

**Cumbria Minerals and Waste Local Plan (MWLP)
Draft Matters and Issues for Examination**

The following comments are made in response to the Matters and Issues raised by the Inspector and in support of the previous representations submitted by the Mineral Products Association (4th July 2016). For ease of reference, the MPA response is immediately below the Inspector's questions; highlighted in blue and italicised.

Legal Matters

Matter 1a: Duty to Co-operate (DtC)

Issue: Has the DtC been met?

1. I have considered the *Statement on Compliance with the Duty to Cooperate (SD40)* and the *Statement of Consultation (SD41)*. Please briefly explain how the DtC has been met with respect to Historic England.

2. Have any relevant authorities indicated that they are not satisfied that the DtC has been met?

MPA Comment

In its response of the 4th July 2016, the MPA highlighted that the Duty to Co-operate (DtC) has not been fulfilled. This point was made, as it is not clear from the Council's Statement on Compliance with the Duty to Co-operate (SD40), whether or not industrial minerals (from a national perspective) and specific building stone products have been considered as part of the DtC. We would be happy to withdraw this concern if the Council can clarify this matter.

Matter 1b: Other Legal and Procedural Requirements

Issue: Whether the Plan meets all other relevant legislative requirements

3. I have considered the *Legal Compliance Checklist (SD43)*, the *Minerals and Waste Development Scheme (SD39)* and the *Equality Impact Assessment (SD46)*. Are there any outstanding issues arising from matters contained within these documents?

4. I note that the *Statement of Community Involvement dated 2006* is in need of review. However, I have considered the interim steps taken by the Council including developing a bespoke consultation database as indicated in SD44. Are there any issues that have arisen over the *Statement of Community Involvement*?

5. Regulation 8(5) of the *Local Plan Regulations 2012* requires the Plan to identify superseded policies from the adopted development plan. There is no indication in the Plan of what policies it supersedes, although document SUB 107 provides details. How should this be rectified?

6. With reference to an attached map explain briefly how the *Yorkshire Dales and Lake District National Park Authorities boundary changes*, which took effect on 1 August 2016, alter the boundary area that *Cumbria County Council* is responsible for. Briefly explain who is responsible for minerals and waste policy in this area at the current time and provide the legal authority to support this.

MPA Comment

We would agree with the Inspector that clarification on this matter would be beneficial. It is unclear if the respective mineral companies affected by the boundary changes were notified of these although we fully appreciate that this would be the responsibility of Natural England and not the County Council.

Soundness Matters

Matter 1: Vision and Objectives

Issue: *Whether the identified Vision and Objectives are the most appropriate for the Plan area*

7. Is there a clear relationship between the Spatial Vision and the pattern of proposed development and existing facilities?
8. Should the Plan contain a separate overall Spatial Strategy providing more detail about where potential development might be proposed? Should the Spatial Strategy be more reflective of the distinctive spatial characteristics of the Plan area and its geography/geology?
9. Are the most significant key challenges facing the County identified in the Plan and reflected in the vision, overall strategy and objectives?
10. Do the vision, overall strategy and objectives reflect the most appropriate issues?
11. Is there sufficient inclusion of radio-active waste matters? Should there be a strategic objective relating to radio-active waste?
12. What evidence is there to demonstrate how the chosen vision/strategy and objectives were arrived at and have all reasonable alternatives been considered?
13. Do the vision and objectives reflect the three dimensions of sustainable development (economic, social and environmental)?
14. Explain briefly how the Plan's strategic approach is sufficiently flexible to accommodate all significant and foreseeable eventualities and changing circumstances.
15. It used to be a Government requirement that the presumption in favour of sustainable development was reflected in the local plan. This is no longer the case. Therefore, it is a matter for the Council whether it wishes to retain Policy SP1.

Matter 2 - Waste Strategy

Issue: *Do the strategic waste policies provide sufficient opportunities for an appropriate level of sustainable waste management facilities to operate in suitable locations throughout the County?*

16. Is there any update on when the new Joint Municipal Waste Management Strategy is likely to be published JMWMS?
17. Are the methodologies used in the Waste Needs Assessments for forecasting waste arisings and waste movements during the Plan period the most appropriate?
18. Do the high, medium and low growth scenarios provide sufficient sensitivity testing of the assumptions used?
19. How have the resulting forecast figures for the waste streams managed in Cumbria and exported out of Cumbria throughout the Plan period been chosen?
20. Are there preferred scenarios which have been followed through to the MWLP and, without seeking spurious accuracy, are they sufficiently robust?

21. How have Broad Areas for development been chosen?

22. Are the Broad Areas identified on the Policies Map?

23. Should the proposed waste water treatment works at Bridekirk referred to in Plan paragraph 3.66 be allocated?

Matter 3 - Radioactive Waste Strategy

Issues and questions to follow.

Matter 4 - Minerals Strategy

Issue: Do the strategic minerals policies provide sufficient opportunities for maintaining a steady and adequate supply of important minerals in a sustainable way and for appropriately safeguarding resources?

24. Should this chapter give a broad indication of the scale of minerals provision likely to be required over the Plan period based on current assessments? Even though the sales figures and reserves will change over time, would a broad indication of requirements provide some certainty at the start of the Plan period and a basis for designating areas for future sites?

MPA Comment

Cumbria has a diversity of minerals, but we do not believe the approach to minerals provision and safeguarding has been clearly defined, not least having one policy for mineral provision and minerals safeguarding. It is also evident that the provision of a steady and adequate supply of all building stone falls short of the requirements of National Planning Policy Guidance. A broad indication of requirements would provide some certainty at the start of the Plan period.

Land-won Primary Aggregates

25. I note that Plan Table 5.2 indicates that the limestone reserves are for aggregates. However, please confirm that they do not include any limestone that is used for industrial lime or building stone.

MPA Comment

We would welcome the Council's clarification of this matter.

26. Is it possible to indicate the reserves of industrial lime?

MPA Comment

We would welcome the Council's clarification of this matter.

27. In Plan paragraph 5.55 where are the other main concentrations of population where growth and development are likely?

Industrial Minerals

28. Is the winning and working of anhydrite still commercially viable or likely to be so in the future?

29. Should the gypsum policies also include anhydrite?

30. What is the basis for stating at Plan paragraph 5.61 that the gypsum reserves are sufficient for around 15 years?

31. I note from Plan paragraph 5.63 that there is a specialist brickworks which uses mudstones from an adjacent quarry although paragraph 5.64 indicates that it is not a practical option to maintain a 25 year landbank for brick clay. Please give further brief details as to why.

32. Is there any indication of what the landbank for the brickworks might be?

33. Plan paragraph 5.65 refers to industrial grade limestone the supply of which is covered by Policy SP10. Can it be assumed from this paragraph that no significant quantities of industrial lime are used for cement primary and, therefore NPPF paragraph 146 3rd bullet does not apply?

34. Should Policy SP7 include a preferred area/area of search for industrial limestone?

MPA Comment

It is unclear how provision will be made for a stock of permitted reserves of industrial limestone without the identification of preferred area/area of search. The Council's clarification on this matter would be beneficial.

Building Stone

35. Are there different types of sandstone/limestone/slate produced in the 17 building stone quarries?

MPA Comment

The diversity of building stones within Cumbria has many different characteristics. Imported materials may be available which, on the face of it, appear to represent a "good match" for indigenous stone. However, these materials are unlikely to have the same workability or weathering characteristics as the indigenous building stone. We would draw the Inspector's attention to the attached MPA publication "Dimension Stone - An essential UK industry".

36. Besides Kirkby Slate are any of the building stones of significant importance to the economy or otherwise?

MPA Response

The Kirkby Slate operation is undoubtedly of significant importance. However, we believe the plan may have underestimated the importance of other dimension stone operations within the County thought not safeguarding important mineral resources and ensuring a steady and adequate supply within the policies of the plan.

Dimension stone operations are commonly located in rural environments and have often been a central part of community life for many generations. They continue to provide employment and opportunities to acquire skills that would otherwise not be available in those settings. In addition to providing materials close to points of need, the importance of the industry to rural economies must also be an essential part of considering dimension stone proposals. The conservation and restoration of our heritage assets makes a positive contribution to sustainable rural communities and brings wider social, cultural and environmental benefits. At paragraph 144 (Bullet Point 8) the NPPF recognises the need for small scale building stone extraction to provide materials for the repair of heritage assets. Although the maintenance of these historic assets is an important role, MPA members report that repairs account for only around 10% of their market. There are many parts of the UK whose distinctive character is set by the natural stone buildings which form them. To remain viable those communities, need to grow and to evolve, which creates a need for extensions and new buildings. Use of the original stone is often the only way of ensuring that new development is in keeping with the old.

37. Is there sufficient policy support for the winning, working and processing of the different types of building stone?

MPA Response

We do not believe that there is sufficient support for the winning, working and processing of the different types of building stone. Indigenous supplies of local building stone are important to heritage assets and local distinctiveness. The alternative to an indigenous provision is to import materials. Imported materials can only compete in the UK market

simply because their production is not subject to the costly cumulative regulatory burdens (including the planning constraints) which UK operators have to bear. In many cases, it has become easier to source dimension stone from abroad rather than negotiate the UK planning and environmental permitting systems, as is necessary to make supplies of indigenous materials available. Importing stone from remote sources such as India and China must raise questions on both economic and sustainability grounds, when suitable and often better materials can be made available in close proximity.

38. Apart from Kirkby Slate Quarry, is it sufficient to only have a criteria based policy (DC12) against which to determine building stone development proposals?

MPA Response

We believe criteria based policies have their role in delivering a steady and adequate supply of minerals including building stone. It may be that insufficient sites have been brought forward within the evolution of the Cumbria Minerals Local Plan, to include Site Specific allocations. However, Preferred Areas and Areas of Search do provide the Local Planning Authority with alternative approaches where the certainty of Site Specific allocations cannot be assured.

Areas of Designation: Allocations/Preferred Areas/Areas of Search

39. Why have areas of search been chosen over preferred areas?

40. Why have preferred areas been chosen over allocations?

41. What main factors were taken into account in assessing areas of search?

42. What main factors were taken into account in assessing preferred areas?

43. What are the main distinguishing factors between the two?

44. Is the lack of sites being put forward by developers the only reason for not allocating sites in the Plan or have other considerations been taken into account?

45. Is there insufficient certainty of resources to allocate sites within preferred areas/areas of search?

46. Were economic factors taken into account in discarding resources from areas of search?

47. Plan paragraph 18.29 states that SP7 does not include preferred areas and/or areas of search for all local building stone as the detailed evidence to support such an exercise is not available. Is slate the only building stone that should be included in this policy?

MPA Response

As the Inspector has highlighted at Matter 48 (below), we believe that there is a foundation of information relating to building stone, sufficient to support the identification of preferred areas and/or areas of search for all local building stone. The British Geological Survey data includes the English Heritage publication and details of the sources of the varying types of building stone.

http://www.bgs.ac.uk/mineralsuk/buildingStones/StrategicStoneStudy/EH_atlases.html

48. It is noted from paragraph 15.27 that the hoped for building stone survey of Cumbria has not been undertaken. However, is there not sufficient information available to designate building stone from the *Strategic Stone Study: A Building Stone Atlas of Cumbria and Lake District* (English Heritage) August 2013?

MPA Response

As referred to above (response to Matter 47), we believe the English Heritage report and BGS data provides “sufficient information”.

Minerals Safeguarding Areas (MSAs) and Mineral Consultation Areas (MCAs)

49. Are all economically significant minerals safeguarded as well as those that have reasonable prospects of becoming economically viable in the future?

MPA Response

We do not believe that all economically significant minerals have been safeguarded in the plan as detailed within our representation dated 4th July 2016.

50. Do the MSAs cover the whole mineral resource in accordance with the BGS guidance (paragraph 4.2.3 *Mineral safeguarding in England: good practice advice* (LD187)? Should this advice be followed?

MPA Response

We do not believe the whole mineral resource has been safeguarded. We firmly believe the BGS guidance if the appropriate guidance for minerals safeguarding

51. For any such minerals not safeguarded give brief reasons why.

MPA Comment

We would welcome the Council’s clarification of this matter.

52. Does exclusion of land from a MSA weigh against prior extraction of a mineral should it be present?

53. Should anhydrite resources be safeguarded along with gypsum resources?

54. Are there any remaining iron ore deposits that are reasonably likely to become commercially viable in the future? If so, should they be safeguarded?

55. It is said that 8 of the 17 building stone quarries produce aggregates as well as building stone. Is it correct to assume that these aggregate resources are safeguarded?

MPA Response

We would welcome the Council’s clarification on this point.

56. Paragraph 15.27 indicates that the building stone MSA has been removed. How are the building stone resources at these quarries distinguished from the aggregate resources?

MPA Response

We believe that the approach adopted by the Council does not accord with NPPF as it fails to safeguard building stone resources.

57. With the exception of slate, Policy SP7 does not include building stone. Should building stone be included?

MPA Response

We reaffirm our view that there should be an individual policy for provision; and an individual policy for minerals safeguarding and that building stone and industrial limestone should be included in both.

58. Should high quality limestone for industrial use be safeguarded separately to other limestone and shown as such on the Policies Map?

MPA Response

There may be benefits to identifying high quality limestone separately from other limestone deposits, however, we appreciate that this may not be possible based upon the existing geological information. If the geological information is of sufficient detail, we would support the differentiation of limestone resources.

59. Should high value and very high value aggregate be safeguarded separately and shown as such on the Policies Map?

MPA Response

There may be benefits to identifying high value and very high value aggregate separately, however, we appreciate that this may not be possible based upon the existing geological information. If the geological information is of sufficient detail, we would support the differentiation of limestone resources

Strategic Areas

60. With reference to Policy SP8 what distinguishes strategic areas for new minerals development from areas of search/preferred areas?

Matter 5 - Other Strategies

Issue: Whether other strategic policies provide appropriate direction for the operation and development of existing and proposed minerals and waste facilities.

61. Does Policy SP14, in the paragraph headed *Heritage Designations* (as modified in the submission MWLP) properly comply with the heritage chapter in the NPPF?

MPA Response

We believe that the designations contained within the policy carry different weightings and in accordance with our representations dated 4th July 2016 should be separated out to individual policies.

62. Does the provision for financial guarantees at point 2 of Policy SP16 and do Plan paragraphs 10.6 and 10.7 properly reflect Government guidance (PPG ID 27-048-20140306)? Is this internally consistent with Plan paragraph 16.52 which correctly makes reference to exceptional circumstances?

MPA Response

We believe that the policy and text should reflect national policy with bonds and other financial guarantees only sought in "exceptional circumstances".

Matter 6 - Development Management Policies *Whether the Development Management Policies strike the right balance between encouraging sustainable winning and working of minerals and protecting sensitive receptors.*

63. Should the reference on Plan page 113 to the Highways Agency be to Highways England?

64. Should the reference in Plan paragraph 13.15 to chapter 27 of the NPPF be to the Planning Practice Guidance?

65. Does Plan paragraph 15.6 relating to oil and gas accurately reflect the wording of NPPF paragraph 14 where the Plan paragraph states *it requires that consent is granted unless the adverse impacts significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Plan taken as a whole?*

66. Does Policy DC8 comply with the Ministerial Statement of 18 June 2015 so far as wind turbines are concerned?

67. In DC13 under *Exploration and appraisal of hydrocarbons* should impact on the community be included in the list?

68. Table 15.1 sets out exemptions to Policy DC15 on minerals safeguarding and at exemption ix includes *Applications for temporary planning permission*. Some temporary developments can last for decades or more such as certain renewable energy schemes. Would it be more appropriate to provide some flexibility by caveating this exemption along the lines of

requiring development to be completed and the site to be restored within a timescale that would not inhibit extraction when likely to be needed?

69. In DC 15 at point one, who is it envisaged will decide whether the non-minerals development outweighs the need for extraction?

70. With reference to paragraph 15.26 should these areas be safeguarded irrespective of their nature designation? Would this be more in accordance with BGS advice eg paragraph 4.2.9 *Mineral safeguarding in England: good practice advice* (LD187)? Should this advice be followed?

MPA Response

We believe these areas should be safeguarded to accord with the good practice guide. Safeguarding does not infer a presumption of working.

71. Please elaborate in more detail to paragraph 15.28 why the exclusion of coal, lead and zinc from MSAs is justified.

72. With reference to paragraph 15.30 explain briefly why it has been decided to use a 250m buffer zone. Is this the most appropriate buffer for all safeguarded minerals apart from gypsum and secondary aggregates?

73. Is DC17 (including the submission version) fully compliant with the historic environment section of the NPPF? For example, in NPPF paragraph 133, where substantial harm will be caused to a designated heritage asset this should be outweighed by substantial public benefits. Is this reflected in DC17?

MPA Response

We do not believe this policy accords with NPPF for the reasons explained within our representations dated 4th July 2016.

Matter 7 - Site Allocation Policies

Issue: Whether sufficient land is allocated or designated in appropriate locations to meet objectively assessed need and to provide choice and flexibility.

74. With reference to the sites identified in Policy SAP1 (household waste recycling centres) and Policy SAP2 (waste treatment and management facilities) is there any likelihood of significant residual environmental or amenity impacts being generated?

75. If so, is it likely that these impacts would significantly and demonstrably outweigh the benefits and/or are there any specific policies within the NPPF that indicate that development at these sites should be restricted?

76. Please confirm whether the boundaries of any sites within SAP2 intersect with major hazard installation consultation zones and if so, how this might impact on future development and/or the major hazard installation.

77. Should the Plan indicate what sites within SAP2 are suitable for which type and scale of waste management facilities?

78. Do the sites in SAP2 provide sufficient opportunity in the right location for meeting identified waste management needs throughout the Plan period?

79. With reference to paragraphs 18.32 and 18.33 explain how the MSAs for gypsum have been drawn and the reasons for this.

80. With reference to the sites in Policy SAP4 what criteria have distinguished their designation as either a preferred area or an area of search?

81. Do the designated areas in SAP4 provide sufficient opportunity for meeting the objectively assessed need for winning and working the identified mineral resources throughout the Plan period?

82. Is it likely that residual environmental or amenity impacts from winning and working the areas in SAP4 would significantly and demonstrably outweigh the benefits and/or are there any specific policies within the NPPF that indicate that development in these areas should be restricted?

83. Please confirm whether the boundaries of any areas within SAP4 intersect with major hazard installation consultation zones and if so, how this might impact on future development and/or the major hazard installation.

84. With respect to Roosecote Quarry, could its development impact on gas terminal expansion? If so, how should this be addressed?

85. Internal consistency within the Plan - paragraph 18.38 refers to the facility at site M31 near Millom possibly being re-instated whilst the submission version of Policy SAP5 removes the allocation. Does this need amending?

86. Please confirm whether the boundaries of any safeguarded facilities within SAP5 intersect with major hazard installation consultation zones and if so, how this might impact on the safeguarding and/or the major hazard installation.

Other Matters

Infrastructure

87. What certainty is there that required infrastructure to ensure the effectiveness of the Plan is deliverable?

88. How is it envisaged that the critical infrastructure for at least the next five years will be funded?

Policies Maps

89. Should the MSAs in Part 2 (SD10) and the MCAs in Part 3 (SD11) be more clearly defined?

90. How do the MSAs in Part 2 relate to the MSAs set out in Policy SP7? Is there any mineral shown as being safeguarded in Part 2 that is not within Policy SP7?

91. Does Part 4 fully comply with NPPF paragraph 117 2nd bullet? If not, are the local ecological networks mapped elsewhere?

92. Is there any reasonable likelihood that policies within the MWLP could lead to conflict with facilities covered by the Technical Safeguarding Areas shown in Part 6 (SD14)?