

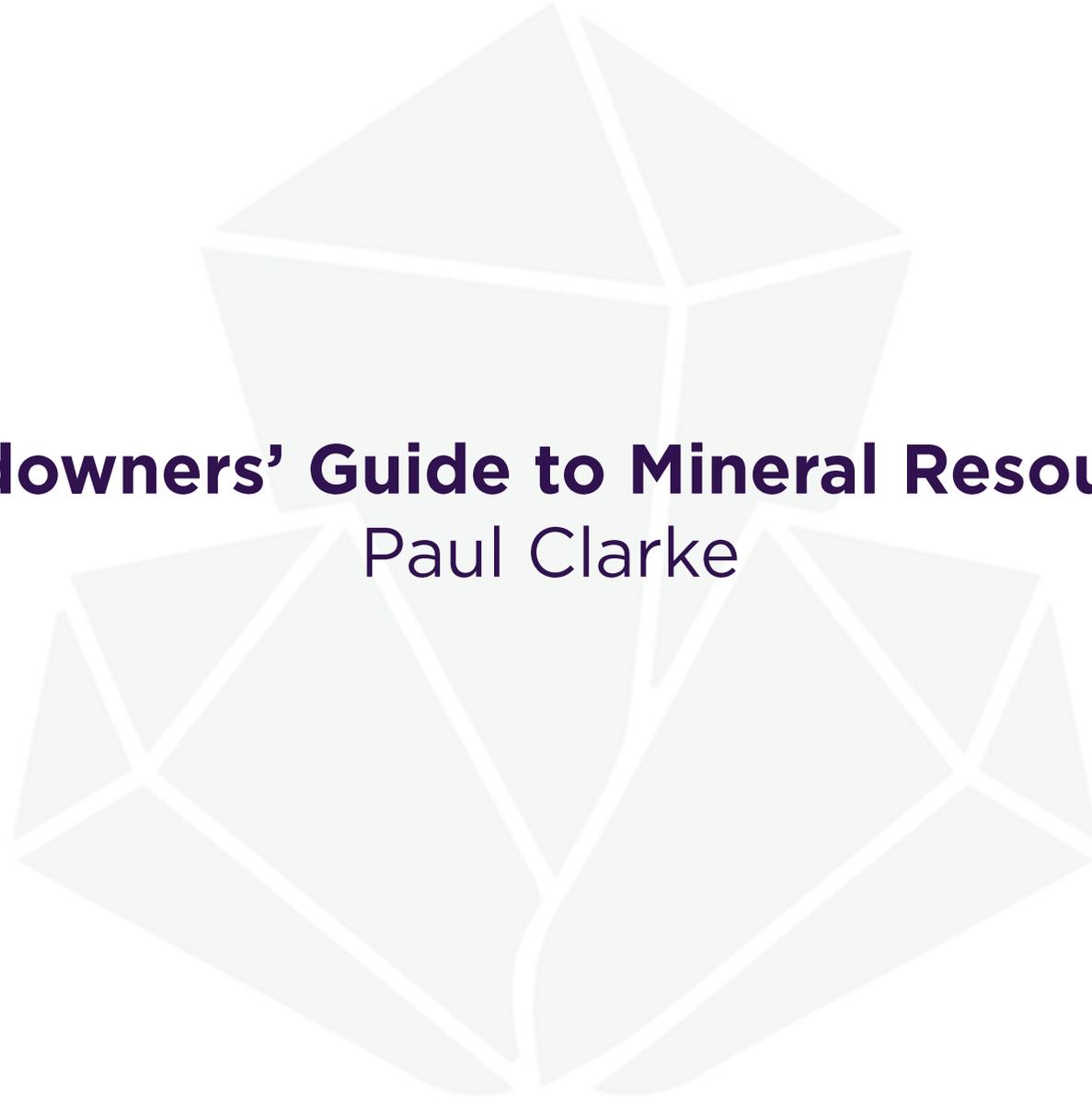


# Natural Resources

WEBINAR SERIES

Minerals





# Landowners' Guide to Mineral Resources

## Paul Clarke

# Landowners Guide to Mineral Resources: Why Minerals?

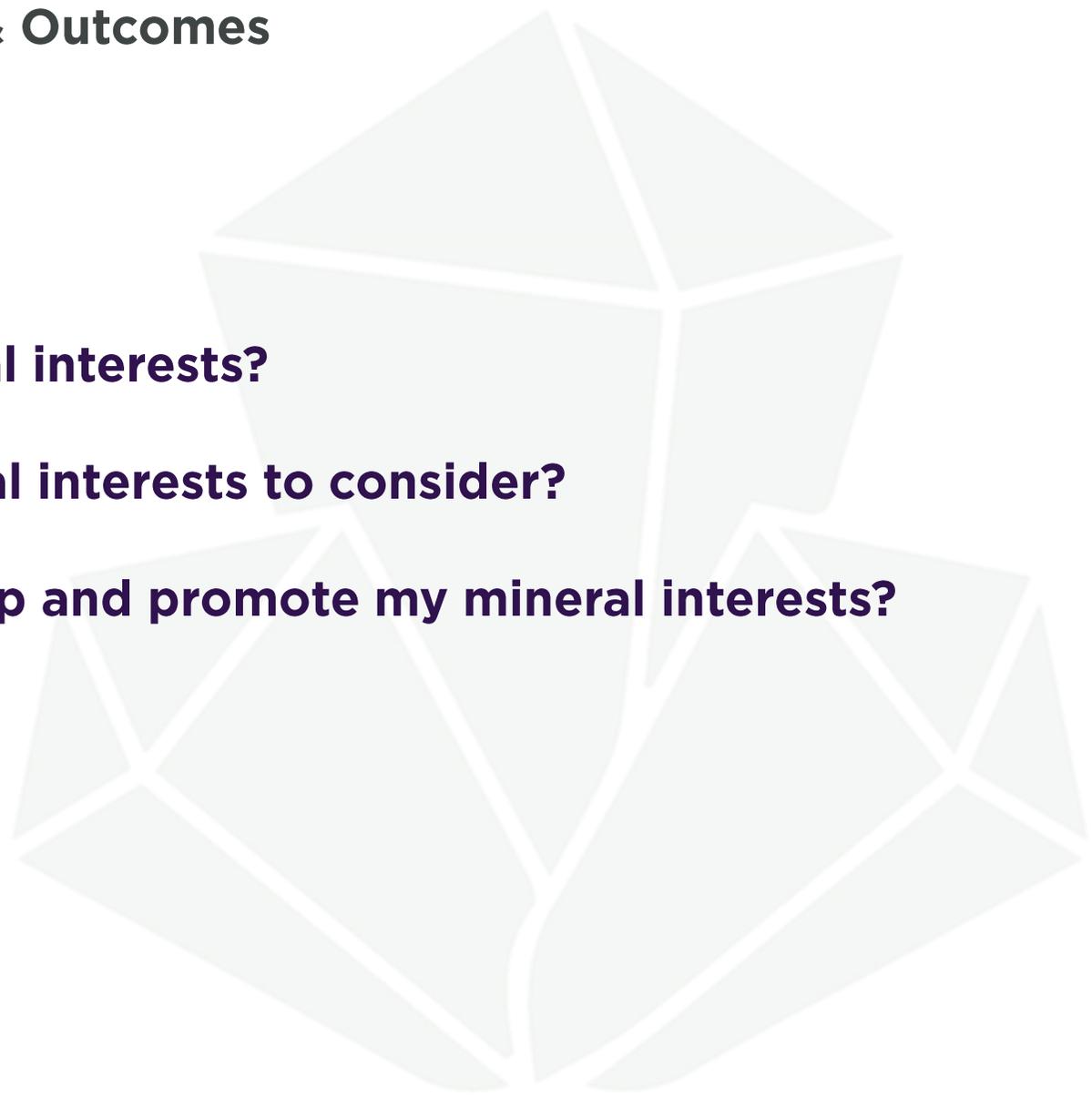
## Understanding & Outcomes

**What are mineral interests?**

**Do I have mineral interests to consider?**

**How do I develop and promote my mineral interests?**

**Case Study**



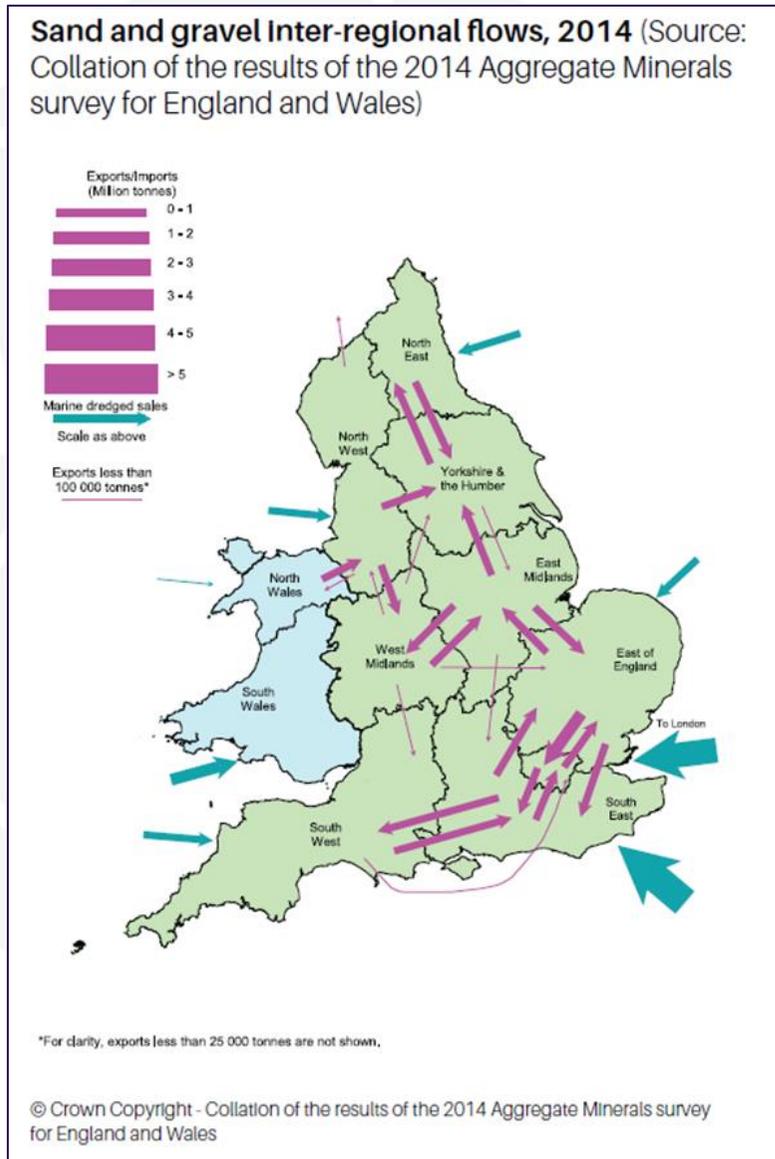
# Landowners Guide to Mineral Resources: Why Minerals?

## Typical Mineral Resource Types



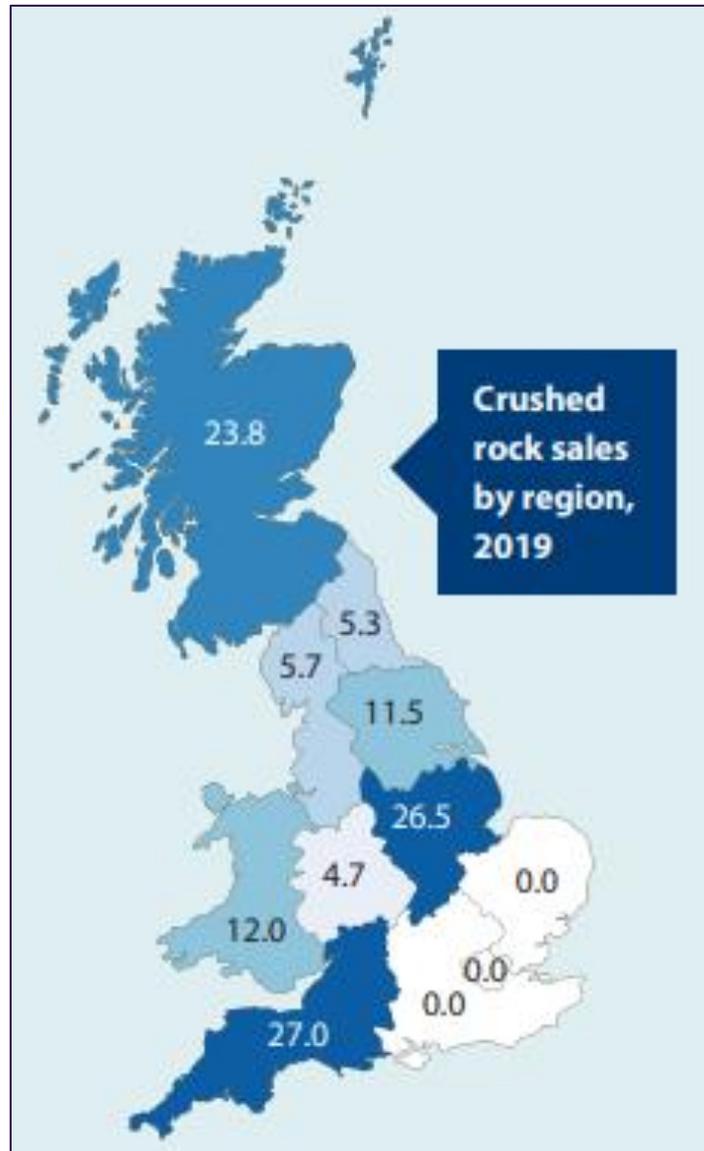
# Landowners Guide to Mineral Resources: Why Minerals?

## Regional Sales and Movements of Sand and Gravel

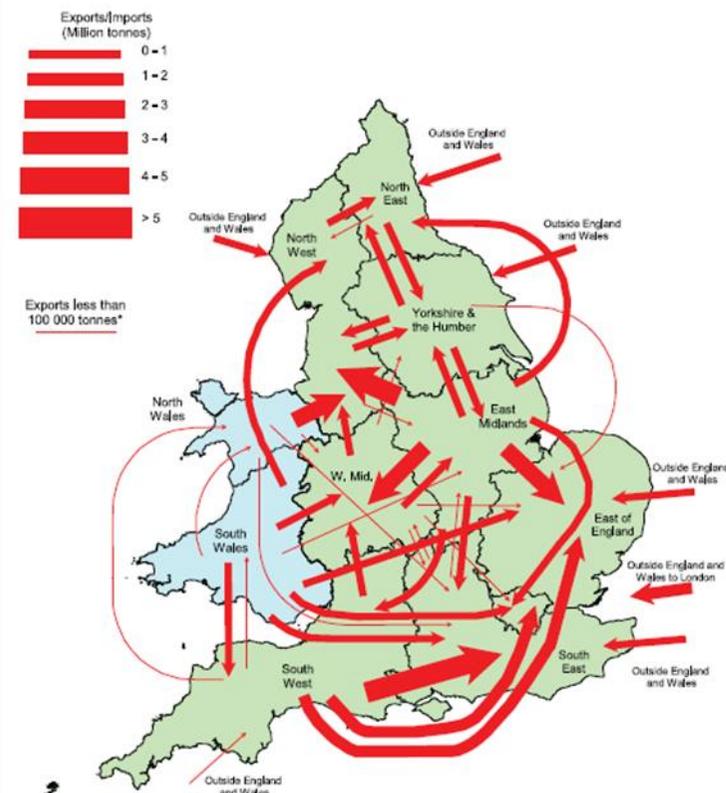


# Landowners Guide to Mineral Resources: Why Minerals?

## Regional Sales and Movements of Crushed Rock



**Crushed rock Inter-regional flows, 2014** (Source: Collation of the results of the 2014 Aggregate Minerals survey for England and Wales)

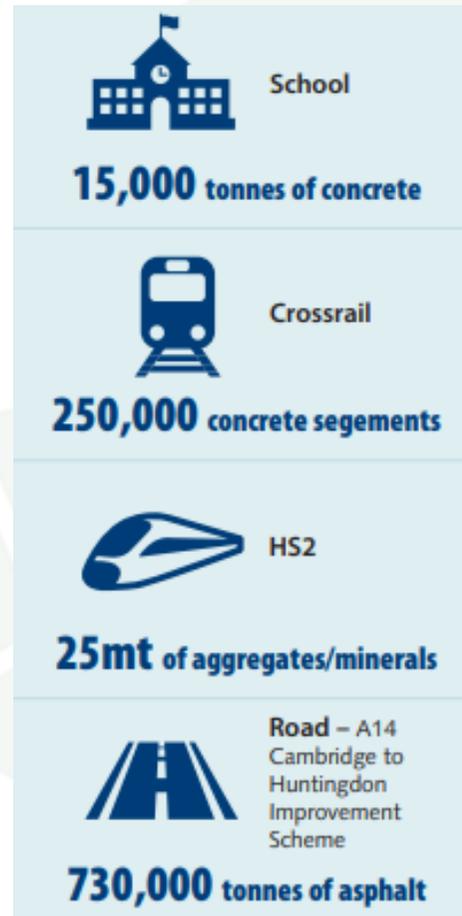


\*For clarity, exports less than 25 000 tonnes are not shown.

© Crown Copyright - Collation of the results of the 2014 Aggregate Minerals survey for England and Wales

# Landowners Guide to Mineral Resources: Why Minerals?

## The Importance of the Mineral Supply Chain (Mineral Products Association)



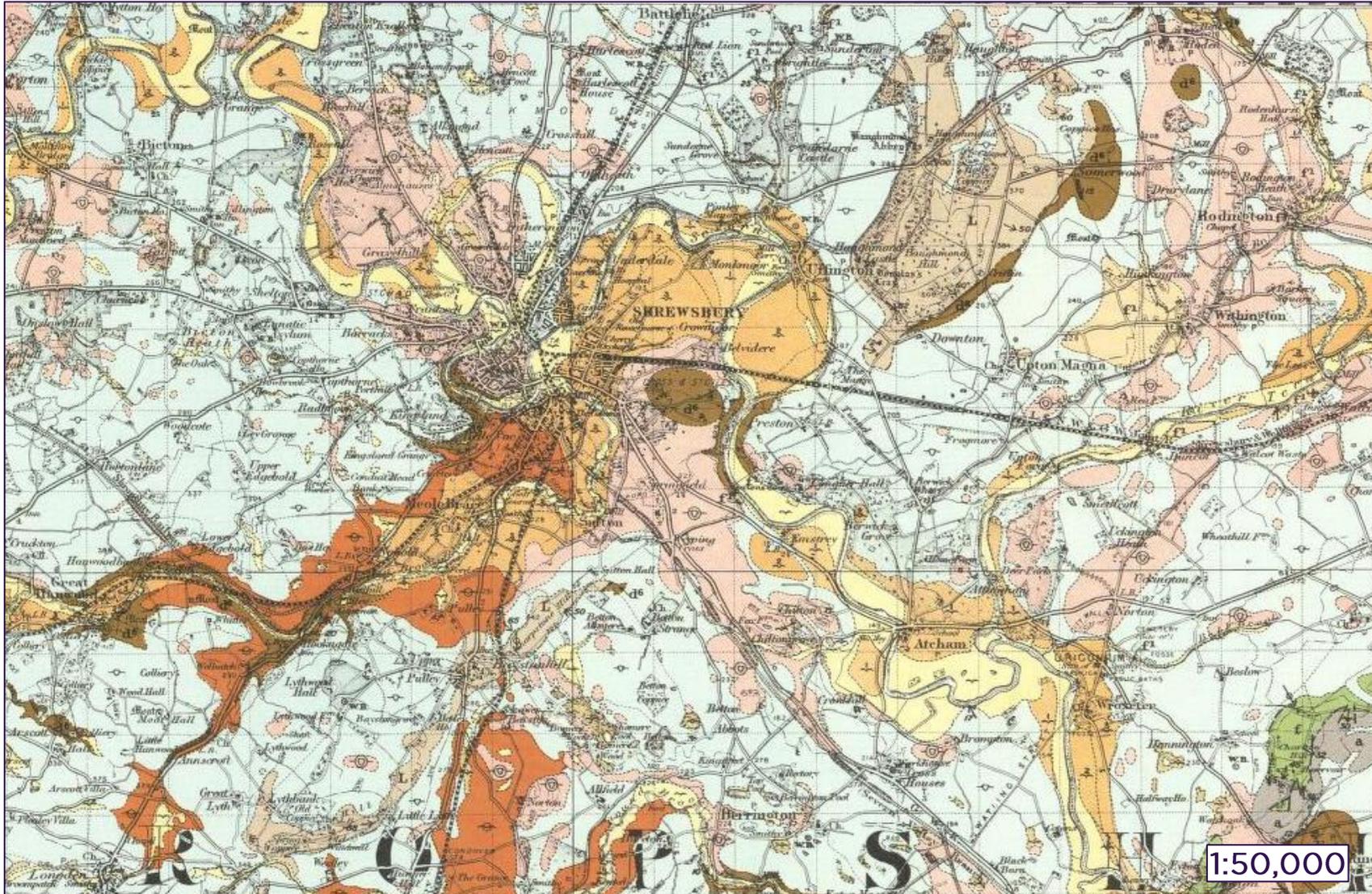
**Replenishment of Reserves** (Mineral Products Association – Annual Mineral Planning Survey – December 2021)

**Sand & Gravel:** 36% of annual sales were replenished through new permissions in 2020, and with a rolling 10-year average of 63%

**Crushed Rock:** 54% of annual sales in 2020 replaced by newly permitted crushed rock reserves whilst the 10-year average for the replenishment of crushed rock reserves is 76%

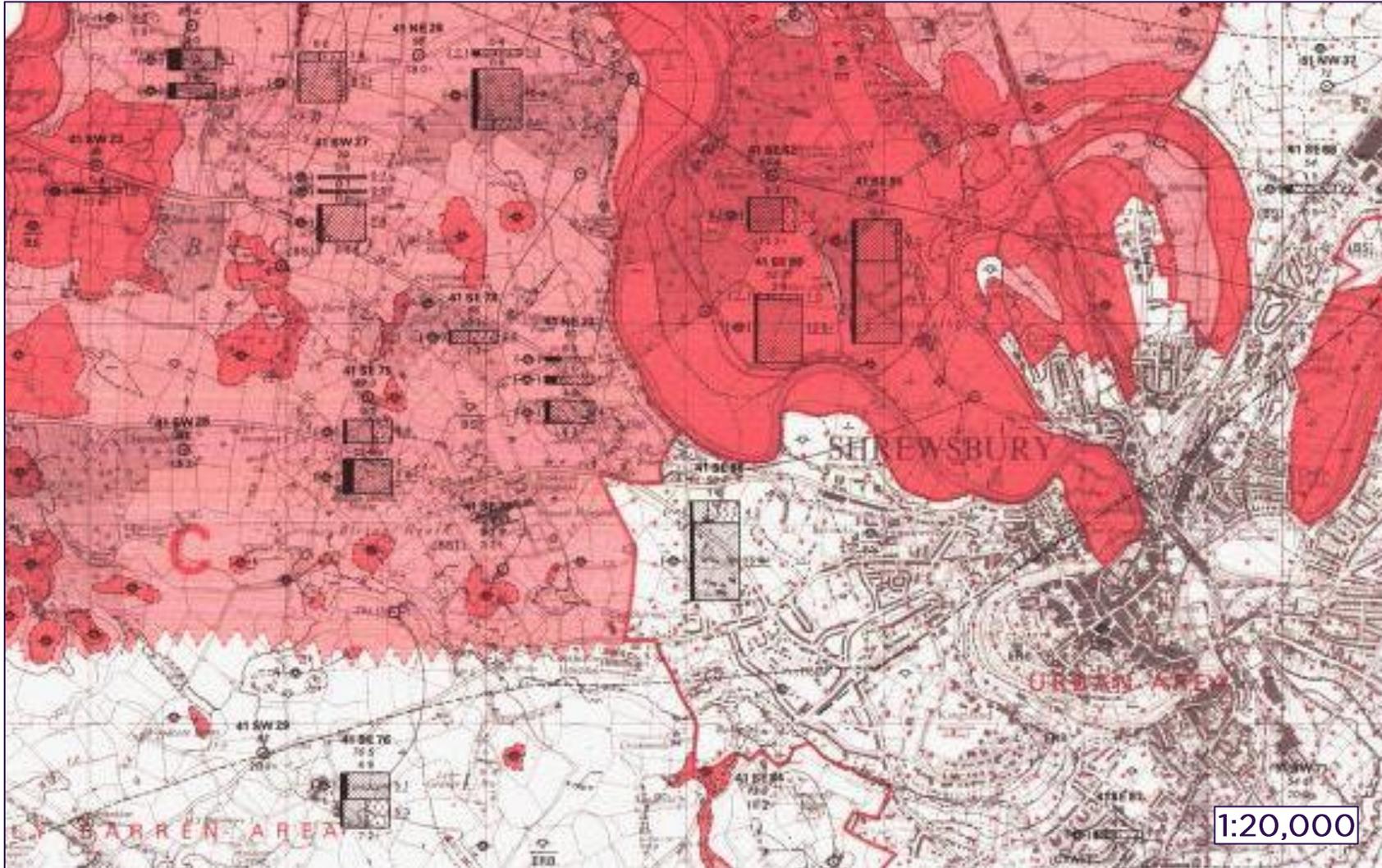
# Landowners Guide to Mineral Resources: Why Minerals?

## Identifying Mineral Potential



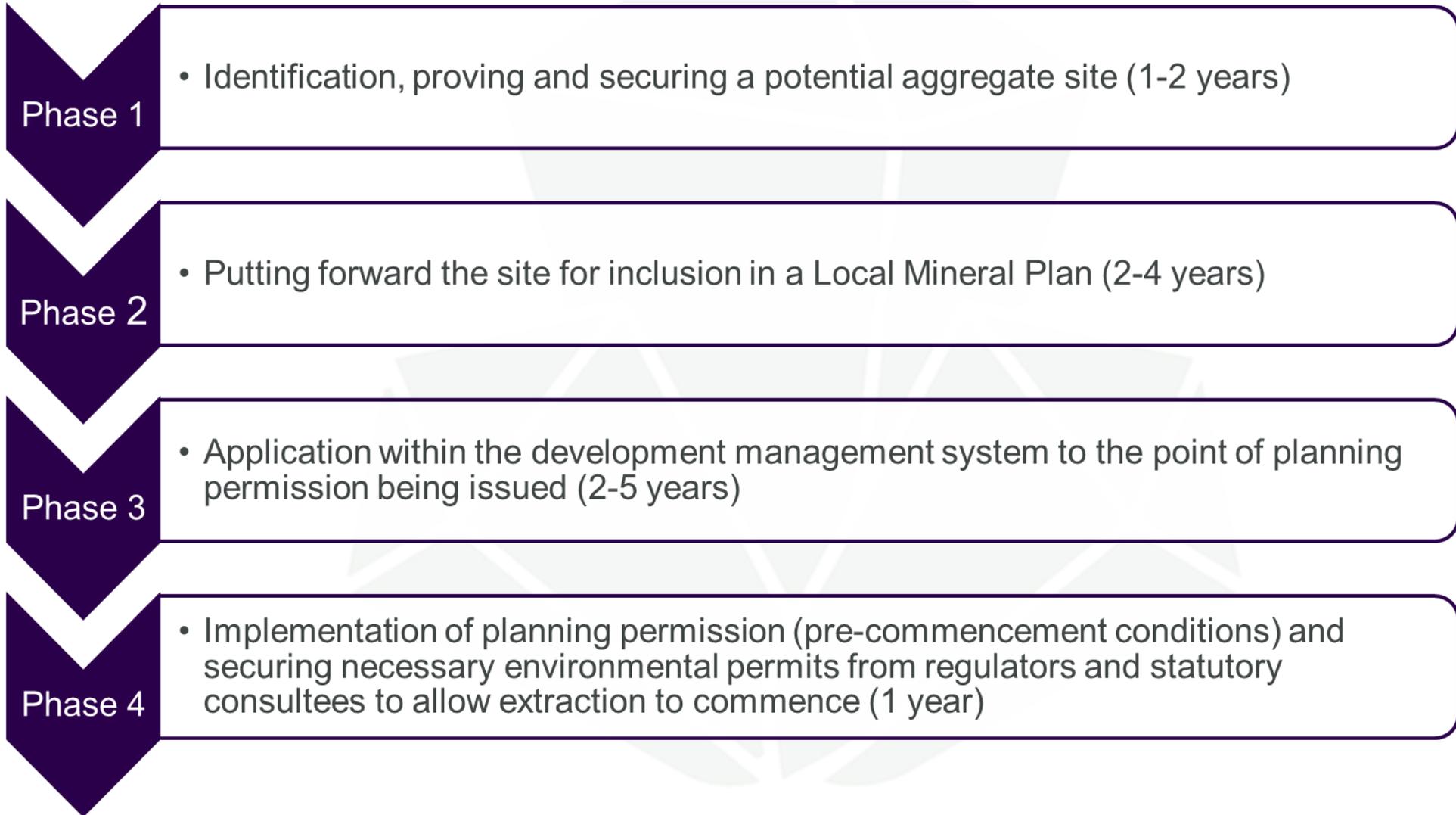
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## Identifying Mineral Potential



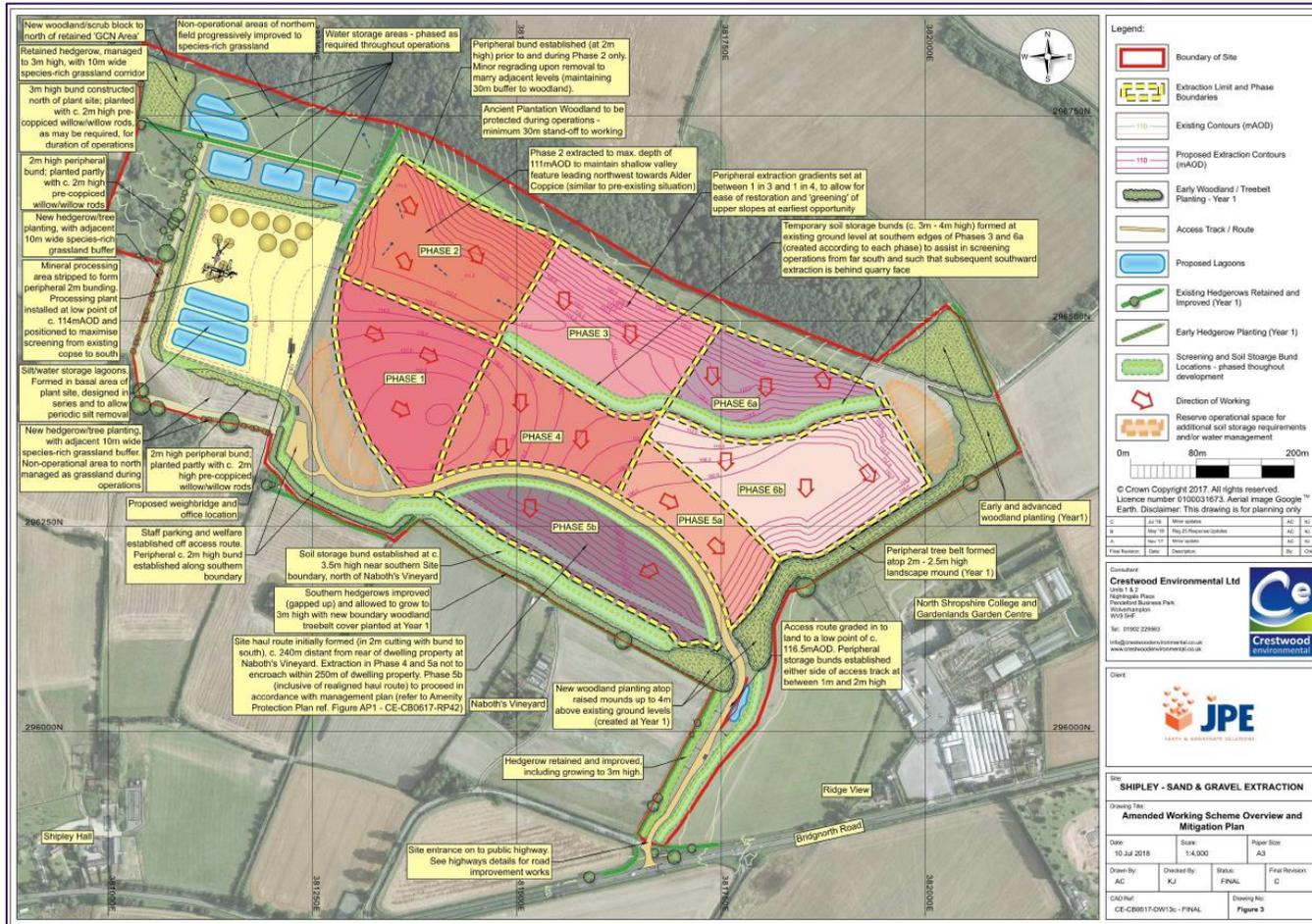
# Landowners Guide to Mineral Resources: Why Minerals?

## Mineral Development Timeline



# Landowners Guide to Mineral Resources: Why Minerals?

## Case Study - Shipley Quarry (Sand & Gravel)



### Scheme Details:

- 108 acres arable/grazing land
- 3,500,000 tonne reserve of sand & gravel
- Sales at 250,000 tonnes per annum
- 14-year operational life
- All materials washed and screened on site prior to export via road
- Restoration to agriculture

# Landowners Guide to Mineral Resources: Why Minerals?

## Case Study – Shipley Quarry (Sand & Gravel)



# Landowners Guide to Mineral Resources: Why Minerals?

## Summary

**The extraction and management of mineral resources is a significant UK industry.**

**Across the UK rates of consumption outpace rates of replenishment.**

**Initial efforts to identify mineral potential can be undertaken swiftly.**

**Market demand for new mineral prospects is currently strong.**

**The uplift on value afforded by mineral development should be of note to landowners.**



# Mineral Safeguarding and Severance

David Sandbrook

# Having Minerals on the Radar...



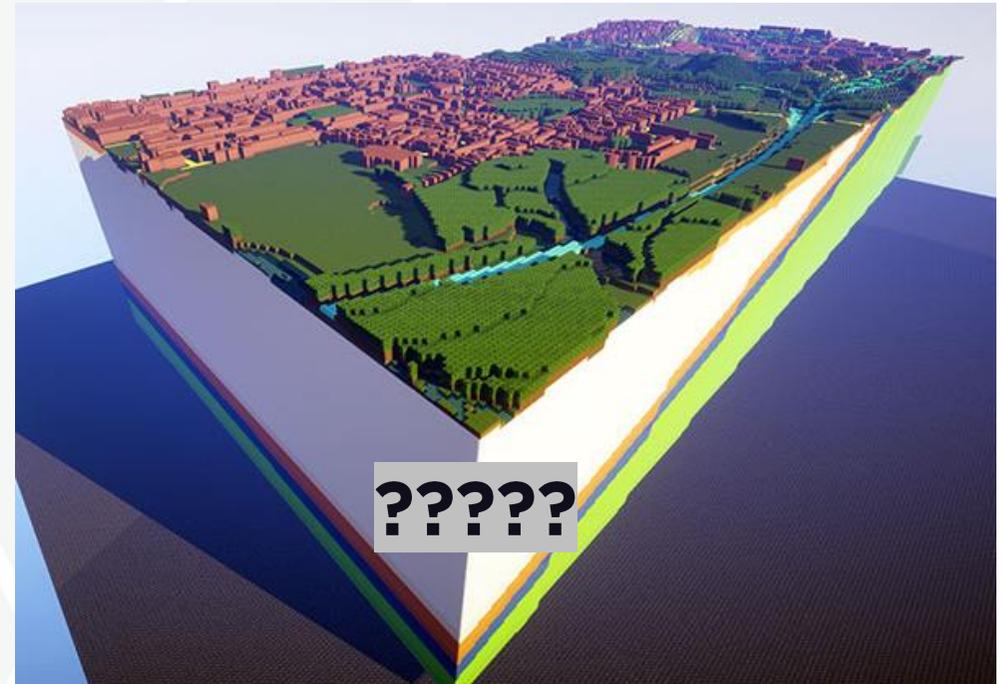
# Thinking of your property in 3D

Could minerals hinder built development?

“What lies beneath ?”

Mineral Safeguarding

Mineral Severance –  
exceptions and reservations



# What is mineral safeguarding



**Avoiding the sterilisation of mineral reserves or the loss of mineral infrastructure by non mineral development.**

# Mineral Safeguarding – Policy Context...

## **NPPF – Chapter 17 (209 & 210)**

*Facilitating the sustainable use of minerals*

*minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.*

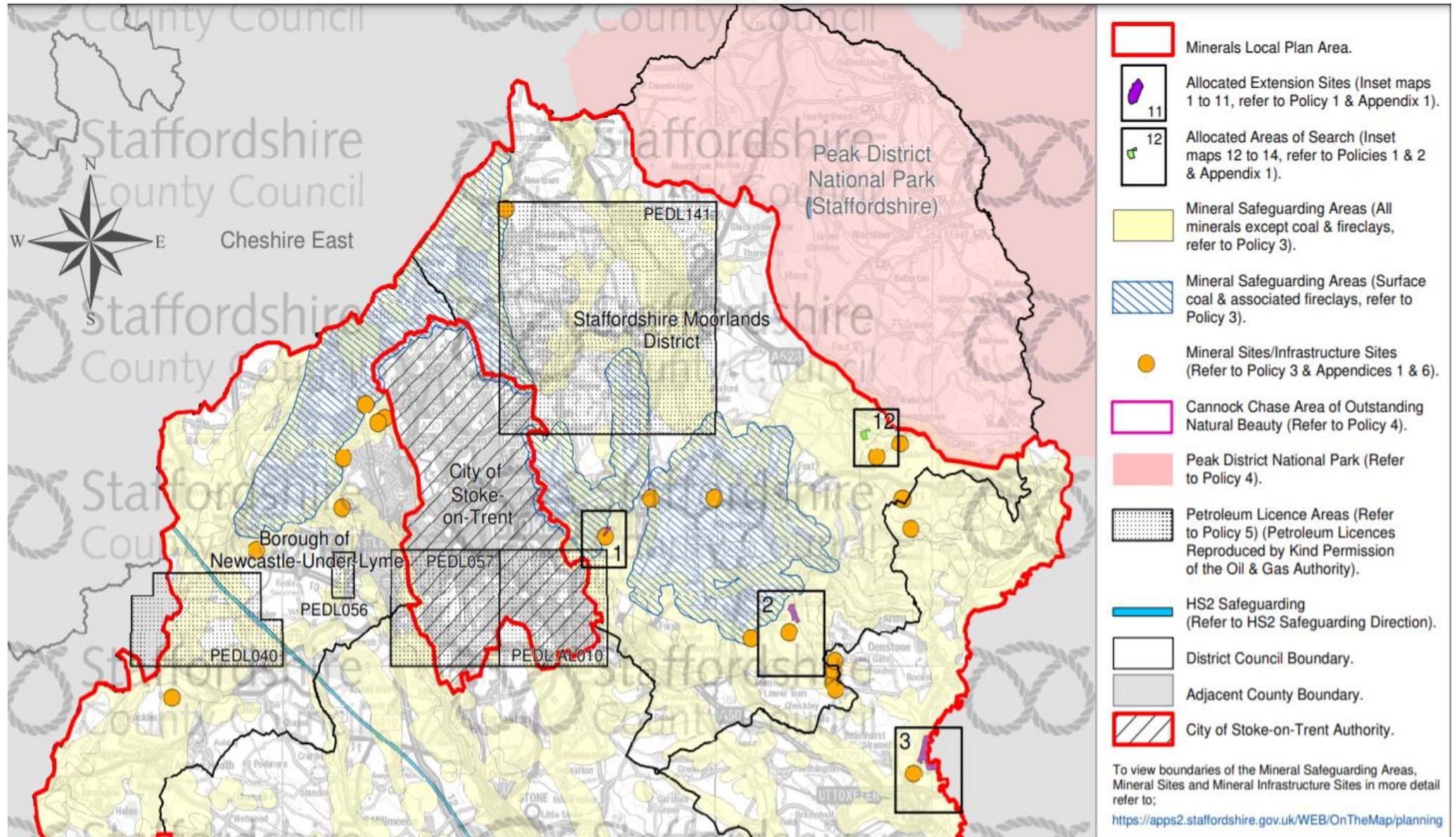
### **Mineral Planning Authorities are directed to...**

*“adopt appropriate policies 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 (whilst not creating a presumption that the resources defined will be worked);”*

**MCAs – Mineral Consultation Areas**

**MSAs – Minerals Safeguarding Areas**

# MSAs - Staffordshire



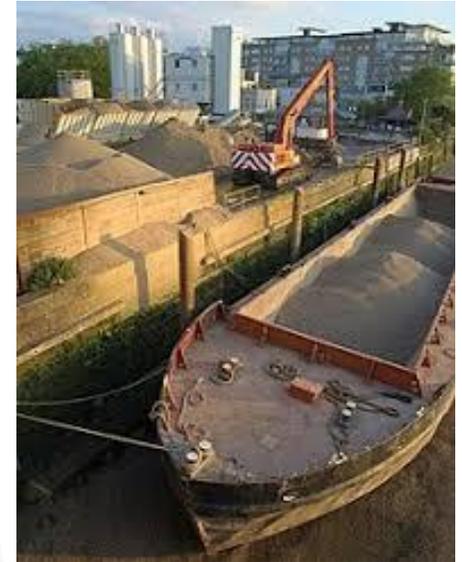
# MSAs – how to address them?

## Mineral Resource Assessments

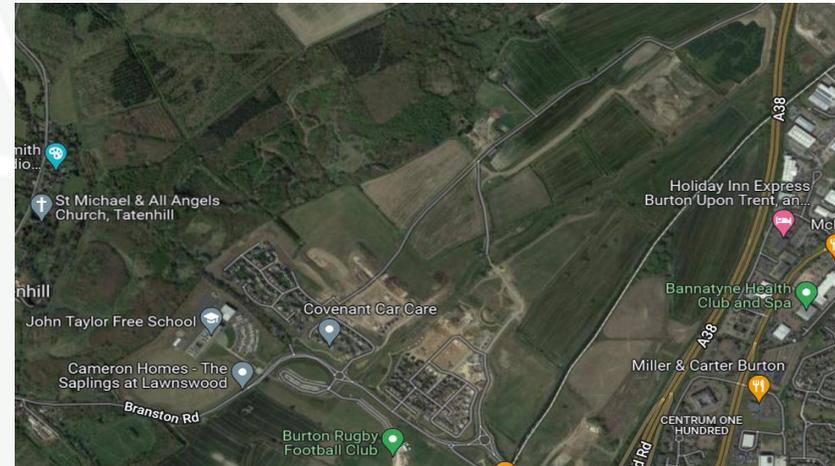
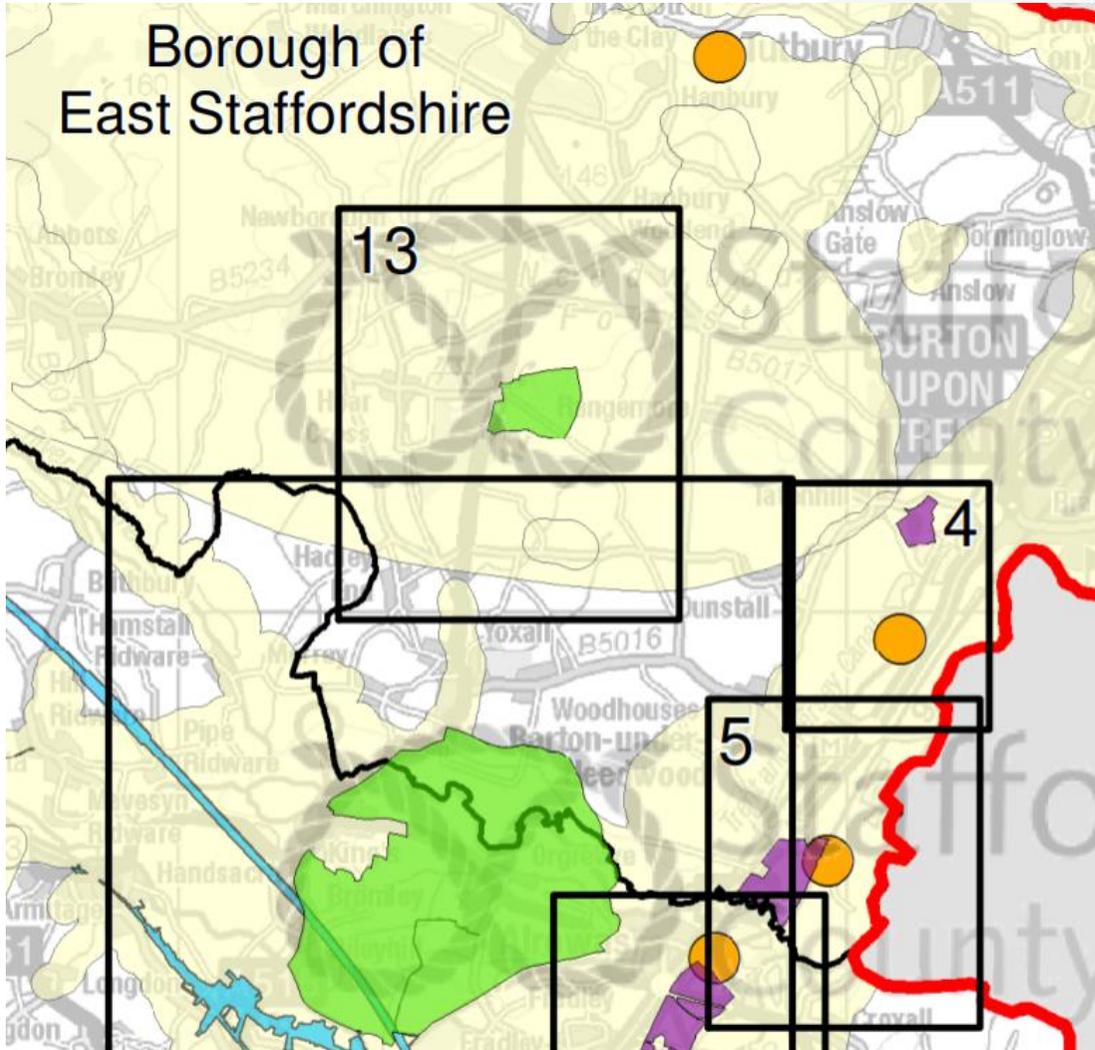
- *The type of mineral resource(s) thought to be present;*
- *the potential extent of sterilisation which could occur as a result of the development in terms of tonnage;*
- *Economic value and viability of the mineral, i.e. the market interest.*
- *Site specific considerations that may affect feasibility or acceptability of extraction from the Site;*
- *Potential options for prior extraction including the amount that could be extracted, nearby operators that could extract and process the material, or opportunities for on-site use*

## Mineral Infrastructure Assessments

Read the document: [https://mineralproducts.org/documents/MPA\\_POS\\_Minerals\\_Safeguarding\\_Guidance\\_Document.pdf](https://mineralproducts.org/documents/MPA_POS_Minerals_Safeguarding_Guidance_Document.pdf)



# Mineral Planning Designations - East Staffs



**Branston Locks, Burton-upon-Trent**



# Severed Minerals?

Does someone else own the minerals under your land?



# Severed Mineral Rights

## What is a severed mineral interest?

### Common Law principle

*“cuius est solum, eius est usque ad coelom et ad inferos”*

**or**

*“whoever’s is the soil, it is theirs all the way to Heaven and all the way to Hell”*

### Mechanisms for severing minerals

- Minerals excepted by conveyance
- Enclosure Award/Manorial Title
- State owned interests
- Localised customary rights
- Compulsory Purchase

# Severed Mineral Rights

## What is a mineral?

### Waring v Foden (1932)

1. Minerals – substances **exceptional** in use, in value and in character – not “ordinary soil of the district” which would “swallow up” a grant.
2. Minerals – what that word means in the **vernacular** of the mining world, commercial world and landowners at the time of the grant

# Severed Mineral Rights

## What is a mineral?

### Earl of Lonsdale v Attorney General (1982)

1. *“no single test” – “a series of pointers”*
2. *Vernacular Test*
3. *Exceptionality Test*
4. *Working Rights included? The expression “Underground Only” could exclude certain strata*
5. *Not “the common soil of the district”?*
6. *Intentions of the parties are objective*

# Severed Mineral Rights

Do you own what you think you own?

## **Coleman v Istock Brick Limited (Court of Appeal) (2008)**

1. *Brick shale failed the “tests” – deemed common soil of the district*
2. *Excluded from the exception (coal & ironstone)*

## **Wynne-Finch v NRW (2020)**

1. *Mudstone deemed to be the “common rock of the District”*

# Severed Mineral Rights – so what?

## Impact on built development?

- **Severed Minerals – is there a prospect of “Mineral Trespass”**
- **Can development proceed without any interference?**
- **What are your options?**
- **Negotiation**
  - Acquire the mineral interest
  - Secure an Easement
- **Insurance – subject to transparency of the title**

# Severed Mineral Rights

Do excepted minerals have any value?

**Commercial Value of Minerals?**

**Intrinsic Value of Minerals and Reserved Rights?**

**“Release Value” ?**

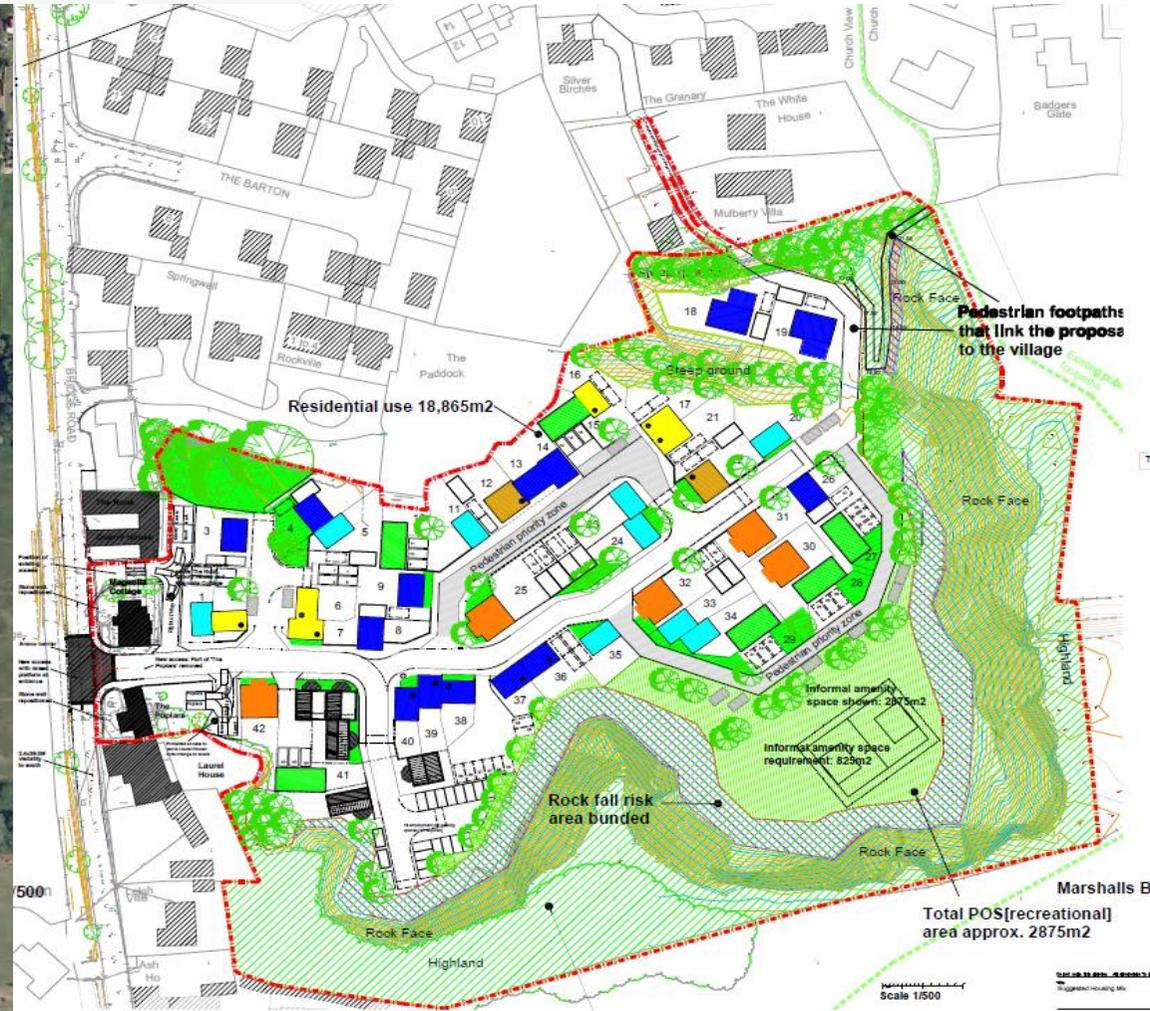
**Strategic / Ransom Value**

- Interference with 3<sup>rd</sup> party mineral ownership is a trespass and can be restrained by injunction. “Damages in lieu of injunction.”
- Issues for foundations, cut & fill, SUDS, service routes
- Is there an alternative and at what cost?
- Value of ‘Cleansing’ title?

# Case Study - ARC Aggregates Ltd v Branston Properties Limited



# Case Study - Development Site



# Summary

- Be minerals aware and think in 3D**
- Check your Title**
- Check your Planning Designations**
- Address at an early stage**
- Seek specialist advice**
- There is (nearly) always a solution**

