Inspectorate of Mines and Quarries before conditions to control blasting are imposed.

iv. Groundwater and Surface Water Drainage Protection

Conditions should provide for the protection of surface and groundwater.

Examples include: requirements for the provision of settlement lagoons; the way in which surface water is to be disposed of; the avoidance of impairing drainage from adjoining areas; the prevention of material entering open watercourses; the provision of outfall (including any necessary construction for controlling erosion on site or downstream) for the drainage of a site; and the maintenance of water levels in adjoining areas.

v. Miscellaneous

Conditions may provide for the control of other matters not covered under previous categories.

Examples include: the storage of oil, fuel, lubricants etc to prevent contamination of topsoil, subsoil or any watercourse, and their disposal away from the site.

Conditions should not unnecessarily duplicate consents and controls imposed by other statutory agencies – eg pollution control authorities.

Landscaping

Conditions may provide for the landscaping of the site, or the submission of a landscaping scheme for the approval of the mpa.

Examples include: requirements for the design of overburden mounds, minerals waste deposits etc, planting and other screening to mask the site so far as possible by blending in to the local topography; requirements for screening through retention of existing trees etc; new planting; design and planting of baffle mounds; and, requirements for the maintenance of existing hedges and fences on the site boundary and the erection of stockproof fencing on those parts of the site boundary which do not coincide with existing hedges or fences.

Restoration, Aftercare and After-use

Conditions should provide for:

a. landforms, hydrology and levels of the site – whether a mineral excavation or deposit of minerals waste – on which the final restoration and after-use will take place;

b. restoration – use of soils and soil-making materials, including depth and nature of topsoil and subsoil and handling methods for soil movement;

c. aftercare – provision for a scheme to be submitted and agreed for a five year aftercare period where sites are restored to agriculture, forestry or amenity after-use;

d. where appropriate, the removal of buildings, fixed plant, equipment and foundations and integration of these areas into the proposals for items a to c above.

Conditions may provide for these matters to be the subject of a scheme or schemes to be submitted at the appropriate phases or times (see paragraph 34).

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