

Anna Hoare

RESPONSE TO:

Oxfordshire County Council

TOPIC PAPER: RESTORATION OF MINERAL WORKINGS

Revised April 2016

General comments:

Welcome content of this paper includes:-

- the relevance of provisions of the National Planning Policy Framework (NPPF) with regard to the restoration of mineral workings;
- recognition of the importance of the UK Biodiversity Action Plan (BAP), and the inclusion of Oxfordshire's BAP and Conservation Target Areas (Section 3);
- recognition of the need to conserve geodiversity (although, see comments below.)

Aspects of the Topic Paper that need to be improved:-

- Limited recognition of, and importance attached to, Local Plan strategic policies relating to valued landscapes;
- Limited understanding of the range, type, and therefore conservation significance & methods, of earth science features (incorrectly referred to throughout as 'geology');
- Limited understanding of the crucial connection between geodiversity and biodiversity;
- Absence of list and citations of relevant statutory frameworks and national guidance.

The data relating to, and understandings of, many of the above issues are somewhat out of date, generalised, and repeat previous documents, rather than reflecting current knowledge, policies and guidance to government by chief advisory services. This has important implications for informed policy-making.

Suggestions:

(1) Earth Sciences

The JOINT NATURE CONSERVATION COMMITTEE (JNCC) (parent body to Natural England) is the chief advisory body to government on biodiversity and geodiversity conservation. JNCC's ***Common Standards Monitoring Guidance for Earth Science Sites (2004)*** and ***Guidelines for Selection of Earth Science SSSIs*** provide clear information on the issues involved. Oxfordshire County Council's Minerals and Waste Policy should be taking guidance from this document. Key points (not reflected in the Topic Paper) include:

- Earth science features are grouped under seven themes, only one of which includes 'geology'. The conservation implications are different for each area: maintaining stratigraphic exposures (the only method referred to in the Topic Paper) is not relevant for many aspects of geodiversity, and the Topic Paper does not reflect an understanding of the priorities and conservation needs of earth science sites.
- SSSI sites for earth sciences are not merely museum examples of unusual aspects of the formation of the earth's surface: they are also living laboratories for scientists investigating new discoveries and testing scientific theories. They serve a crucial educational role for earth scientists, and are an under-used resource for public and school education.
- Every SSSI is usually the only example of a specific range of special interest features and therefore should be accorded the highest conservation importance.

The topic paper reflects an outdated understanding of earth sciences and geo-conservation, and is very likely to lead to policies that would lead to the destruction and neglect of important sites and features. (This has already occurred in Oxfordshire.) At 3.21, the paper states that:

"During 2010 two sites were found to be in poor condition or lost, primarily due to being infilled when the operators were unaware of their significance."

A responsible, effective and well-informed body of policy should clearly be able to prevent such calamities from happening.

The topic paper should recognize that geodiversity conservation involves public benefits that encompass science, education, and natural heritage. Policies for geodiversity conservation are therefore comparable to, and as important as, policies for the heritage conservation of

historic architecture and landscape. This should be a key principle of restoration policy, particularly where SSSI sites are concerned.

(2) Geodiversity and Biodiversity

JNCC Report No. 450, 2011: '*Ecosystem sensitivity and responses to change: understanding the links between geodiversity and biodiversity at the landscape scale*' should inform the Minerals and Waste Policy regarding restoration of mineral workings.

Report No. 450 is not recognized or cited in the Topic Paper, which appears to regard the co-existence of geodiversity and biodiversity as random or coincidental.

In reality the two are interdependent, and an understanding of this should inform policies on the restoration of mineral workings.

(3) Topic Paper: Structure and Clarity

Overall, this paper lacks the clarity of meaning and intention of the 2012 Topic Paper it replaces. Many statements (examples below) are ambiguous or vague, and much space is given to a very lengthy account of earlier policy development. It is often unclear precisely what is being preserved from the earlier policies, and what is being replaced.

3.29 What does the acronym 'BMV' stand for? (Need to bracket 'Best and Most Versatile')

3.30- 3.31 How are the potential '**community benefits**' described to be achieved or supported by policy measures? How are Health and Safety restrictions imposed by quarry operators (which generally result in no access to working quarries,) to be made compatible with community benefits and scientific investigation? What policies and planning conditions will lead to the aims described?

5.1 '**Materials that are not removed as part of mineral extraction can normally be directly re-used in site restoration.**' This statement is unclear. Does it refer to soils from the minerals site alone, or imported material? If the latter, how will the material be judged compatible with the existing site from a conservation perspective?

'Inert material from construction and demolition sites (CDE waste)' is still capable of radically altering acidity/ alkalinity, soil structure and mineralisation, water absorption etc, and therefore can impact significantly on geodiversity and biodiversity.

This section needs to be re-examined and revised in order to ensure it does not conflict with conservation aims, and greater testing, approval, monitoring and surveillance is needed over imported materials at all stages.

5.9 'The question of whether use of inert waste as fill to restore quarry workings is disposal or recovery is primarily an environmental permitting issue, under the Environmental Permitting Regulations 2010. For the purposes of planning, the primary issue is whether the waste material is needed to satisfactorily achieve the planned quarry restoration rather than the technical issue of whether it is disposal or recovery. For planning purposes, if the use of inert waste as fill is necessary to achieve the planned quarry restoration to a beneficial after use then it should be seen as being an integral part of the overall mineral working operation and not as a separate landfill development.'

As noted above, this is a critical issue with regard to conservation, and policy needs to be more carefully thought through and clearly stated in order to prevent conservation disasters. I do not believe that the Environment Agency alone is capable of determining the range of issues involved, or providing all the specific areas of expertise needed.

Section 6: ***Funding for restoration for nature conservation***

It is not clear from this section how landowners' co-operation will be secured to meet the aims or 'options' described, or whether planning conditions will be used to require best practice as developed by the industry sector, and compatible with the UK BAP and JNCC's guidelines on earth science sites. Paragraphs 6.1 to 6.3 are unclear in intention and strategy.

Section 7: ***Planning Policy on Mineral Restoration***

The presentation of this section is particularly confusing and cumbersome, setting out 'previously relevant' policies next to current NPPF policies.

Table 3: *Links Between pre-NPPF Policy, NPPF Policy and Policies in the Submission Plan*

I welcome **Objective ix**: "Provide benefits to Oxfordshire's natural environment and local communities through the restoration and aftercare of mineral workings at the earliest opportunity, in particular by contributing to nature conservation, enhancing the quality and extent of Conservation Target Areas, contributing to landscape character, improving access

to the countryside, safeguarding local amenity, providing opportunities for local recreation and providing benefit to the local economy.”

However, in addition to ‘nature conservation’, there should be a statement on earth science conservation.

Policy M10 should also include a statement on geodiversity.

It is not clear how or when ‘financial mechanisms’ to ensure restoration would be used, or how ‘where necessary’ would be determined.

What does ‘take into account’ ‘the quality of any agricultural land affected’ mean?

Objective x should be clarified by reference to the Oxfordshire BAP approach to conservation.

I welcome **Policy C7**.

Objective ix is unclear and seemingly contradictory. The ‘harmful impacts of mineral development’ are well-recognized, and largely unavoidable during active extraction processes. However there are also, ultimately, compensations and possible net gains to be made in the restoration process and management of previously worked land. This objective needs to be worded more clearly (see JNCC papers already referred to).

I welcome **Policy C7**.

I welcome **Policy C11**.

Section 8 : ***Preferred Options 2007 etc*** is somewhat confusing, historical, and perhaps unnecessary? Could it be reduced to the key policy actions going forward, following consultations? Is Policy M6 still current in the form quoted?

I am unclear of the current status of Policies M6, C4 & C8

8.25 In the wording of **Policy M7**, the phrase ‘***Restoration and afteruse should accord with any restoration strategy for the area concerned in a site allocations development plan document***’ is meaningless and contradictory: it the County Council’s role to determine the ‘restoration strategy’ through these very policies, and to apply them through planning conditions. This phrase needs to be deleted. It appears that the re-

writing of this section is designed to allow landowners to seek alternative uses for previously worked land, in order to avoid carrying out restoration conditions.

In **Policy M7**, the phrase: '**Where restoration could protect and/or improve geodiversity and improve educational opportunities this should be incorporated into the proposed restoration scheme, such as by providing for important geological faces to be left exposed and enabling access to the faces**' needs to be reworded in order to accord with the diversity of conservation needs of earth science sites as described by JNCC. The common assumption that only 'faces' need to be preserved is a misunderstanding of the variety of earth science features and their importance for scientists.

In **Policy M7**, the statement: '**Where appropriate, operators and landowners will be expected to make provision for the management of restored mineral workings for an extended period, beyond any aftercare period required by condition, including making appropriate financial contributions**' is unclear. What does 'where appropriate' mean? How will it be determined and applied?

In **Policy M7**, the phrase '**Where restoration could assist or achieve priority habitat or species targets and/or Biodiversity Action Plan targets**' should be re-worded to state:

'restoration should seek to protect and improve priority habitat and species and to support the objectives of Oxfordshire's Biodiversity Action Plan, and these aims will be incorporated within the restoration scheme.'

Similar re-wording is required for the equivalent section on geodiversity, subject to my comments above.

'Local amenity use' should be re-worded to include, '**that is compatible with the aims of nature conservation, biodiversity and geodiversity.**'

I generally welcome the excerpt from **Policy C5**. However the statement: '**developers will be expected to make an appropriate contribution to the achievement of Biodiversity Action Plan targets through the maintenance and enhancement of the Conservation Target Area and relevant Biodiversity Action Plan priority habitats**' needs to be reworded, in order to reflect the legal status and statutory protection of

Priority Habitats and European Protected Species. The phrase 'make an appropriate contribution' suggest that Priority Habitats are a voluntary matter: they are not!

Re **Policy C5**: -

*****The relevant statutory framework, legislation and Planning Policy Guidance needs to be clearly cited and listed! *****

Policy M8 (now renumbered??) needs to be reworded, and separate aims made clearer and more specific. As it stands, it seeks to cover too many diverse aims under the inadequate term 'take in to account'. The phrase 'taking into account' is notoriously vague and does not establish clear policy aims. It should be deleted, a full stop inserted following 'biodiversity', and re-worded more clearly as, for example:

'Restoration of mineral workings should be sympathetic to, and in accordance with: -

- *the characteristics of the site prior to mineral working;*
- *the character of the surrounding landscape, including landscape policies of the Local Plan;*

Restoration should:

- *protect Priority Habitats, European Protected Species, nationally designated sites, and sites of regional or local importance;*
- *Enhance biodiversity and protect heritage assets of geodiversity for the benefit of the community;*
- *further the objectives of the UK Biodiversity Action Plan, in accordance with Oxfordshire's BAP objectives;*
- *Include opportunities for improving local access and providing amenity uses that are compatible with the aim to protect and enhance biodiversity and geodiversity, and in accordance with the need for aviation safety;*
- *Prevent or mitigate flood risk and enhance flood storage capacity.*

Policy C7: delete 'will make an appropriate contribution to' and re-word to be clearer and more specific.

Delete: '*wherever possible*'.

Delete: '*(should habitat creation and/or mitigation prove unsuccessful)*'.

Delete: '*shall*' wherever used and replace with '*will*'.

Policy C11: Delete: '*will generally be encouraged*' and replace with '*will be sought*'.

Delete: '*especially if this can be linked to wider provision of green infrastructure.*'

Delete: '*Where appropriate*' and '*will be expected*' and re-word as: '*Restoration and aftercare plans will include provisions for improving rights of way and public access.*'

Policy M10 etc etc – see comments and suggestions above re previous numbering system of these policies. The wording and clarity of this policy is unclear and inadequate.

Note: The inclusion in the Topic Paper of a lengthy history of policy development, including re-numbered policies, has made this a rather difficult paper to respond to and navigate. If my comments on various sections and objections to wording are unclear, please contact me for clarification. Many thanks.