Critical Minerals Association
Environmental, Social & Governance (ESG) Workshop Series

Environmental, Social, Governance & UK Critical Minerals:

Planning & Permitting

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Table of Contents

UK Planning & Permitting for Critical Minerals

On the 28th of January 2022, the Critical Minerals Association's UK Domestic Mining & Environmental, Social, Governance (ESG) Working Groups organised an ESG workshop for the UK Government.

We were delighted to welcome attendees from UK Government including Department for Business, Energy and Industrial Strategy (BEIS) and Department for International Trade (DIT) who were keen to hear ideas from the industry and regulators.

The workshops aimed to explore recommendations put forward in our flagship ESG paper 'A Blueprint for Responsible Sourcing of Critical Minerals,' several of which featured in the UK Government's 2021 Net Zero Strategy.

Our recommendations included:

1. **STATEMENT OF COMMITMENT FROM THE UK GOVERNMENT**

   The UK Government should make a clear statement of commitment prioritising domestic production of critical minerals. This would send a positive message to markets that the UK welcomes investment in the sector.

2. **STREAMLINING PLANNING AND PERMITTING**

   Establish an enabling environment for developing and growing a domestic critical minerals sector by streamlining processes, improving coordination across the planning, and permitting systems.

   Provide regular training events for planning and permitting decisionmakers on critical minerals exploration, mining, processing, infrastructure and service needs, ESG, mine closure and stakeholder engagement.

The 2021 Net Zero Strategy stated: '*The government is committed to working with industry and with international partners to safeguard these supply chains and our future economic resilience*,' and committed to '*establishing an enabling environment for growing the sector in the UK*.'

ESG Benefits of Supporting Critical Minerals Extraction in the UK

To meet the increasing demand for the critical minerals needed in advanced technologies and the 'green' industrial revolution, critical minerals must be extracted domestically. It is imperative that this is done responsibly and in alignment with expectations of international ESG frameworks and standards to truly call the energy transition a "green" one.

Mineral extraction companies operating in the UK must comply with UK governance and legislation and go through the planning application and permitting processes. Domestic extraction can help to ensure that companies operate to ESG standards that compare favourably when benchmarked against international good practice.

The Natural History Museum estimates that the UK only has 53% of its biodiversity intact, putting it in the bottom 10% of the world's countries for biodiversity intactness[1]. With UK planning and permitting processes being applied to new mines for critical minerals, some of which may be in former mining areas, there are opportunities for these sites to be restored in a manner which increases ecological value, in line with the biodiversity gain condition of planning permission in England as outlined in the Environment Act 2021.

New mineral extraction projects in the UK would be developed and operated in accordance with UK planning conditions and permit requirements, as well as its health and safety standards, which compare favourably to international best practice.

Relationship Between Planning, Permitting and ESG

Planning and permitting in the UK is important to ensure that mines are developed and operated responsibly. If the planning and permitting processes are protracted, as they have been for notable recent mineral developments in the UK, critical minerals projects are likely to lose their competitive edge. The likelihood of those projects contributing towards the UK's critical mineral supply chains in the coming years lessens significantly.

In most countries with well-developed mining industry, approval of mining projects is based on modern minerals legislation that provides for sustainable mining and complementary environmental permitting legislation. In the UK, the dominant legislation for approval of mining projects is planning legislation, which does not recognise the unique features of metal mining projects, particularly in respect of how they are planned and financed. Environmental permitting is complementary to planning approvals and covers emissions, water use and discharges, extractive waste management, waste management, and protection of biodiversity, and cultural heritage. The permitting legislation is heavily influenced by EU legislation, having been transposed from EU Directives.

When regulatory authorities and other responsible bodies, such as the planning and environmental authorities (e.g., England Environment Agency, Scottish Environmental Protection Agency, Natural Resources Wales, Northern Ireland Environmental Agency), are assessing a project for planning or permitting decision making, they are at the same time assessing a project for its ESG credentials. It is imperative that decisionmakers are

[1]'Natural History Museum reveals the world has crashed through the 'safe limit for humanity' for biodiversity loss' - https://www.nhm.ac.uk/press-office/press-releases/natural-history-museum-reveals-the-world-has-crashed-through-the.html

adequately knowledgeable about all facets of a mining project to ensure that projects with positive ESG credentials are not unreasonably dismissed.

If the UK Government wants to develop critical mineral extraction in the UK, then the planning and permitting system needs to be supported to deliver timely and appropriate responses to applications for mining projects. It can take 10-15 years for an exploration project to become a producing mine due to the complexity of the process, including planning and permitting. If the UK wants to create critical mineral supply chains, practical support to help the planning and processing authorities would reduce unnecessary delays in the process. This can be achieved by UK Government providing additional resources to planning and permitting authorities, including offering technical support to less experienced mineral planning authorities, helping them to get applications through the process more quickly.

Prolonged and inefficient planning and permitting processes present big risks for both developers and investors. Many overseas jurisdictions have dedicated mining authorities that help to support companies and stakeholders through these processes and facilitate inter-agency alignment. Better resourced and more efficient planning and permitting processes for mineral extraction could facilitate growth of the critical minerals extraction industry in the UK.

The domestic mineral extraction industry can be supported by helping LPAs benefit from approved projects, ensuring that decisionmakers in planning and permitting have the resources, skills, knowledge and support they need, and in turn, the financial and stakeholder benefits of the development projects accrue more quickly.

In June 2021, The UK Office of National Statistics estimated the Full-Time Equivalent employment (FTE) multiplier effect for Mining of Metal Ores in the UK to be x 9.85.[2] We can assume that for every one job created on a UK mine site another nine could be created in the surrounding economy.

A new mine creates job opportunities, many of which are highly skilled STEM roles for areas which the Government has committed to levelling up, such as the South West, and typically also increase revenue streams for LPAs when the mine is in operation. Further benefits also come from the procurement of local goods and services, plus the benefits of higher disposable incomes in areas which become more prosperous through the establishment of permanent well-paid jobs.

By supporting the timely implementation of planning and permitting in UK mineral extraction we can help the current system to perform better, speed up the development of responsible critical mineral extraction in the UK, and ensure that these are developed and operated in line with ESG standards comparable to best international industry practice.

2https://www.ons.gov.uk/economy/nationalaccounts/supplyandusetables/adhocs/13359ftemultipliersandeffectsreferenceyear2017

Recommendations

Purpose:

Outline how industry and local government can be better supported through planning and permitting processes of critical mineral extractive projects.

Issues:

1. **The importance of a domestic supply of critical minerals is not fully recognised**
2. **Long timeframes in planning and permitting process**
3. **Limited Local Authority/ decisionmaker capacity/ experience in mining**
4. **Unclear roles and responsibilities of decisionmakers**
5. **Lack of practical support and incentives for Local Planning Authorities (LPAs)**

Our recommendations are specific to critical minerals projects, though we recognise that planning and permitting is a key factor in a much wider range of industries including other minerals in the UK. Ensuring sufficient resources are available for planning authorities and regulators, to maximise efficiency, and investing in education around planning and permitting is essential for both the critical minerals sector and the UK economy more widely.

CMA recommendations to the UK Government:

1. **Provide Statement of Commitment**
    a. Publicly recognise the importance of domestic extraction of critical minerals by issuing a specific statement of commitment, to show that the UK is open to and supportive of domestic critical mineral development.

2. **Critical Minerals Deemed of National Importance**
    a. Once the UK's critical minerals list is defined, update the National Planning Policy Framework and Planning Practice Guidance to include critical minerals as 'mineral resources of local and national importance.'
    b. Ensure timely consideration is given to planning and permitting applications for critical minerals as commodities deemed of national importance for the UK's strategic ambitions.

3. **Targeted Dispute Resolution Process**
    a. Create a third-party dispute resolution process for operators to address areas raised by the decisionmakers, without having to re-submit the application. This needs to cover all Devolved Administrations.

4. **Mining Agency/ UK Government Minerals Planning Expert(s)**
    a. Provide technical mining and minerals planning expert(s) as a national resource (e.g., via BEIS). This can give reassurances to planning officers who need to review and finalise permissions, and assess and approve, with

appropriate conditions, highly technical applications for mining developments.

b. Create a coordinating body/ mining agency/ National Government coordinator(s) who act as points of contact for mining companies to navigate different agencies (e.g., LPAs, Environment Agency).

5. **Policy Framework/ Written Guidance for Councils**
    a. Carry out a survey/ questionnaire of LPAs for National Government to understand the former's ability/ capacity to undertake mining planning and permitting decision making, and any challenges they may face.
    b. Create a planning policy framework to help officers to undertake decision making in critical minerals planning. Short written guidance by National Government (for each devolved administration) on how to undertake planning for critical minerals projects. Guidance can be written for planning first and permitting later.
    c. Clarify roles and responsibilities of existing decisionmakers for operators and National Government to understand where various agencies act within the process, and who is accountable for the process/ making decisions at each point.

6. **Practical Support and Incentives to LPAs**
    a. Emphasise the opportunity for LPAs to profit from a project's success, through increased business rate take, and improved economic activity levels.

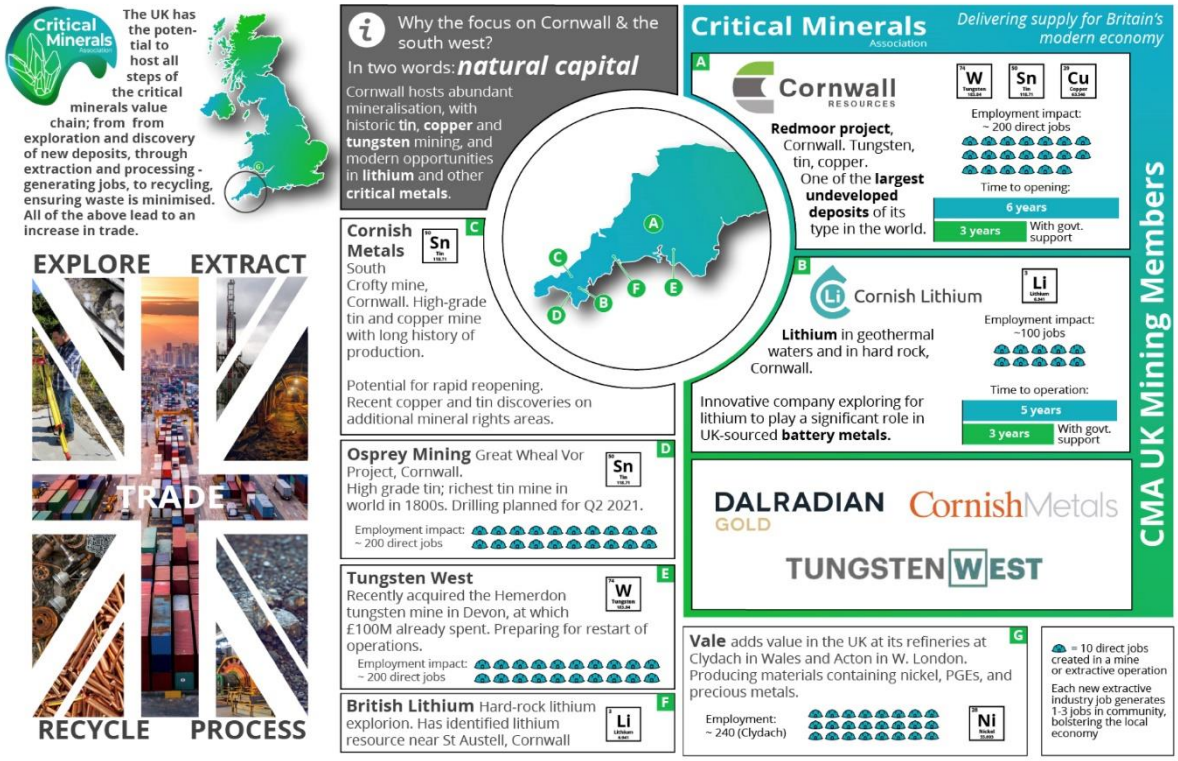
7. **Staged payment of closure bonds**
    a. Carry out a review of international best practice in funding mine closure, including early and unplanned closure, and develop national guidance on this. This can consider staged payment of closure cost bonds, or an insurance backed equivalent, linked to magnitude and timing of project impacts, for example, expanding in line with the liabilities over the life of a project once construction starts linked per tonne of production.

Issue 1: The importance of a domestic supply of critical minerals it not recognised

Recommendation 1: Statement of Commitment

The domestic critical minerals industry calls for the UK Government to publicly recognise the importance of domestic extraction of critical minerals by issuing a specific statement of commitment, to show that the UK is open to and supportive of domestic critical mineral development.

In many countries, mining agencies and geological surveys promote their mineral extractive prospects to attract international investment and diversify their economy. The UK does not do this. The UK has geological potential for lithium, tin, tungsten, copper, cobalt, nickel, and platinum group metals. The figure below illustrates the South West's potential although active exploration is currently occurring in North East England, Wales, Scotland and Northern Ireland.



A written statement or an open event where a Minister offers a statement of commitment and explains how the UK's critical mineral sector will be supported is necessary. Without UK Government support, companies will choose to invest in other countries with significant loan facilities, and supportive mining agencies, because the risk of investing in a project with unreasonably long planning and permitting processes, and where decisions can be revoked for political reasons, is too high.

Issue 2: Long Timeframes in Planning and Permitting Process

Timeframes and deadlines are often missed by planning and permitting officials, due to several factors including LPA resources, lack of resources within planning authorities, statutory consultees.

If critical minerals are deemed of national importance, what is the fastest that the planning and permitting process should be expected to take whilst ensuring all considerations are met? How can the planning and permitting agencies be supported to enable applications/processes to proceed in a timely manner?

Recommendation 2: National Importance of Critical Minerals

Once the UK's critical minerals list is defined, the National Planning Policy Framework and Planning Practice Guidance should be updated to include critical minerals as 'mineral resources of local and national importance'

Planning and permitting applications for critical minerals should be prioritised as commodities deemed of national importance for the UK's strategic ambitions

In some countries, mines have been permitted and constructed in just two years. In the UK, the timescales, including the raising of funds, is protracted. Current UK planning and permitting timescales can be extremely long. If permitting is going to take 5-10 years or even longer, the investment risk will be so high that projects might not come on stream at all.

> **"National Policy Statements** are produced by government. They…must include an explanation of how the policy takes account of government policy relating to the mitigation of, and adaptation to, climate change."*
>
> **https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/national-policy-statements/*

To speed up this process and to meet the increased demand for critical minerals, CMA recommends that the UK Government supports and facilitates planning and permitting for critical minerals as commodities deemed of national importance for the UK's strategic ambitions. There would need to be a clear process and policy defined for this.

In recent years, the UK has had little experience in the development of new mineral extraction projects outside of quarrying. The CMA represents experts from the critical minerals and metals sector; hence, our recommendations are designed specifically with critical minerals and metals supply chains in mind. Further engagement with other industry experts, as well as statutory consultees such as Natural England would also be useful to understand their level of resources, skills, and expertise.

Defining Critical Minerals

It is crucial to define which critical minerals are of national importance. The UK has geological potential for lithium, tin, tungsten, copper amongst other commodities.

Criticality is fluid and what is critical to one nation may not be to another based on security of supply. There are multiple lists of 'critical minerals' - for example, the EU CRM 2020 list, Canada's Critical Minerals 2021 list, US Geological Survey 2022 list, Australia's 2022 Critical Minerals Strategy. While each list differs based on the methodology, a few common critical minerals include cobalt, graphite, lithium, rare earth elements, and tungsten.

The National Planning Policy Framework[3] refers to aggregates but not critical minerals and metals, this should be updated. There is also currently no National Policy Statement for critical minerals. These have not been defined by the UK Government.

A critical minerals list commissioned by UK Government Department for BEIS, once published in 2022, will be a helpful start.

The National Planning Policy Framework defines minerals resources of local and national importance as:

*"Minerals which are necessary to meet society's needs, including aggregates, brickclay (especially Etruria Marl and fireclay), silica sand (including high grade silica sands), coal derived fly ash in single use deposits, cement raw materials, gypsum, salt, fluorspar, shallow and deep-mined coal, oil and gas (including conventional and unconventional hydrocarbons), tungsten, kaolin, ball clay, potash, polyhalite and local minerals of importance to heritage assets and local distinctiveness."**

**https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf*

Material Considerations

Clearer guidance and definitions of what is and is not 'material' to an application are needed. For example, there have been several applications for projects, which have been in dispute over the environmental impact of the end use of their product (e.g., greenhouse gas emissions from burning hydrocarbons).

A project that goes through robust local authority planning and permitting processes should be judged on its impact, relation with, and consideration of the local environment and surrounding communities as well as government commitments on climate change.

"A **material consideration** is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision."*

**https://www.planningportal.co.uk/services/help/faq/planning/about-the-planning-system/what-are-material-considerations*

[3] *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf*

Overturning planning and permitting decisions, because the UK does not want to extract commodities that it uses and prefers to import them from overseas at a higher carbon footprint, should not be justifiable on the grounds of climate change – these materials are needed to fight climate change. To assess greenhouse gas (GHG) impact, robust quantitative GHG, and Life Cycle Assessments should be used to fairly compare projects domestically and overseas.

Government engagement and communication with communities is important as there is a lack of general understanding around the minerals associated with our everyday lives, mobile phones, cars, laptops etc. Acceptance of mining is often high in areas of past activity but that is very much dependent on the community in that area.

Giving Timely Consideration to Critical Mineral Applications

Given that critical minerals are central to the Government's Net Zero Strategy, their planning applications should be given significant attention by planning decisionmakers, but there is currently no incentive for these complex applications to be given timely consideration in the system. Applications should continue to be rigorously assessed against high standards, but the timeframe requires streamlining. To achieve this decisionmakers will need to be supported with sufficient knowledge of the role and strategic importance of critical minerals.

Currently, critical mineral extraction planning and permitting applications are in the same category as any other planning application. In the LPAs and Government agencies where planning and permitting decisions are made, applications can take too long for project commercial viability. This is due to limited resources, lack of technical expertise, budget constraints, time pressures and other priorities.

Mine development proposals are often complex, especially where new technologies are involved, and need to be supported by the correct evidence and proposed mitigation included within–environmental impact assessments, environmental statements, and complex bespoke environmental permitting applications. Specialist knowledge and collaboration amongst regulators is needed to assess these types of application.

One local council in particular has been praised by industry for being supportive through the process. Individuals within this council help to make them a priority, pushing their senior leaders and providing a vital support system for all those involved. Whilst this is greatly appreciated by the critical minerals sector, it is not a long-term solution for councils to rely on a few well-meaning and knowledgeable individuals.

Lack of resources within councils remains a key issue often resulting to delays. Supporting decisionmakers by increasing their technical expertise and resourcing capacity needs to happen alongside classifying critical minerals as of national importance.

Recommendation 3: Targeted Dispute Resolution Process

Create a third-party dispute resolution process for operators to address areas raised by the decisionmakers, without having to re-submit the application.

There is currently no proportionate dispute resolution process which adds to further delays. There is the right to appeal with reference to a planning refusal. This is then determined by an independent planning inspector based on national/ local planning policies.

Sometimes, information that is irrelevant to the project is requested, this is overly time consuming and costly for the company to obtain. The company either must retrieve the information, or appeal the entire decision, even if the disagreement only centres around one small point. There is no avenue for the company to come to an agreement on single points of the application. Appeals are currently all or nothing. It would be helpful to have an appeal on a single issue, rather than having to appeal the whole decision.

Issue 3: Local Authority/ Decisionmaker Capacity/ Experience in Mining

Decision making on planning and permitting is devolved to the local level. However, many LPAs generally don't have:

- The capacity to review documents
- The in-depth understanding of mining and associated technical issues needed to assess projects
- A 'mining' focused mindset when it comes to evaluating projects (e.g., assessing a mining project through the same lens as an infrastructure project)
- An understanding of the mining sector, transnational processes and stakeholders that influence mining projects (e.g., investors, financial institutions, global standards, downstream manufacturers)
- Knowledge of the key ESG risks in mining (e.g., water impacts, closure plans) which can be managed in the mine design or the context of international responsible mining standards
- Confidence to take decisions and/or face political consequences of making the wrong ones

One of the councils we have engaged agreed with these above points and mentioned that these have also been raised by other groups, in particular the Planning Officers Society Mineral & Waste Group and the Royal Town Planning Institute (RTPI).

Recommendation 4: Mining Agency/ UK Government Minerals Planning Expert(s)

UK Government to provide technical mining and minerals planning expert(s) as a national resource (e.g., via BEIS). This can give reassurances to planning officers who need to finalise permissions, and assess and approve, with appropriate conditions, highly technical applications for mining developments.

Create a coordinating body/ mining agency/ National Government coordinator(s) who act as points of contact for mining companies to navigate different agencies (e.g., LPAs, Environment Agency).

LPA capacity

Resources was raised as a key issue. Agencies are under-resourced and lack specialist staff. The LPA engaged, highlighted that they are very stretched, having to deal with a very wide range of applications in addition to policy. Planning officers must deal with patio extensions, then mining applications. It is difficult for them to have the time and knowledge to span this wide gap, often (understandably) choose to deal with a higher number of easier cases than one complex mining application.

Having a Mining Agency or UK Government expert(s) to support the LPAs would enable them to overcome capacity issues. This Agency or expert(s) could also help decisionmakers to identify statutory consultees in advance of planning and permitting applications being received, which would save time and resources.

Experience of Decisionmakers

The council present at the workshop is rare in having planning and permitting officers with experience and background in the mining sector. A lot of the UK's experts in mining are aging, and there has been little interest in ensuring that younger generations of planners are equipped to deal with complex projects such as mine sites. Minerals planning is not taught as part of a planning degrees. Most mineral planners have 'learnt on the job'. LPAs are experiencing difficult financial circumstances and resourcing is a major issue.

The UK Government's Net Zero Strategy 2021 highlights the importance of building a talent pipeline. A participant noted how this talent pipeline also needs to include new, skilled geographers, town and country planners, as well as building expertise in the mining industry, perhaps through secondments.

Another participant noted how there is significant staff turnover in the LPA and Environment Agency. This is problematic when it takes a long time to train staff, and they must be familiar with a lot of horizontal guidance that all fits together. An example is that even after 2.5 years, a regulator at the Environment Agency would not be experienced enough to permit a chicken farm because of the complexities involved (nitrate and phosphate pollution of waterways). Each sector has a single specialist (though there is

not one for mining). When these specialists move on, it takes years to train someone new, which adds delays to the planning and permitting process.

Local decisionmakers often lack knowledge of existing mining sector ESG standards and risks. Countries such as Canada, are aligning their national expectations with particular ESG standards. Funding a study of where UK planning and permitting requirements align with certain global ESG standards, and where they differ, would be helpful. Investors typically want to know, through a high-level due diligence process, how UK planning and permitting compares to the requirements of widely-recognised international standards applied by financial institutions, such as the Equator Principles, and mining sector standards. Bringing in a technical mining expert from a pool of expertise co-ordinated by National Government would help to fill this knowledge gap.

A lack of resource within the planning department has also resulted in a reluctance of planning officers to sign their names against documents.

It is difficult for decisionmakers to have all the time and knowledge to span this wide gap. Having a Mining Agency or UK Government expert(s) to support would enable Local Planning Authorities and the Environment Agency to overcome capacity issues.

Adhering to Expected Timeframes

The timeframes for planning and permitting applications are consistently being revised. This makes it difficult for operators to plan. The outcome of an Environmental Impact Assessment (EIA) should be determined in 16 weeks, though participants noted that this has never happened in their experience. The 'stop the clock' issue means that if additional information is required, decisionmakers can expect a time extension, indefinitely prolonging the process. An EIA can therefore spend years in the system, instead of its '16 week' expectation. This is not helped by councils waiting until the 16-week deadline approaches to request further information. It is rare that a request for information happens in the first few weeks. If these requests could happen earlier within the process, this could speed up the process by some months. A participant outlined how in Natural Resources Wales similar issues occurred.

An EIA accompanying a minerals application is complex. These documents have typically taken a large team of technical specialists months or years to prepare, so it is unreasonable to expect a possibly inexperienced and understaffed LPA with an existing caseload of domestic applications to be able to make an informed, binding decision in 16 weeks. It would probably take 16 weeks to assess the level of technical support required by the LPA, tender for it and for suitably qualified experts to be available to assist. Mandatory pre-application dialogue, scoping of the EIA and notification of application dates would enable the LPA to plan for this. Having a Mining Agency or UK Government seconded expert(s) to support this process can also help the EA to navigate some of this complexity.

Statutory consultees, including health authorities have the right to be part of the process and can slow this down. Statutory consultees must have time to review the applications,

but equally they should not have the ability to stall the process indefinitely. Sometimes decisionmakers also lack the resources or time to review the application and respond that 'they cannot agree to it because they cannot read it.'

Pre-application consultation would assist in identifying the statutory consultees, their expertise and need for support ahead of the application being received. A National Mining Agency or a UK Government expert(s) could provide a body of expertise available to support all statutory consultees and decisionmakers.

Industry Consultation with LPA Pre-application

The council with whom industry had the best relationship encouraged early discussions through pre-application consultation, which were essential in helping both parties understand what would be needed from the process.

A participant outlined how they are building their relationship with the council early, running their plans past the planners to facilitate the process and preparing to be ready when the time comes to submit an application. The advantage of working with local councils is that they are closer to the communities in which the companies operate. However, another participant outlined how another project had undertaken the same pre-application engagement with councils, but this did not speed up the process.

A council highlighted how it does not charge for meeting informally with industry outside of the process. Another company supported the council by funding external outsourced support to help with the technical details.

The council echoed how informal engagement with industry is helpful, as it means that there is an early opportunity for councils to understand the project, and there are no surprises on either side when the application does come through.

Where possible, pre-application consultation should be encouraged, and can involve discussions around closure and stakeholders for statutory consultation. However, given the diversity of LPAs, this should not be the only solution to resolving resourcing and expertise issues.

Talent Pipeline in Minerals Planning

Mineral planning should be promoted as an exciting career opportunity, through educational opportunities, sponsorship, intern positions and the creation of a pool of 'industry experts' who could be utilised by LPAs with less knowledge of mining and minerals applications and operations. Mineral planning officer should be included in the UK Government's initiatives on Green Jobs, and upskilling as part of Levelling Up.

Issue 4: Unclear Roles and Responsibilities of Decisionmakers

Where does the scope of planning authorities stop, and environmental permitting authorities begin? How can these be better coordinated? A mining agency or a UK Government mineral planning expert panel to support both decisionmakers and operators, would be able to help clarify roles and responsibilities and prevent duplication.

There can be a lot of overlap between the remit of planning and environmental permitting authorities. Duplication between planning, permitting and health and safety, meant a company had to make information available three times on three timeframes. Could these processes be better coordinated, with a more defined remit? Is there an agency or a Minister above them that could ensure coordination? Agencies working together and sharing information would help.

The decisionmakers could be asking for more information from the company at an earlier stage of the process and be taking proactive action on approving or refusing the application. If the LPA requests this information at an early stage; this reduces delay for mining companies (increasing their commercial viability) and helps LPAs be more confident in the information that they must make assessments on.

We recommend clarifying roles and responsibilities of existing decisionmakers for operators and National Government to understand where various agencies come in through the process, and who is accountable for the process and decision making. This can be done as part of the guidance for decisionmakers – *recommendation 6.* The guidance should set out the responsibilities of each party.

Recommendation 5: Policy Framework/ Written Guidance for Councils

A survey or questionnaire of LPAs for National Government to understand the former's ability and capacity to undertake mining planning permitting decision making, and any challenges they may face.

Create a policy framework to help officers to undertake decision making in critical minerals planning. Short written guidance by National Government (including devolved administrations) on how to undertake planning would also be helpful. The next step would be to do the same for permitting.

Clarify roles and responsibilities of existing decisionmakers for operators and National Government to understand where various agencies come in through the process, and who is accountable for the process/ making the decisions.

A survey or questionnaire of LPAs for National Government to understand the former's ability and/or capacity to undertake mining planning and permitting decision making

would be helpful, as not all authorities have dedicated resource, knowledge, or skills. This can be easily achieved and would give a good baseline of expertise in the mineral planning.

A former minerals planning officer suggested that a planning policy framework would be helpful for officers to have a knowledge base, so they know what they are looking at when applications come through. Industry could support with the development of this guidance, particularly those with extensive experience working with the UK and international planning systems for critical minerals. This document would be a useful resource for all new planners to use. Whilst writing this would be straightforward for planning, it would be more difficult for permitting, so we suggest that the planning document is done in the first instance.

As part of the policy framework/ written guidance, 'A Social Licence to Operate' should be defined and should distinguish between community voices, objector noise, public opinion, and public need. It will be important to differentiate between having a social licence to operate/ good engagement with local communities, as opposed to unsubstantiated noise that comes from external groups without connection to the community. Valid community concerns must be addressed, and decisions should be taken based on technical evidence. The guidance should also provide information and advice around international best practice on closure.

Written guidance should consider differences between the Devolved Administrations – Northern Ireland, Scotland, Wales, and England. There are slight differences between the England and Northern Ireland Planning systems (e.g., different permitting requirements at different stages). In Northern Ireland, mine waste approval is linked to planning permission but both systems face similar challenges (e.g., planning permission, stakeholder engagement and political will are needed everywhere).

Including critical minerals in the local development plans would underline the importance and significance of those materials to the local area and assist in gaining support for the future development of operations, but the time frame of these plans is typically long (ten years or more).

Issue 5: Lack of Practical Support and Incentives for LPAs

Recommendation 6: Enable Local Planning Authorities to Benefit from Responsible, Successful Projects

Emphasise the opportunity for LPAs to profit from a project's success, through increased business rate take, and improved economic activity levels.

There are many ways in which LPAs can benefit from successful projects, and ways in which they should be able to benefit further. Successful projects can increase local jobs, develop a high skilled workforce, and offer further training opportunities, which can contribute to Levelling Up in more deprived regions.

The UK planning system also allows planning authorities and the developer to make agreements. In England this is done under section 106 of the Town and Country Planning Act that establish investment in community and infrastructure improvements. These section 106 agreements may include upgrading roads, building community centres or educational facilities to build human capital in the area.

If a project succeeds, the tax take, rates and permit fees could benefit local councils as another source of income, but this will not happen unless national Government undertakes to return a portion of the income to the local council.

Recommendation 7: Staged Payment of Closure Bonds

Consider staged payment of closure cost bonds, or an insurance backed equivalent, linked to magnitude and timing of project impacts; for example, expanding in line with the liabilities over the life of a project once construction starts, perhaps linked per tonne of production.

LPAs must be mindful that if a company closes without any or sufficient money set aside for remediation, they themselves may eventually need to pay for future clean up if the site is causing pollution. Whilst ensuring that mining companies have closure plans from the start of construction is important, imposition of this at too early a stage in the lifecycle of a project will often result in the early closure of an exploration project due to costs.

Conclusion

The UK has an opportunity to develop responsible domestic critical mineral projects, adhering to high ESG standards to provide the critical minerals needed for the Green Industrial Revolution. If these critical minerals are not produced domestically, they will have to be imported from elsewhere where there may be human rights abuses (such as child labour) and a lack of environmental controls. It is not credible to say 'we just don't want mining' given its fundamental role in fighting climate change. This needs to be addressed as part of the conversation with local communities and LPAs.

The UK needs to ensure that its planning and permitting processes provide an enabling environment for the UK's critical minerals sector. Several challenges were outlined in this paper, notably long timescales, and lack of capacity of decisionmakers. Deeming critical minerals of national importance and making a statement of commitment and offering a mining agency or UK Government minerals planning expert(s) will be key to addressing these challenges.

There are few examples of metal mines that have obtained permission to operate in the UK and even fewer obtained planning permission from scratch, some operational mines were developed on existing historical planning permission. Permitting of new critical mineral projects will provide examples for further development of the critical minerals industry in the UK.

If the UK aspires to lead in the world, it needs to act, and make the planning and permitting processes less of a hindrance to minerals developments.

Appendix

The Minerals Products Association has already undertaken extensive work on the planning and permitting system for minerals and published an excellent paper in 2020 titled *'Planning for the future: Reform of the Minerals Planning System.'* The issues and recommendations highlighted in our paper all align with the Minerals Products Association recommendations. The only recommendations we propose that do not feature are the survey/ questionnaire of LPAs, targeted dispute resolution process, and staged payment of closure bonds.

The similarities in issues and recommendations identified by UK critical mineral producers and the Minerals Products Association show how planning and permitting affects a wide range of stakeholders, and that addressing these will be beneficial to numerous industries. However, it is important to also recognise that there are differences between aggregates, asphalt, cement, concrete, dimension stone, lime, mortar, silica sand (industrial minerals) and lithium, tin, tungsten, copper (critical minerals).

Every mine is unique, in its design and its setting. The IRP (2020)[4] identifies several differences between construction, industrial, and metal minerals that are relevant to minerals governance:

Construction minerals producers are present in every country to supply local and regional construction and infrastructure projects. Industrial minerals are generally widespread, occurring in many countries, and products are not transported vast distances. Both construction and industrial minerals segments are commonly well integrated into the local economy and are less exposed to external shocks and price volatility. Also, these segments are less likely than metal minerals to be disrupted by automation due to their low value.

Metal minerals are produced in a handful of countries, are widely traded, and are commonly used in manufacturing processes remote from the locations where they are mined. Mining can only take place where geological conditions make it possible for economically recoverable mineral concentrations to exist. Not every country is geologically well endowed, and none can economically produce the diversity of metal minerals required by current manufacturing processes. Trade is supported by seaborne bulk transport connecting countries hosting mines to countries with downstream manufacturing processes.

[4] *International Resource Panel (2020). Mineral Resource Governance in the 21st Century: Gearing Extractive Industries Towards Sustainable Development. Ayuk, E.T., Pedro, A.M., Ekins, P., Gatune, J., Milligan, B., OberleB., Christmann, P., Ali, S., Kumar, S.V, Bringezu, S., Acquatella, J., Bernaudat, L., Bodouroglou, C., Brooks, S., BuergiBonanomi, E., Clement, J., Collins, N., Davis, K., Davy, A., Dawkins, K., Dom, A., Eslamishoar, F., Franks, D., Hamor, T., Jensen, D., Lahiri-Dutt, K., Mancini, L., Nuss, P., Petersen, I., Sanders, A.R.D. A Report by the International Resource Panel. United Nations Environment Programme, Nairobi, Kenya.*

Metal mineral value chains tend to have weak linkages to other economic sectors in host countries.

Metal minerals raise issues of supply security as disruption at either the supply source or the trading can disrupt economic activities at a global level. The high dependence of many countries on exports revenues and domestic resources means that they may become key issues within local politics.

Recommendations

The Critical Minerals Association recommends that the UK Government takes the following actions to help secure UK's demand for critical minerals:

1. **Provide a Statement of Commitment**
   - Publicly recognise the importance of domestic extraction of critical minerals by issuing a specific statement of commitment, to show that the UK is open to and supportive of domestic critical mineral development.

2. **Critical Minerals Deemed of National Importance**
   - Once the UK's critical minerals list is defined, update the National Planning Policy Framework and Planning Practice Guidance to include critical minerals as 'mineral resources of local and national importance.'
   - Ensure timely consideration is given to planning and permitting applications for critical minerals as commodities deemed of national importance for the UK's strategic ambitions.

3. **Targeted Dispute Resolution Process**
   - Create a third-party dispute resolution process for operators to address areas raised by the decision-makers, without having to re-submit the application. This needs to cover all Devolved Administrations.

4. **Mining Agency/ UK Government Minerals Planning Expert(s)**
   - Provide technical mining and minerals planning expert(s) as a national resource (e.g., via BEIS). This can give reassurances to planning officers who need to finalise permissions and assess and approve, with appropriate conditions, highly technical applications for mining developments.
   - Create a coordinating body/ mining agency/ National Government coordinator(s) who act as points of contact for mining companies to navigate different agencies (e.g., Local Planning Authorities, Environment Agency).

5. **Policy Framework/ Written Guidance for Councils**
   - Carry out a survey/ questionnaire of Local Authorities for the National Government to understand the former's ability/ capacity to undertake mining planning and permitting decision making, and any challenges they may face.
   - Create a planning policy framework to help officers to undertake decision making in critical minerals planning. Short written guidance by National Government (for each devolved administration) on how to undertake planning for critical minerals projects. Guidance can be written for planning first and permitting later.
   - Clarify roles and responsibilities of existing decision-makers for operators and the National Government to understand where various agencies act within the process, and who is accountable for the process/ making decisions at each point.

6. **Practical Support and Incentives to Local Planning Authorities**
   - Emphasise the opportunity for Local Authorities to profit from a project's success, through increased business rate take, and improved economic activity levels.

7. **Staged Payment of Closure Bonds**
   - Review international best practices in funding mine closure, including early and unplanned closure, and develop national guidance on this. This can consider staged payment of closure cost bonds, or an insurance backed equivalent, linked to the magnitude and timing of project impacts, for example, expanding in line with the liabilities over the life of a project once construction starts linked per tonne of production.

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