

# **The Mineral Products Association NI**



## **PLANNING ACT STATUTORY REVIEW**

**April 2021**

## Introduction and Background

The Mineral Products Association NI (MPANI) welcomes the opportunity to engage in this call for evidence on the Statutory Review of the Planning Act 2011. We focus mainly on the delivery and performance of the planning system with regard to Mineral Planning and the impact that it has on our Members.

Founded in Northern Ireland in 1998 the Association now represents 95% of aggregate production in the Province. Our membership includes major, medium and smaller sized companies. The Association represents companies engaged in the supply of primary aggregates; the processing of recycled and secondary materials; the production of down stream processed products such as asphalt, lime, mortar, ready-mixed concrete, precast concrete and road surfacing contracting.

Aggregates and Mineral Products are among the very essentials of life - as important to us in their own way as the food from our farms. Mineral Products provide us with places to live, places to work, places to play and much more. They literally underpin our society.

Mineral extraction does, however, have environmental implications. Recognising this, the Northern Ireland industry aims to adopt a responsible approach to its work and a considerate attitude to its neighbours.

The Mineral Products industry in Northern Ireland directly employs some 5000 people, produces approximately 24 million tons of aggregates per year and has a turnover of around £700 million per year (2% of NI GDP). The Mineral Products Sector is a varied industry, with the majority of NI businesses family owned, alongside a number owned by large multinational companies, it is primarily a rural industry, supporting jobs in areas identified by Government as targeting social need (TSN). The full economic impact of the geoscience industry to the wider NI economy is calculated to be 83,700 jobs, £3.7 billion in Gross Value Added (GVA) and £1.8 billion in wages. More information on the economic value of the Geo Science sector to the NI Economy can be viewed at [https://www.ulster.ac.uk/data/assets/pdf\\_file/0010/406936/Economic-Impact-of-Geosciences\\_final-report-12th-April-2019.pdf](https://www.ulster.ac.uk/data/assets/pdf_file/0010/406936/Economic-Impact-of-Geosciences_final-report-12th-April-2019.pdf)

The majority of the Minerals Industry in NI is strictly controlled and has to meet high standards of environmental performance set by Government and the Planning Authorities. Unfortunately, due to planning legacy issues and the failure to bring forward legislation in relation to the Review of Old Mineral Planning Permissions (ROMPS) means that there are existing and recently reactivated sites operating on old permissions where no or limited environmental conditions apply.

MPANI recognise that it was the intention of the Department to commence the Review of Old Mineral Planning Permissions, Part 4 Chapter 4, in the 2011 Planning Act ( NI) but the decision was taken to delay its introduction due to the unprecedented economic impact of the recession at that time. This

decision was supported, at that time, by our Association. It is, and has been since the end of the recession around 2014, the MPANI view that the Department of Infrastructure along with the Planning Departments of the local Councils need to bring forward the necessary legislation to enact the implementation of a ROMPs system or equivalent as soon as possible. Such a move will,

1. Ensure that every mineral operation is governed by modern environmental conditions.
2. Ensure a level playing field for all operators in Northern Ireland.
3. Give added protection to the environment and protect the amenity of those living close to mineral operations.

It is the MPANI view that existing environmental and other regulatory enforcement is failing, resulting in responsible legitimate businesses being undermined by ineffective regulation and interpretation of existing laws.

In Northern Ireland we have a rich diversity of high-quality aggregates and minerals that generated, particularly after the last war, numerous quarries and sand pits to be opened with Government support to assist in the rebuilding of the economy and major towns and cities. The majority of quarries operating in Northern Ireland when the Planning Service was formed in 1973 did not have specific planning permission and operated under permitted development rights granted under the Planning (Interim General Development) Order (NI) 1944. The Planning (General Development) Order (NI) 1973 sought to rectify this situation by providing in Class 13 of Schedule 1 to that Order that the permitted development rights for mining undertakers only applied for one year from 1st October 1973. In effect, any quarry which wished to continue to operate beyond that date was to apply for planning permission. A number of planning permissions were then given during the 1970s and 1980s. In 1989, the Planning (Assessment of Environmental Effects) Regulations 1989 implemented Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. This shifted consideration of the environmental effects of quarry development and application of conditions when giving planning permission to a more stringent level. However, the result is that, while it is generally accepted that planning permissions granted since 1990 have effective environmental conditions attached, there are a number of the permissions dating from the 1970s and 1980s that are deficient in this respect. Indeed, a number of dormant quarries have been able to return to active status, by virtue of their old permissions, without any review of their operating conditions. It is our MPANI view that this is unfair and unacceptable in this modern economy when we expect and regulate long established responsible businesses to higher planning condition standards. MPANI are supportive of the introduction of Review of Old Mineral Planning Permissions (ROMPs).

MPANI have been striving, in the current absence of such a review mechanism, to encourage all of our members to have their sites EIA and Habitats Assessment covered. This can be achieved when they are applying for additional extensions by “drawing the red line” around their whole site to

include it in any environmental assessment therefore ensuring adoption of modern environmental standards. We believe there is an opportunity to establish a review system that all stakeholders can have confidence in. While having modern planning and environmental conditions applied MPANI would like to see a review mechanism that has the principles of responsible sourcing of construction materials built into it and that is supported by all public sector procurement, including local councils. Such a mechanism would recognise if a company / operator has the following;

- Health and Safety Management System.
- Environmental Management System.
- Quality Management System.
- Would recognise the operator's compliance record with statutory Agencies.
- Is a Member of MPANI and the Good Neighbour Scheme.
- Partnerships with local community groups / charities / NGOs etc.

MPANI also believe that clients such as the Department for Infrastructure have the power through their procurement policy and practices to;

1. Incentivise de-carbonisation in Industrial Processes and Transport.
2. Environmental performance of suppliers to government being built into procurement policy.
3. The need for trained, knowledgeable and competent regulators.
4. Setting binding targets for Biodiversity Net Gain and creating Natural Capital.

### **Need for a Review of Planning**

All Stakeholders would, and for some time, have been of the opinion that given the current timeframes for planning application processing now more than double the target, our Planning System is an impediment to sustainable development rather than a facilitator of it. Our main concern is the experience our Members have with significant delays at each stage of the development management process as a result of:

- Validation delay;
- Statutory consultee failure to adhere to timeframes for consultation; and
- The absence of a statutory timeframe for the determination of planning applications

MPANI believe that given over 5 years have passed since local Councils took over responsibility for Planning it is now time for a review. At the time of planning functions transfer MPANI (then QPANI) highlighted our concerns over abolishing the Minerals Unit (specialising in Minerals and Waste planning applications) and sharing that responsibility among 11 individual planning departments. Minerals and Waste are very specific types of Industries that have a high profile and have the capacity to impact negatively on the environment if not managed and regulated properly. It is the MPANI view that this review of Planning should recommend the establishment of a shared expert service governing Minerals and Waste planning. This shared service, (possibly within one of the larger mineral intense Councils or brought back into DfI) would be similar to the Shared Environmental Service (SES) residing within Mid and East Antrim. MPANI would also welcome the establishment of a Northern Ireland Minerals Forum where informed and rational debate can take place around issues such as;

1. Managing our future aggregates supply through Safeguarding of future mineral and aggregate resources that will be required for the development and maintenance of our infrastructure and building of homes.
2. Mineral Constraint Areas.
3. Access to valuable minerals in NI that will be vital for delivering a zero-carbon future and technological advancements in education, medical and high- tech industries.

### **Experience of Council Planning Departments across NI**

Our Members experience of working with Council Planning Authorities has been a mixed picture to be honest. Some Council Planning Departments, with experienced staff from the old DoE Minerals Unit and staff who have gone through some Mineral Planning training, have performed well and delivered timely decisions on Mineral Applications.

MPANI are aware of the DfI Strategic Planning Environmental Governance Initiative. We very much welcome the work that DfI, and their appointed Planning Consultant, have been doing with the Environmental Officers Forum of the local Councils to deliver EIA training, which is IEMA accredited, to council planning officers

We also welcome the work the NI Local Government Association (NILGA) have also been working with DfI and the Consultant to deliver training to local Councillors who sit on Planning Committees to make them more aware of EIA and Habitats Directive legislation. It is important that Councillors understand what their role in the Planning Process is and that when they receive a

minerals application subject to an EIA or HA Assessment, they understand what they are looking at and have a working knowledge of the requirements.

The importance of both having the numbers and the IEMA accreditation will grow both public and internal confidence in the mineral planning system. The increased competence within the planning system, which is a requirement of the new EIA amendment act should also reduce the likelihood of legal challenge.

### **Local Development Plans**

MPANI have, on behalf of our Members, submitted responses to all of the local Council Development Plans and Draft Plan Strategies.

It is vital that Local Development Plans recognise the importance of the essential minerals supply and infrastructure and includes measures to protect valuable mineral resources from sterilisation by development. Such measures include:

1. Defining safeguarded sites e.g. zoning - including proposed preferred areas and existing sites to be protected from encroachment and / or re-development. This would also protect a residence from any potential or perceive nuisance factor.
2. Defining Mineral Safeguarding Areas and Minerals Consultation Areas - for use by the 11 District Councils in plan-making and considering planning applications.
3. Setting out requirements detailing the circumstances when the District Councils should consult the mineral planning authorities on proposals that may affect minerals or minerals infrastructure.

MPANI also have submitted evidence to the CBI Report, “**An Opportunity to Level Up Planning**”, the Northern Ireland Audit Office (NIAO) report into the performance of the NI Planning System and we have supported the Ministers proposal to establish an NI Infrastructure Commission.

### **The Role of Statutory Consultees.**

MPANI warmly welcome the report written by John Irvine of DfI which looks at the role of statutory consultees within the NI Planning process. The paper considers how stakeholders can come together to streamline the process to build capability and improve the efficiency and responsiveness of the system,

particularly for major and economically sensitive applications. MPANI would call for quick implementation of the Irvine report recommendations.

Statutory Consultees play an essential role within the planning process. There is a clear need to change the Planning System culture here in Northern Ireland and as such we would support the full adoption of the Irvine Reports 4 main conclusions and 13 recommendations for consideration.

### **MPANI comment on the Call for Evidence.**

In all modern economies it is widely recognised that an efficient planning system is a key enabler for a range of outcomes at local and regional level. There is a clear need to increase resources to build capability and improve the efficiency and responsiveness of the planning system

MPANI welcome the openness of this review established by the Minister and her intention to look at how the current Planning Act is delivering for all stakeholders, take on board those views, and implement changes to improve the planning process for everyone.

MPANI also support the view that given the experiences of COVID and the impact of Brexit on our NI Economy in recent times our Planning System needs to be flexible and innovative to manage future unforeseen economic and environmental challenges, particularly the climate emergency.

MPANI has highlighted above our views on changes we wish to see to the Mineral Planning process above, namely;

1. Establishment of a review mechanism to ensure that environmental conditions on mineral sites are kept up to modern standards.
2. Establishment of a local Council shared service for the management and processing of Mineral Planning in NI.
3. Implementation of the recommendations of the Irvine Report.
4. Continuing capability and knowledge building through the Environmental Governance Initiative.
5. Adequate resourcing of the pre-application community engagement process.

As an organisation we work with other Industry Bodies within the Construction Industry and wider Economy. MPANI are represented on the CBI Infrastructure Forum and have contributed to the CBI Response to this call for evidence. We fully support the following points put forward by CBI (NI);

1. The need for a Planning System that enables, delivers and adapts.
2. Establishment of an independent working group to simplify the Local Development Plan preparation and adoption procedure to take account of rapidly changing economic and environmental realities.

3. Councils should be obliged to take account of agreed NI Executive Strategies;
  - the Environment Strategy
  - the Investment Strategy
  - the Economic Strategy
  - the Energy Strategy
4. Clarity in Pre-Application Engagement and Timetabling.
5. Streamlining the pre-application community consultation (PACC).
6. Introducing statutory timeframes for decision-making.
7. Streamlining the Notice of Opinion procedure for regionally significant developments.
8. Expanding the scope of regionally significant developments.
9. The introduction of a statutory pre-application process. Such a process would have the aim of securing a clear, comprehensive and coordinated view of the requirements for information and analysis.
10. To further develop and shape a meaningful pre-application process, the role of non-statutory “processing agreements” should be considered.
11. The 12-week PACC process for major and RS applications should be reduced to 8 weeks where applicants have demonstrated to the relevant planning authority, within the Proposal of Application Notice (PAN) that “meaningful engagement” with the community can be delivered through digital engagement, alongside the existing requirement to hold a public event.
12. Statutory timeframes for the determination of regionally significant applications and major applications should be introduced following this review. Fines should also be payable to the applicant where mandatory periods are not met.
13. Consideration should be given to expanding the definition of RS applications to include a broader remit of strategic infrastructure developments to facilitate more efficient and timely delivery of developments carrying regional significance.

**Gordon Best**  
**Regional Director MPANI**