

Isles of Scilly Local Plan 2015 – 2030

Examination Statement – Minerals and Waste

Mulciber Limited

This statement does not seek to repeat all of the points made to date, but focusses on the main elements of those points. This statement should be read together with Mulciber's two responses (minerals and waste) dated 13 September 2019 (including the key Appendices 1 and 2); the two responses (minerals and waste) dated 03 April 2019; the SA consultation response of 02 May 2018; and the Local Plan Consultation response dated 02 May 2018.

1 EXECUTIVE SUMMARY

- 1.1 Proper regard has not been had to National Policy, because the Local Plan does not:-
1. safeguard mineral sites
 2. safeguard waste sites
 3. provide for the mineral needs of the Islands.
- 1.2 The SA has not considered reasonable alternatives to 'no primary minerals extraction' on the islands. Nor has it assessed the impacts of such a decision.

2 SUMMARY OF CONSULTATION RESPONSES (EB04)

- 2.1 The Council consider that they have had regard to National Policies and that a specialist consultant has been engaged throughout the development of the Plan.
- 2.2 Whilst it is not denied that the Council have viewed the relevant parts of the NPPF, it is disputed that the Council has had proper regard to the NPPF. 'Regard' in s19(2) PCPA 2004 does not mean a fleeting reference to and thereafter ignoring. In addition, the references to the consideration of the relevant NPPF policies within the document demonstrates a fundamental misunderstanding of its meaning, such that it cannot be considered that proper regard has been had.
- 2.3 Primary aggregate is a standard by-product of primary mineral production. It is not intended to produce primary aggregate in significant quantities, Mulciber agree that the use of secondary aggregate remains preferable (as set out in national policy). However, some blending of primary aggregate with secondary is occasionally required in order to produce a superior product.

- 2.4 None of the consultation responses indicate a valid reason not to safeguard mineral resources in accordance with national guidance.
- 2.5 Comments on exposed, coastal location and on tranquillity, residential amenity dealt with below.

3 MINERALS RESOURCE ASSESSMENT (EB043)

- 3.1 The Mineral Resource Assessment does not in fact assess the islands' mineral resources. The only evidence as to the location and quality of minerals on the islands is contained within Appendix 1 of Mulciber's consultation response of 13/09/2019, which makes a case for safeguarding potential heritage mineral sites. Clearly, local stone has been used in the past, and continues to be used, as can be seen throughout the island and confirmed within the MRA.
- 3.2 The conclusion¹ is misconceived. The NPPF does not seek to protect "active quarries", but requires that mineral resources should be safeguarded by Mineral Safeguarding Areas so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided. Advice from the BGS (referred to in the PPG²) also confirms that safeguarding does not involve consideration of the full range of land use planning constraints that might apply if extraction were to be considered. Issues such as environmental, social and cultural impacts of mineral extraction are matters which must be left for consideration by the planning process³.
- 3.3 Further, the PPG specifically addresses the question of safeguarding in designated areas⁴.
- 3.4 Mineral resources of local and national importance are defined in Annex 2 of the NPPF, to include "*local minerals of importance to heritage assets and local distinctiveness*".
- 3.5 The site at Pendrethen has been shown to be a mineral resource and therefore warrants safeguarding.
- 3.6 The MRA relies on the results of a survey which records that "*in addition to recycled materials produced at the Pendrathen site, there are some sources of material already obtained locally including the 10 tonnes of granite and 30 tonnes of crushed rock and aggregate at Pendrathen*" when it is in fact the operators of Pendrethen who are suggesting that in order to continue that

¹ EB043 para 44

² PPG Paragraph: 003 Reference ID: 27-003-20140306

³ BGS – Mineral Safeguarding in England: good practice advice - <http://www.bgs.ac.uk/downloads/start.cfm?id=2069>

⁴ PPG Paragraph: 004 Reference ID: 27-004-20140306

supply the mineral should be safeguarded and the policy to permit small scale extraction.

- 3.7 Mulciber is not suggesting significant primary local aggregate extraction⁵, but (very) small-scale production (per NPPF⁶).
- 3.8 The NPPF requires⁷ that Planning policies should provide for the extraction of mineral resources of local and national importance... Local granite fulfils that definition in these circumstances.
- 3.9 Contrary to the SOCG⁸, the MRA does not provide any evidence of “*poor quality of local minerals as quality building materials*” – that is strongly disputed by Mulciber.

4 SUSTAINABILITY APPRAISAL (SD10)

- 4.1 Para 5.107 (refers to old policy numbering). Repeats “The vernacular style of the islands’ buildings means there may always a demand for local stone”.
- 4.2 The SA records⁹ that “A further respondent was concerned about options for minerals resources; this was considered to be a matter for plan-making as the SA will assess any identified reasonable alternatives” (also see page 8/9 of Appendix VIII) – but no consideration of these alternatives has been undertaken.
- 4.3 Section 19(5) of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out a sustainability appraisal of each of the proposals in a plan during its preparation. More generally, section 39 of the Act requires that the authority preparing a plan must do so “with the objective of contributing to the achievement of sustainable development”.
- 4.4 SA Objective 10 – “ensure the sustainable use of mineral resources including the use of recycled and secondary aggregates”.
- 4.5 The proposals put forward by Mulciber are a reasonable alternative. However, there is no indication that an assessment of reasonable alternatives has been carried out¹⁰.

⁵ EB043 para 47

⁶ CE01 - NPPF para 205(f) and (g)

⁷ CE01 - NPPF para 204 (a)

⁸ SD03 Para 43 (p24)

⁹ SD10 Para 6.6 (p52)

¹⁰ See para 5.6 of the SA (SD10) and para 16 of the SA NTS (SD11).

5 SOCG WITH CC (SD03)

- 5.1 The SOCG references future waste projects. The plan should safeguard existing waste sites.
- 5.2 The SOCG records that¹¹ there continues “*to be some demand for local stone even with modern construction methods*” and local stone is a key characteristic of the vernacular. There are further references¹² to use of granite – consistent with examples in App A of Reg 19.
- 5.3 The SOCG¹³ refers to stone being shipped from Cornwall, for the reasons set out previously, that is not guaranteed to be the case.
- 5.4 Cornwall Council do not agree the position on the Minerals Assessment paper in the SOCG, it simply records that the MRA came to some views (some of which it did not).
- 5.5 In coming to the view on mineral operations, no regard has been had to the current waste operations being carried out at the site. The effects of the current waste operation are relevant.
- 5.6 It should not be forgotten that there were only 2 responses to the IoS survey. In any event, those two responses indicated a need of 10 tonnes of granite (100 tonnes over the next 10 years).
- 5.7 It is agreed that historically use has been made of stockpiles. But these are now in short supply. There is no evidence of any remaining stockpiles to fulfil the need – within the Examination Library or elsewhere.
- 5.8 The target for Policy OE6 is to achieve 100% of local materials using reclaimed/recycled local stone or new materials from Cornish/South-West locations. However, there is nothing which assists the achievement of that target when stone could easily be sourced from other locations (and still be Planning Policy compliant).
- 5.9 Aside from stone required for the repair or improvement of heritage assets, which has not been considered, it is wrong to assert that IoS will otherwise be reliant on minerals from the south west¹⁴, there is no requirement to do so, the supply will be as market forces dictate. Notwithstanding Cornwall’s massive surfeit of granite, Chinese granite has been used in preference to local granite on numerous occasions (e.g. construction of National Maritime Museum (2001) Falmouth; paving slabs in St Just (2005); and perhaps most ironically, as the slab for the statue of a miner in Redruth (2008)).
- 5.10 It is somewhat ironic that the SOCG refers to CLP Policy 18 – Minerals Safeguarding, given that the IOS Local Plan does not seek to safeguard.

¹¹ SD03 para 40

¹² SD03 para 44

¹³ SD03 para 42

¹⁴ SD03 para 51

- 5.11 The SOCG also records CC's comments on the Plan¹⁵. CC's comments on policies OE5 and OE6 on page 37 and 38, (which accord with those of Mulciber) are recorded. These comments from CC have not been adequately addressed at any point. The Council's responses reiterate their approach that as there is no mineral extraction no safeguarding is required – that approach is plainly incompatible with the NPPF, which seeks to protect mineral resources.
- 5.12 The SOCG does not refer to it being inappropriate to advocate extraction of minerals, para 41 refers to aggregate extraction.

6 SOUNDNESS SELF ASSESSMENT CHECKLIST (SD09)

- 6.1 Document SD09 addresses section 12 of the NPPF.
- 6.2 It refers to an "*extensive resource of building stone to meet building needs will need to be imported. The low levels of development proposed over the plan period are unlikely to require future small scale extraction*"¹⁶ and it is "*not considered necessary to identify minerals safeguarding areas on the basis that there are not currently any active quarries on the islands.*"¹⁷
- 6.3 The Local Plan does not seek to safeguard minerals – ostensibly on the basis that there are no active quarries. However, safeguarding is not solely to protect existing quarries, but to protect mineral resources and so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development¹⁸.
- 6.4 Similarly, the NPPF states that planning policies should "*safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material*"¹⁹. Given the Local Plan's reliance on and promotion of recycled and secondary materials, the site at Pendrethen merits safeguarding. However, the soundness check makes no reference to the safeguarding of this site (or others).

¹⁵ E.g. see pages 37 and 38 of SD03

¹⁶ SD09 - Page 34 – Evidence provided column.

¹⁷ SD09 - Page 34 – Evidence provided column.

¹⁸ CE01 - NPPF para 204(c)

¹⁹ CE01 - NPPF para 204(e)

7 RESPONSES TO THE INSPECTOR'S QUESTIONS (EX02)

Q1.4 – Sustainability Appraisal

7.1 See Q3.6 and Sustainability Appraisal comments above.

Q3.1 – OE5 consistent with national policy and justified?

7.2 It does not ensure the need for waste facilities as set out in NPPW.

Q3.3 – co-location necessary to be sound?

7.3 Yes, Policy OE5(4) sets out some requirements, but do not follow the NPPW. Bearing in mind that decisions are to be made in accordance with the development plan unless material considerations indicate otherwise, failing to have proper regard to the NPPW now, at the plan making stage, can result in a different approach to determination of any planning application – it is not consistent with national policy.

Q3.4 – need to safeguard waste sites to be sound?

7.4 Whilst not explicitly referencing safeguarding, the NPPW does recommend the need to “ensure that the need for waste management facilities is considered alongside other spatial planning concerns, recognising the positive contribution that waste management can bring to the development of sustainable communities”. The Council have taken the opportunity to safeguard other sites, but has not considered waste management facilities alongside them.

Q3.5 – OE6 promoting recycling and secondary; and restricting direct extraction consistent with national policy and justified?

7.5 Promotion of recycled and secondary construction materials is consistent with national policy. A restriction on direct extraction is not.

7.6 Mulciber does not seek promotion of direct extraction over recycled and secondary construction materials (it provides these already from its Pendrethen site). Mulciber simply recognises that these materials do not provide the solution in all cases and that there is a demand (and need) for the provision of stone which matches the local vernacular. As such, some provision (for an appropriate amount of stone) is necessary and should not be restricted by the Local Plan – limited, small-scale, primary extraction should be supported where

it is not possible to provide the necessary materials through recycling and secondary aggregates.

- 7.7 This 'small-scale extraction' is supported by the NPPF²⁰.
- 7.8 It may be that the current interpretation of the policy is a consequence of clumsy drafting (though the thrust of the supporting text also indicates an intention to restrict).
- 7.9 Restriction on direct extraction is not justified by robust evidence.
- 7.10 No reference has been made to the relevant paragraphs of the NPPF on small-scale extraction, nor on development within the AONB²¹, nor on minerals generally²².
- 7.11 The NPPF's reference to minerals being essential²³ has been omitted in the consideration of minerals.

Q3.6 – OE6 sustainability?

- 7.12 The approach in OE6 has not been assessed against reasonable alternatives at all.
- 7.13 There is no evidence about sustainability of importation of minerals (wherever they come from).
- 7.14 The sustainability of an approach not to safeguard mineral resources, contrary to national policy, has not been assessed.
- 7.15 The approach is not justified – it is not an appropriate strategy, it does not take into account reasonable alternatives, it is not based on proportionate (or any) evidence.
- 7.16 The approach is not consistent with National Policy.

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²⁰ CE01 - Para 205 (f) and (g)

²¹ CE01 - Para 172

²² CE01 - Chapter 17, paras 203-208.

²³ CE01 - NPPF para 203