

# EXAMINATION OF THE CUMBRIA MINERALS AND WASTE LOCAL PLAN

## BRIEFING NOTE FROM THE INSPECTOR

### General

1. These Briefing Notes provide information about the Examination of the Cumbria Minerals and Waste Local Plan (MWLP) and are intended to assist with the efficient running of the Examination. The term “Examination” refers to the whole process whereby the Inspector considers the Plan. It starts with the submission of the draft MWLP by Cumbria County Council (the Council) to the Planning Inspectorate, and ends when the Inspector’s report is formally submitted to the Council. Therefore, the Examination process has already started.
2. Appendix A contains a list of publications that provide advice.

### The Inspector and her role

3. The Inspector appointed to hold the Examination is Elizabeth Ord LLB (Hons), LL.M, MA, DipTUS. She has four main roles:
  - to consider whether the Plan has been prepared in accordance with the Duty to Co-operate as required by the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011.
  - to consider whether the Plan meets the legal requirements of the Planning and Compulsory Purchase Act 2004 as amended, and also whether it meets the requirements of the Town and Country Planning (Local Planning)(England)Regulations 2012;
  - to consider whether the Plan is sound; and
  - to carry out the Examination with the objective of contributing to the achievement of sustainable development as set out in section 39 of the Planning and Compulsory Purchase Act 2004.
4. Unlike the other requirements, there is no scope to remedy any shortcomings with respect to the Duty to Co-operate. If the Duty to Co-operate has not been complied with, the Plan will fail.
5. If the Inspector considers that the Plan has shortcomings with respect to legal compliance and/or soundness, the Council may request her to make such modifications (main modifications) to the Plan as are necessary in order to rectify these shortcomings. Main modifications are changes that tend to affect the substance or application of a policy. The Council has made this request and the Inspector will do this.

6. The Inspector is not concerned about “additional modifications”, such as matters of clarification, factual updating or correction, which do not affect legal compliance or soundness. The Council may make additional modifications of their own accord and they will not be examined.

### **Soundness**

7. The soundness of the Plan is based upon the four soundness criteria set out in the Framework, namely that the draft Plan is: Positively prepared, Justified, Effective and Consistent with national policy.
8. Paragraph 182 of the Framework advises on the meaning of each of these criteria as follows:
  - Positively prepared - the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
  - Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
  - Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
  - Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

### **The Programme Officer and his role**

9. The Programme Officer (PO) for the Examination is Jonathan Evans. For the purposes of the Examination he acts as an impartial officer of the Examination, under the Inspector’s direction, and not as an employee of the Council. He can be contacted at:

**address:** Programme Officer, Cumbria County Council, County Offices,  
Busher Walk, Kendal, Cumbria, LA9 4RQ

**tel:** 0161 779 6183

**e-mail:** [programmeofficer@urbanvision.org.uk](mailto:programmeofficer@urbanvision.org.uk)

10. His main tasks are to liaise with all parties to ensure the smooth running of the Examination, to organise the Hearings Programme, and to ensure that all documents received both before and during the Hearings are recorded and distributed. Copies of all the Examination documents, including the representation forms and further written submissions, will be available in the Examination Library. Procedural questions or other matters that anyone wishes to raise should be raised with the PO in the first instance.

## **The Examination Process**

11. The Inspector will proceed on the assumption that that the Council has submitted what they consider to be a sound plan. Those Examination participants seeking modifications must demonstrate why the Plan is unsound by reference to one or more of the soundness criteria.
12. The Inspector will aim to work with the Council and the other Examination participants in a positive, proactive, and pragmatic manner. She will examine the soundness of the whole Plan, having regard to the representations submitted, rather than just the objections made. This means that her report will deal with broad issues, and not with each individual representation. The hearing process is informal with “round table” sessions addressing particular topics, rather than the more formal, traditional way of a public inquiry.
13. During the course of the Examination, it may be found necessary to make main modifications to the Plan in order for it to be sound. Any such modifications would have to be the subject of a further round of consultation and would also need to be covered by a revised Sustainability Appraisal where appropriate.
14. The Council may make additional modifications which do not bear on soundness and which may be matters of clarification, factual updating or correction. Additional modifications are a matter for the Council and will not be examined.

## **Representations**

15. Representations have been received on the published Plan from individuals and organisations (the “representors”). In response to this and before submitting the Plan to the Secretary of State for examination, the Council proposed a number of modifications to the published Plan and these are set out in the track-changed submission version of the Plan. These modifications have not been consulted upon and, therefore, those that are main modifications will be dealt with during the course of the Examination in the same way as other main modifications.
16. Representors should confirm whether they wish to be heard orally at a hearing session or whether they are content to rely on written representations. The Inspector will take account of all written representations as well as those delivered orally. Those who simply wish to rely on their previous submissions need take no further action; they can rely on what they have already submitted in writing. However, if anyone wants to make a further written submission supporting their position, it should be focussed on the issues identified for the relevant hearing sessions.
17. Please note that in the interests of fairness it will not be possible to request a change from written representations to an appearance at a hearing session after 21 November 2016 due to the preparation work that has to be undertaken

by other parties, particularly by the Council. Hearings are open to all, but only those who have made representations and have indicated that they want to participate, will be allowed to speak. If you are unsure whether or not to appear at the hearing sessions, or no longer wish to appear as originally indicated, or have not previously specified your intentions, please contact the PO who will be happy to assist you.

## **Statements**

18. All statements (apart from those relating to radio-active waste), which are made in response to questions within the attached Draft Matters and Issues document, should be sent to the PO by **17:00 on Monday the 7<sup>th</sup> November 2016**. All radio-active waste statements, which are made in response to forthcoming radio-active waste questions, should be sent to the PO by **17:00 on Monday the 14<sup>th</sup> November 2016**. These deadlines relate to the receipt of paper and electronic copies. Statements should only address the Inspector's "initial questions" unless the PO has been informed of other matters as referred to in the Matters and Issues document. Statements will be placed on the Examination website.
19. Appendix B sets out the requirements for the presentation of all statements. Its provisions should be read and implemented to avoid statements being returned due to non-compliance. Please note the 3,000 word limit, which only exceptionally may be exceeded with prior notice to the Inspector.
20. Essentially, the Inspector needs to know the following from those submitting further written statements:
  - What part of the Plan is unsound.
  - Which soundness criterion it fails.
  - Why it fails (point to the key parts of your original representations).
  - How the Plan can be made sound.
  - The precise modification and/or wording that you are seeking.
21. The Council may submit statements on each issue saying why they consider the Plan to be sound in that particular aspect, why any main modifications sought by other participants would make it less sound or unsound, and (where relevant) suggestions for other main modifications.

## **The Hearings**

22. The hearings will open at **10.00 hours on Tuesday 29<sup>th</sup> November 2016**, venue to be confirmed.
23. Hearings during third week will open at **10.00 hours on Tuesday 13<sup>th</sup> December 2016**, venue to be confirmed.

24. The hearings format will provide an informal setting for dealing with issues by way of a discussion led by the Inspector. Those attending may bring with them professional experts, and barristers and solicitors (if present) will be treated as part of their team.
25. The purpose of the hearings is to concentrate on the Inspector's Matters and Issues. The discussion will focus on the Inspector's questions, guided by an agenda, together with any additional points raised by the written statements. Those present will be asked to introduce themselves. The Inspector may ask the Council to open and outline their position. Participants will then be invited to make their contributions. The hearings will progress with the Inspector drawing those present into the discussion in such a way as to enable her to gain the information necessary to come to a decision on the relevant matters.
26. There will be an opportunity within the discussion to ask questions of the Council where appropriate. No more evidence should be submitted once the hearing session has closed unless the Inspector expressly invites or allows it. The Inspector will conduct a short, focussed series of hearings which, in turn, will lead to a short, focussed report.

### **Statements of [Un]Common Ground**

27. Statements of common or uncommon ground can be usefully produced between the Council and representors. The Inspector invites such statements where possible and asks that they identify points in dispute and clarify points that are no longer in dispute, thereby assisting the hearings to concentrate on the key issues that truly need public discussion. They could for example include agreed wording of a suggested main modification, or agreed factual information, amongst other things.
28. Work on proposed statements of common ground should commence as soon as possible with the aim of completing them by the deadlines for other statements. However, as a last resort, agreed documents will still be accepted if submitted at the relevant hearing sessions.

### **The Evidence Base (Core Documents) and Examination Library**

29. The Council have prepared a list of the evidence core documents that will be available in the Examination Library. As each written submission is received it will be added to the evidence base, as will any other new evidential documents accepted. These documents may be accessed via the Examination website, which will be regularly updated. The examination website address is:

[http://www.cumbria.gov.uk/planning-environment/policy/minerals\\_waste/MWLP/examination.asp](http://www.cumbria.gov.uk/planning-environment/policy/minerals_waste/MWLP/examination.asp)

### **Site visits**

30. The Inspector may wish to visit certain sites or areas before, during, or after the hearings. This may be done unaccompanied or accompanied.

### **Closing Remarks**

31. The Inspector urges everyone to:

- Make the best use of the remaining time before the start of the hearing sessions to ensure statements are submitted on time.
- Ensure that the timescales and deadlines are adhered to as otherwise Examination attendance may have to be rearranged or curtailed.
- Be aware of the Examination documents, the supporting evidence, and any other relevant material produced by the Council.
- Focus on the “Matters and Issues” document and the Framework soundness criteria.
- Check website regularly and/or be in contact with the PO.

*12<sup>th</sup> October 2016*

## **Appendix A - List of relevant legislation and guidance**

### **Legislation**

The Planning and Compulsory Purchase Act 2004

The Localism Act 2011

The Town and Country Planning (Local Development) (England) Regulations 2012

The Waste (England and Wales) Regulations 2011

### **Government Policy and Guidance**

National Planning Policy Framework (the Framework) March 2012

National Planning Policy for Waste October 2014

Planning Practice Guidance (web-based resource)

### **Guidance from the Planning Inspectorate**

Procedural Practice in the Examination of Local Plans 4<sup>th</sup> Edition June 2016

### **Examination and Evidence Base Documents**

The Examination web site can be found at:

[http://www.cumbria.gov.uk/planning-environment/policy/minerals\\_waste/MWLP/examination.asp](http://www.cumbria.gov.uk/planning-environment/policy/minerals_waste/MWLP/examination.asp)

## Appendix B - Format for statements

- A. Please send e-mailed electronic versions of all Statements and Appendices to the PO (in Word or PDF format) for the Examination web site as well as **Three Paper copies. Individual statements should be submitted for each Issue addressed.**
- B. The Inspector emphasises the need for succinct submissions with the avoidance of unnecessary detail and repetition of the original representation.
- C. It is the quality of the reasoning that carries weight not the bulk of the documents. It is vital that the fundamental elements are set out clearly and succinctly.
- D. Statements should not be longer than **3,000 words** for each issue addressed. Statements should be prepared on A4 paper and stapled. Any oversized plans or diagrams should be folded to A4 size and listed as Appendices.
- E. Supporting material in the form of appendices to statements should be limited to that which is essential. Any appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, the aim of succinctness should be respected. Anyone submitting appendices should indicate in their statement which parts they are especially relying upon.
- F. A separate statement should be submitted for each issue covered. Multiple issues should not be combined into a single statement. Each statement should specifically address questions covered within an individual issue. This will assist distribution, publication and understanding during the Hearing Sessions.
- G. All participants must adhere to the timetable for submitting statements. Late submissions and additional material will not be accepted since this can cause disruption and result in unfairness. If material is not received by the stated deadlines, the PO will assume that original representations only are being relied upon.
- H. Statements relating to all matters except radio-active waste are to be received by the PO by **17:00 on Monday 7<sup>th</sup> November 2016**. Statements relating to radio-active waste matters are to be received by the PO by **17:00 on Monday 14<sup>th</sup> November 2016**.
- I. It is stressed that these deadlines refer to the receipt of both electronic and paper copies of statements. It is not sufficient to send an electronic copy by this deadline to be followed by paper copies at a later time.
- J. All paper copies of statements should be addressed to the PO at the following address:

**Mr Jonathan Evans**  
**Programme Officer**  
**Cumbria County Council,**  
**County Offices, Busher Walk,**  
**Kendal, Cumbria, LA9 4RQ**

e-mailed documents should be sent to:

[programmeofficer@urbanvision.org.uk](mailto:programmeofficer@urbanvision.org.uk)