

MEMORANDUM OF UNDERSTANDING (MoU)

Facilitating the steady and adequate supply of aggregates and industrial minerals; meeting demand for other non-energy minerals; and delivering sustainable waste management across Gloucestershire, Herefordshire and Worcestershire

1. Purpose and scope of the MoU

- 1.1. The purpose of this MoU is to establish an initial overarching framework setting out the roles and responsibilities that will aid collaborative working and, where necessary, the establishment of future statements of common ground or other such agreements on strategic matters relevant to the local Minerals and Waste Planning Authorities (M&WPAs) of Gloucestershire County Council (GCC), Herefordshire Council (HC) and Worcestershire County Council (WCC). The MoU will help to demonstrate how statutory obligations under the Duty-to-Cooperate (DtC) are being met¹ specifically in respect of facilitating the steady and adequate supply of land won sand and gravel and crushed rock aggregates and industrial minerals; the delivery of sustainable waste management throughout the geographical areas that make up the three Mineral and Waste Planning Authorities (M&WPAs).
- 1.2. The MoU will promote the adoption of good practice partnership working aimed at establishing a clear, mutually beneficial and consistent approach to evidence gathering and data interpretation on aggregate minerals and waste management matters across the three M&WPA areas. The information collected will primarily support local plan-making functions carried out by signatories but may also contribute towards decision making with individual planning applications. Furthermore, published outputs maybe of use at a strategic level. They may help to inform future aggregate supply or waste management policy development undertaken sub-nationally or nationally by Aggregate Working Parties (AWPs)² and / or the National Aggregate Coordinating Group (NaCG) and / or groupings of WPAs brought together through joint working commitments such as those set out in MoUs, Statements of Common Ground (SoCG) , or revised terms of reference of those Waste Technical Advisory Bodies (TABs), which still remain active following the replacement of national Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management³.
- 1.3. The MoU is centred on ensuring consistent, coordinated and effective collection, analysis and dissemination of information relating to: -

¹ Clause 110 of the Localism Act (2011) introduces an amendment to Part 2 of the Planning & Compulsory Purchase Act (2004), which imposes a duty to co-operate in relation to planning of sustainable development for local authorities and other prescribed bodies.

² The AWPs most likely to be affected / influenced by aggregate mineral information facilitated by the MoU include: - the South West Aggregate Working Party (SW-AWP) and the West Midlands Aggregate Working Party (WM-AWP);

³ The NaCG is specifically referred to within the National Planning Policy Framework (NPPF) as an advisory body in the planning for the steady and adequate supply of aggregates by signatories (see NPPF paragraph 145). Further information on the role and function of the NaCG is set out within national Planning Practice Guidance (nPPG), which explains it has a monitoring function related to the overall provision of aggregates across England as delivered through the Managed Aggregate Supply System (MASS). (See nPPG minerals section, paragraph: 060, reference id: 27-060-20140306). The National Planning Policy for Waste (NPPW) contains policy relating to working jointly and collaboratively with other planning authorities.

- the annual supply of aggregates sourced from across the MoU area;
- the annual movements of waste across the MoU area;
- the evolution of aggregate supply trends over time (divided between indigenous sources, imports and exports) for each M&WPA;
- the amount of land-based permitted aggregate reserves contained across the MoU area;
- the amount of permitted waste capacity across the WPA area;
- the anticipated impact that remaining land-based permitted aggregate reserves or waste capacity may have on evolving supply trends; and
- the implementation of land-use planning tools aimed at the effective management of mineral resources and waste infrastructure throughout the MPA areas (i.e. the safeguarding of minerals and waste infrastructure⁴ and the avoidance of needless mineral sterilisation⁵).

2. Status of the MoU

- 2.1. The signatories acknowledge that this MoU is not a legally binding contract but, is a statement of intent, which creates a foundation for on-going co-operation between the signatories.
- 2.2. For the avoidance of doubt, this MoU supports the preparation of local plans but is not itself a policy document. Any policy-related matters contained in this MoU should not be taken as setting the planning policy for any particularly part of the MoU area. Policy making is a matter for each of the M&WPA to decide through their local plans.

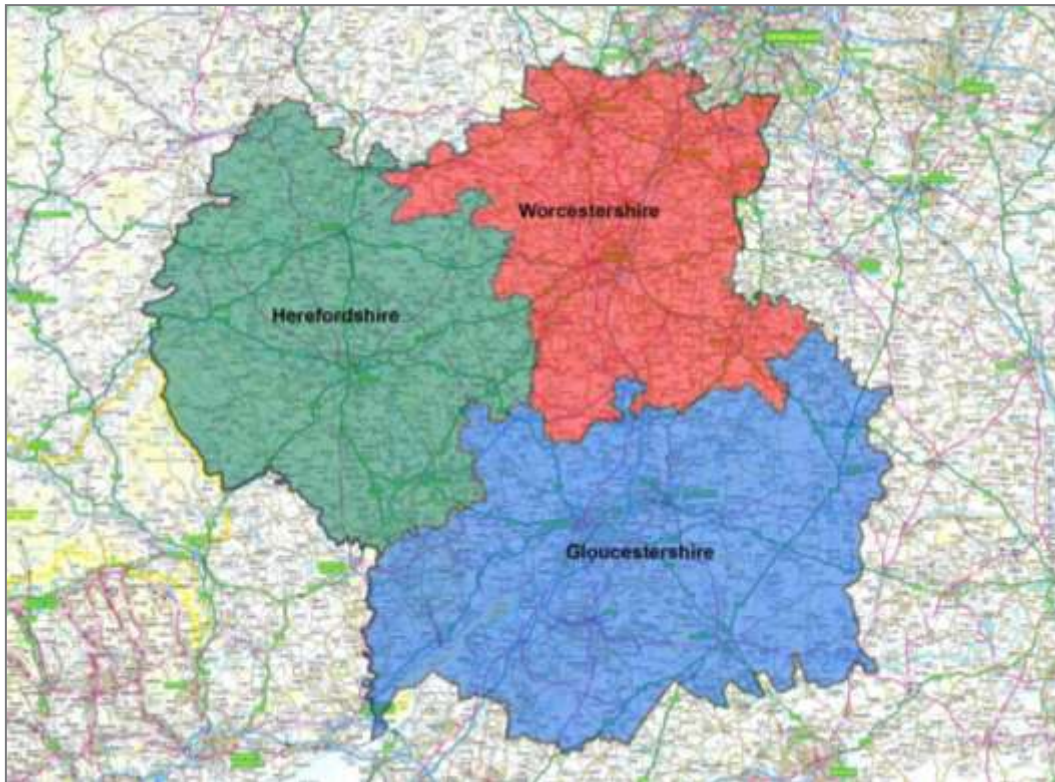
3. The geographic coverage of the MoU

- 3.1. Figure 1 displays the geographic coverage of the MoU boundary, applicable to the MoU ('the MoU area'). It is made up of roughly 650,000 hectares covering the administrative boundaries of the three mineral and waste planning authorities.
- 3.2. The MoU area will be reviewed periodically to ensure it continues to remain appropriate and fit for the purpose.




⁴ National Planning Policy Framework (NPPF) paragraph 143 sets out the types of mineral infrastructure that should be subject to safeguarding arrangements. Paragraph 8 of the NPPW sets out the requirements for waste safeguarding.

⁵ National policy and guidance on the implementation of mineral resource safeguarding through the avoidance of needless sterilisation is established under National Planning Policy Framework (NPPF) paragraph 143 and National Planning Practice Guidance (NPPG) Minerals section, paragraphs 002 – 005, reference id: 27-002-20140306.

Figure 1: MoU boundary – ‘the MoU area’



The administrative authorities (the mineral and waste planning authorities (signatories)) contained within the MoU boundary: -

-  Herefordshire (Unitary) Council
-  Worcestershire County Council
-  Gloucestershire County Council

4. Current sales & reserves data, mineral resource & infrastructure safeguarding monitoring and waste data practices | as of November 2018

Aggregate sales & reserves data

- 4.1. There is an expectation that all MPAs across England will collect data on mineral sales and reserves in their area on an annual basis to inform their Local Aggregates Assessments (LAAs). LAAs may be incorporated within / or be published in addition to Authority Monitoring Reports (previously known as Annual Monitoring Reports) (AMRs). Collated aggregate datasets at the sub-national level are also regularly published within Aggregate Working Party (AWP) annual reports. These include the outputs from signatories within the relevant AWP area (SW AWP for Gloucestershire and WM AWP for Herefordshire and Worcestershire). In addition, there is a national four-yearly aggregate mineral (AM) survey. This is a commissioned study in England and Wales by central government and covers all signatories. It contains similar information on sales and reserves as collected annually by signatories and introduces data on the movement of aggregates (i.e. imports and exports) throughout the country and beyond. The most recent

AM survey took place in 2014⁶. At the sub-national level land-won aggregate data across the signatories contributes towards the relevant AWP collations.

Waste data

- 4.2. Waste data is collected nationally by the Environment Agency and published through the Waste Data Interrogator. Additional information on Local Authority Collected Waste is collected by the relevant Waste Disposal Authority (WDA). WPAs may publish relevant waste figures within their AMRs.
- 4.3. Sub-nationally Herefordshire and Worcestershire contribute towards the work of the West Midlands TAB and Gloucestershire contributes towards the South West TAB. There is no national policy requirement to participate within the TABs.

Minerals & Waste resource and infrastructure safeguarding and plan preparation.

- 4.4. National policy requires MPAs to prepare a local policy framework to ensure that the sterilisation of locally and nationally important mineral resources will be avoided and that mineral-related infrastructure will be safeguarded⁷. As a consequence all MPAs must undertake necessary preparations to this effect when developing their suite of local mineral policies for the future.
- 4.5. Herefordshire consulted on a draft Minerals and Waste Local Plan from January to March 2019. Worcestershire undertook a 4th call for minerals sites from September 2017 to January 2018, and consulted upon a revised draft MLP from December 2018 to February 2019, their Waste Core Strategy was adopted in 2012. Gloucestershire published its pre-submission / Publication MLP between May and July 2018 and submitted the MLP to the Secretary of State in December 2018. The Gloucestershire WCS was also adopted in 2012. All emerging plans will cover mineral safeguarding issues and the use of Mineral Safeguarding Areas (MSAs).
- 4.6. The implementation of mineral resource and infrastructure safeguarding is ultimately carried out through the development management process and is largely concerned with assessing policy accordance with non-minerals development proposals and attributing appropriate weight to the issue during the decision making process. For Herefordshire as a unitary authority (both the minerals & waste and local planning authority – M&WPA and LPA) this is a relatively simple exercise centred on the effective application of local policy. However, in the case of WCC and GCC, which both operate under the two-tier structure of local government, a degree of further collaboration is necessary with local districts acting as LPAs for non-minerals development proposals. The provision of and use of Mineral Consultation Areas (MCAs) as detailed in National Planning Practice Guidance is designed to assist with effective safeguarding in two-tier areas⁸. Defining MCAs and the approach to notification of potential mineral sterilisation issues are being brought forward by GCC and WCC in their emerging mineral plans.

⁶ The Aggregate Minerals Survey for England and Wales: 2014 can be obtained at: - <https://www.gov.uk/government/collections/minerals>

⁷ The National Planning Policy Framework (NPPF) provides the detailed policy expectations concerning mineral sterilisation and infrastructure safeguarding

⁸ National Planning Practice Guidance (NPPG) Minerals section, paragraph 005, reference id: 27-002-20140306

4.7. The statutory AMR regime is the monitoring vehicle for of all local policies – including those for mineral resource and infrastructure safeguarding⁹. National Planning Practice Guidance advises on the principal role and function of AMRs. They should be published annually, made publicly available and assist in deciding whether local policies or plans need to be reviewed¹⁰. All of the MPA signatories are subject to AMR requirements.

5. Collaborative working | the roles and responsibilities of the MoU

5.1. It is agreed by the signatories: -

- That MPA-level monitoring data on sales and reserves for sourced from within the MoU boundary will be collected and kept up-to-date as regularly as possible;
- That each of the MPAs will collect monitoring data on the destination of aggregate sales, sourced from within their administrative boundary for those years when a national AM survey is carried, and where possible will endeavour to collect similar data for the intervening years;
- To notify each other when undertaking public consultation on local development documents and other plans relevant to the carrying out of land-use planning functions, which could have an impact on aggregate and / or industrial minerals; and / or other non-energy mineral supplies sourced from within the MoU boundary and / or the delivery of sustainable waste management;
- To notify each other of planning proposals that fall within their administrative area for minerals, waste and non-minerals of development, which could have a significant impact on other M&WPA areas with respect to the safeguarding of existing minerals & waste infrastructure and / or the avoidance of needlessly sterilising mineral resources;
- When appropriate, to meet and discuss minerals and waste-related planning issues raised by one or more of the signatories, which could have an impact on mineral supplies or sustainable waste management from within the MoU boundary;
- To take account of accumulated monitoring data sourced from the MoU boundary when developing local plan policy that will influence provision for aggregates and / or industrial minerals; the availability of supplies of other non-energy minerals; and / or the management of waste including in the production of supporting evidence reports and formal consultation documents;
- To take account of the outcomes of any discussions held between the signatories on minerals or waste-related planning issues when developing local plan policy that will influence the provision of aggregates, and / or industrial minerals; or the availability of supplies of other non-energy minerals or the management of waste including in the production of supporting evidence reports and formal consultation documents;

⁹ Authority Monitoring Reports (AMRs) are statutorily required under section 113 of the Localism Act 2011

¹⁰ National Planning Practice Guidance (NPPG) Local Plans section, paragraphs 027, reference id: 12-027-20150326

- To meet from time-to-time to review all aspects of collaborative working including the roles and responsibilities set out in this MoU and which affect the defined MoU area (see section 3).

6. Review

- 6.1. All aspects of the MoU will be subject to periodic review by the M&WPAs and amended as appropriate.
- 6.2. The M&WPAs agree to monitor the application of the principles set out in this MoU and to develop more detailed arrangements between themselves as and when required. This might include Statements of Common Ground (SoCGs) covering, but not limited to, the following planning matters:
 - Potential cross-border minerals (sand & gravel) development at Bow Farm / Redpool's Farm (GCC and WCC);
 - Future potential for cross-border minerals (sand & gravel) development along or near to local authority administrative boundaries (GCC and HC)
 - Cross-border management of waste (GCC, HC and WCC)
 - Cross-border safeguarding of mineral resources (GCC, HC and WCC);
 - Cross-border safeguarding of mineral and / or waste infrastructure (GCC, HC and WCC);
 - Facilitating continued steady and adequate supplies of sand and gravel aggregates (GCC and WCC);
 - Facilitating continued steady and adequate supplies of crushed rock aggregates (GCC, HC and WCC)
 - Facilitating continued steady and adequate supplies of industrial minerals (GCC, HC and WCC)

7. Limitations to the MoU

- 7.1. The signatory local authorities undertake to make every effort to secure the necessary cooperation on any identified strategic cross-boundary matters. By following the principles set out in the document and pursuing a collaborative approach wherever possible it is expected that disputes relating to the collection, accumulation and presentation of data and its interpretation will be avoided or at least kept to an absolute minimum. However, it is recognised that there may not always be full agreement and the duty to cooperate does not require an agreement to be reached. Where differences arise, signatory M&WPAs will take all reasonable steps to reach a mutually acceptable resolution.
- 7.2. For the avoidance of doubt, this MoU does not restrict the discretion of any of the local planning authorities in the preparation of their development plans and associated documents, in their response to consultations or in the exercise of any of their statutory powers and duties. It is not a formally binding legal document and nothing in it shall serve to limit the discretion of an M&WPA or otherwise bind that M&WPA to a decision with which it does not agree.

8. Signatories

Signature redacted

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Lead Cabinet Member for Environment and Planning

Signed on behalf of Gloucestershire County Council

Dated: 18 / 03 / 2019

Signature redacted

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Programme Director Housing and Growth

Signed on behalf of Herefordshire Council

Dated: 25 / 04 / 2019

Signature redacted

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Director of Economy and Infrastructure

Signed on behalf of Worcestershire County Council

Dated: 04 / 06 / 2019