

Cumbria Minerals and Waste Local Plan (MWLP) Agenda for Minerals and Other Matters Listed for Hearing on 29 & 30 November 2016

The following questions arise out of my further reading of the evidence and the responses to my draft Matters and Issues (M&Is) dated 12 October 2016. They form the basis for discussion at the forthcoming hearing sessions. If I have any other questions to ask I will raise them at the hearing sessions.

Post hearing written responses from the Council to the questions set out in this document are requested. I will also accept post hearing written responses from participants, who wish to submit further comments. The date for submission of responses will be discussed at the hearing.

Any other matters that the Council or other participants wish to discuss will be heard under "Other Matters" although if a point is related to a question raised below, it may be discussed with that question.

I welcome any Statements of Common Ground that might narrow/clarify issues between parties at any stage up to the close of hearings.

The Council should update me on any planning applications or permissions since the publication version, which are relevant to the Plan. Similarly, if there are any evidence documents, which have been superseded or updated, the Council should provide these details.

With respect to identified modifications arising from the M&Is dated 12 October 2016 and arising from the hearing sessions, the Council should draft main modifications. These main modifications should be incorporated into a list, which includes the main modifications in the submission version of the Plan, identified in the 12 October M&Is, and any other main modifications arising out of the waste and radio-active waste hearing sessions. The list should be submitted to me post hearings and a date for this will be discussed at the hearings.

Part A: 29 November 2016

Inspector's Opening and Introductions

Questions

Legal Matters

Matter 1a: Duty to Co-operate

1. (Qu 2 M&Is) Duty to Co-operate – s33A Planning and Compulsory Purchase Act 2004 – regarding strategic matters, to engage constructively, actively and on an ongoing basis to maximise the effectiveness of the preparation of the Plan.

What criteria did the Council use to determine whether a minerals matter was strategic?

To what extent have elected members of the various Councils been involved?

Mineral Products Association (MPA) has raised issues as follows (representation 017; M&Is response) which I should like to discuss:

- a. Does the duty arise with respect to Cumbria's industrial minerals and building stone products?
- b. If so, has the duty been fulfilled and in what way?
- c. With respect to the National Planning Policy Framework (NPPF) paragraphs 178 to 181, has the Council co-operated on all cross-boundary strategic issues relating to industrial minerals and building stone products?
- d. Has the Plan been positively prepared in this regard as per NPPF paragraph 182 (1st bullet)?

National Parks

2. (Qu 6 M&Is) The geographical area over which the Plan will take effect should be established to give certainty to developers, residents and others. Would the Council therefore make enquiries of the Lake District National Park Authority and Yorkshire Dales National Park Authority to ascertain what their intentions are with respect to adoption of the MWLP in the relevant extension areas?

Should the MWLP provide some explanation of the boundary changes so as to provide clarity of its geographical scope and avoid potential confusion?

Does the Policies Map reflect the changes to the National Park boundaries?

Do any of the site allocations include land within the new boundaries?

Matter 1b: Other Legal Matters

Participants' issues

3. Any other legal issues that participants wish to raise will be discussed at this stage.

Soundness Matters

Matter 1: Vision, Objectives and Overall Strategy

1. Should the overall strategy and/or objectives refer to self- sufficiency?

Participants' issues

2. Any vision/objectives/overall strategy issues that participants wish to raise will be discussed at this stage.

Matter 3: Minerals Strategy

Requirements and Provision

3. (Qu 24 M&Is) It is important that the Plan gives a clear indication of the scale of minerals provision likely to be required over the Plan period and explains how that requirement will be met. Given the importance of minerals provision, does this warrant a policy of its own, separated from safeguarding? Should Policy SP7 be split into two separate policies, one for provision and one for safeguarding?

Aggregates

4. For aggregates, whilst both the landbank and the Local Aggregates Assessment (LAA) will change over time for each aggregate, there should be an indication of what the current requirement is and, based on that figure and current reserves, what each landbank is. A suggestion would be for the Plan to state what these figures are at present, whilst stating that they will change according to whatever the latest LAA/land assessment says. The text could explain the basis for the current assessment and indicate how it could change in the future. The tables within paragraphs 5.10-5.20 of the 2015 LAA could be incorporated together with some background information. Proposals for a main modification will be discussed at the hearing. If the Council wishes to put forward a suggested modification for discussion that would be welcome.

Industrial Minerals

5. (Qu 30 M&Is). Should reserve figures for gypsum and an indication of likely requirements over the Plan period be added into Plan paragraph 5.61 to understand what the broad scale of need might be?
6. (Qu 32 M&Is). In order to broadly understand need over the Plan period, should a rough estimate of the mudstone landbank for the specialist brickworks be incorporated into the Plan? This could be caveated if appropriate.
7. (Building on Qus 26 & 33 M&Is). What is the scale of industrial limestone operations in the County? What is the stock of permitted reserves and how long is it likely to last? To understand the potential need for

industrial limestone over the Plan period, should an indication of likely requirements over the Plan period be set out in the MWLP, maybe within paragraph 5.65?

8. (Qu 33 M&Is). The Council's reply indicates that no significant quantities of industrial lime are used for cement primary. The site allocations document for Eden (SD21) on page 215 under "Considerations" indicates that Shap Fell quarry produces lime for the manufacture of cement and steel products. What is the scale of lime production for cement there and is it significant? Does a landbank need to be established for this lime production?
9. (Qu 34 M&Is)) Whilst it is said that industrial limestone is not used for cement primary in Cumbria it still appears to be a significant requirement for a range of other industrial purposes. To provide certainty should there not be a preferred area/area of search for industrial limestone and should it not be included within Policy SP7?
- 10.If there is no preferred area/area of search how is it envisaged that an adequate landbank of industrial limestone will be maintained throughout the Plan period?

Building Stone

The following questions build on Qus 35-38 and 47-48 M&Is and take into account the MPA's representations (017).

- 11.Should the Plan contain more information on the scale and type of building stone production in Cumbria and, at least for the larger producers, an indication of reserves?
- 12.Does the Council accept that the winning, working and processing of building stone in Cumbria is of value to the economy, including production from small scale quarries, whether or not intermittent and on a campaign basis?
- 13.I note the Council's position that there is insufficient information available to designate preferred areas/areas of search for building stone, and I also note the MPA's position that the *Strategic Stone Study* and British Geologic Survey's (BGS) data provides sufficient information. I would welcome further comments from both the Council and MPA to support their positions. Might it be the case that sufficient information could be available for some stone types but not others, and that areas could be designated for some building stones but not others? Could the Council and/or MPA bring extracts from the *Strategic Stone Study* or any other

survey/evidence relied upon to demonstrate their positions? I note there seems to be some evidence available in the BGS/DETR publication *Cumbria and the Lake District: Resources and Constraints* (LD46).

14. In the absence of such designation explain how the Plan provides for a steady and adequate supply of building stone in accordance with Planning Policy Guidance (PPG) chapter 27 and particularly ID 27-008-20140306.
15. Bearing in mind that great weight should be given to the benefits of mineral extraction, including to the economy (as per NPPF paragraph 144 1st bullet) should there be more positive policy support for building stone applications than is provided by DC12?
16. If "need" is to be a criterion within DC12, should "need" specifically include market requirements? If so, how easy is it to obtain reliable and quantifiable data at County level on the true market requirements for specific stone types? Could this be complicated by the "need" for sub-varieties of stone types? Should a flexible approach be taken to applications and if so what should this be?
17. Plan paragraph 5.73 seems to suggest that proposals at building stone quarries where stone is used for the repair of historic assets or local vernacular will be treated differently to those that are not. Is that the intention? Is that justified? If it is justified, should the justification be explained in the Plan?
18. Is there sufficient support in the Plan for other stone uses including internal decoration and other stone products? How does the Plan support other potential stone markets that might develop over the Plan period?
19. What does the stone products/processing industry cover in Cumbria and on what scale and where? Does the industry work with stone both sourced within and outside Cumbria?
20. Bearing in mind NPPF paragraph 28, which encourages local plans to support rural enterprises, should there be specific policy support for sustainable stone processing at appropriate quarries?

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

For the purposes of the hearing sessions, there may be some overlap with the Plan's safeguarding strategy and DC Policy15 and, therefore, potentially some repetition of discussion, given the interrelationship.

Building Stone

The following questions build on Qus 49-59 M&Is and take into account the MPAs representations (017)

21. Even small quarries working seasonally/ intermittently can add value to the economy and, therefore, can be classed as economically important. If it is considered that building stone is of economic importance, should its safeguarding be re-visited? (I note that Plan paragraph 15.24 states that MSAs were defined for building stone in a previous plan and that the Council's answer to Qu 56 states that Birkhams quarry was put forward).
22. Should Birkhams quarry be designated as a MSA? Whilst the quarry lies adjacent to St Bees Head Heritage Coast, the BGS's *Mineral safeguarding in England: good practice advice* (LD187) indicates at paragraph 4.2.9 that "*safeguarding is not precluded by the presence of national and international environmental designations on the basis that sterilising development does take place in these areas. Defining MSAs alongside environmental and cultural designations will ensure that the impact of any proposed development on mineral resources will be taken into account and weighed against other land use/conservation interests at the time planning decisions are made.*"
23. If it is accepted in principle that building stone should be safeguarded, should all quarries and known resources be safeguarded or are there some which are not considered economically important?
24. Could the Council explain the building stone entry in the table incorporated into the answer to Qu 51 M&Is where it says "quarries fall within respective MSAs/MCA (sandstone, limestone)"?
25. Whilst the Plan indicates that 8 of the 17 building stone quarries produce aggregates as well as building stone, the inference is that the others do not. What is the position with these others?
26. For the 8 that do produce aggregates, is all of the building stone resource as well as the aggregate resource included in the MSA/MCAs? I note that the Council's answer to Qu 56 M&Is states that the aggregate resource at building stone quarries is generally very small, mostly comprising offcuts and waste. Therefore, should it be made clear in the Plan that these quarries are safeguarded for building stone?
27. (Adding to Qu 90 M&Is). If building stone falls within limestone and/or sandstone MSAs, should this be made clear in the Plan? Should building stones have their own MSAs given that they have separate, often niche markets and are not included in the aggregates landbanks?

28. Is there interchangeability of resource uses between aggregates and building stone? If so, should the extent of this interchangeability be reflected in the Plan?

29. If economically important building stone is not to be safeguarded, could the Council provide further robust justification for this?

Industrial Limestone

30. (Building on Qu 58 M&Is). When considering non-minerals development, the value of the mineral within the MSA should be taken into account and weighed against other land use interests. Industrial limestone may have different considerations to aggregate limestone. It also has its own landbank. Is it possible to identify MSAs for industrial limestone separately from other limestone? If so, should it not be made clear where the different resources lie by identifying different MSAs for each? If this is not possible, should the Plan/Policies Map make clear that the MSAs cover both high purity limestone for industrial use and lower purity limestone for aggregate use or building stone use where applicable?

Aggregates

31. (Building on Qu 90 M&Is). Policy SP7 refers to MSAs being identified for sand and gravel and hard rock sources. However, whilst the Policies Map identifies sand and gravel, it does not indicate what hard rock resources are safeguarded for aggregates use, listing the resources globally as *igneous rock, limestone and sandstone*. Should this be made clear in the Plan/Policies Map? I note the Council's suggestion to make the relationship between SP7 and the Policies Map clearer and this is encouraged.

32. (Building on Qu 59 M&Is). High/very high specification aggregates have different values to other aggregates and have their own landbanks. Is it possible to identify MSAs for high/very high specification aggregates separately? If so, should MSAs identify high/very high specification aggregates separately? If the information is too uncertain for this at any quarry, should the Plan/Policies Map make clear that the MSA(s) cover the various grades?

Participants' issues

33. Any other minerals strategy issues that participants wish to raise will be discussed at this stage.

Part B: 30 November 2016

Matter 5: Other Strategies

Policy SP14

- 34.(Qu 61 M&Is). Please consider NPPF paragraphs 133 and 134 from which it will be seen that there are two tests. Paragraph 133 states that it must be demonstrated that substantial harm/total loss of significance of a designated asset is necessary (my emphasis) to achieve substantial public benefits that outweigh that harm. It is not just a matter of balancing the harms. Paragraph 134 states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits. In order to give Policy SP14 full weight, it will need to be consistent with the NPPF (as set out in NPPF paragraph 215). Could Policy SP14 be re-worded for heritage designations?

Policy SP16

- 35.Paragraphs 10.6 and 10.7, and Policy SP16 should comply with PPG ID 27-048-20140306 by making it clear that financial guarantees should only be required in exceptional circumstances. Those exceptional circumstances could then be listed. Would the Council re-visit this policy?

Participants' issues

- 36.Any other strategic issues that participants wish to raise will be discussed at this stage.

Matter 6: Development Management Policies

DC4Quarry blasting

- 37.Should there be more flexibility with respect to quarry blasting, particularly as the Plan indicates at paragraph 3.17 that natural variation within the rock mass and other factors are outside the shot firer's control?
- 38.Please provide details of what the British Standard limits are within BS7385 and confirm whether this document is extant and up-to-date.
- 39.Please provide further justification for departing from the British Standard.
- 40.How would the required regression line model work?

DC6 Cumulative environmental impacts

- 41.Should the words "where appropriate" be inserted into the policy? On a strict reading, does the wording "Considerations will include" mean that the listed matters have to be addressed for each application? Is this what is intended?

DC12 Criteria for non-energy minerals development

42. Does the designation of an Area of Search provide any presumption in favour of development? Would applications within an Area of Search be treated any differently from those outside a designated area for the purposes of Policy DC12 or otherwise? If not, what is the intended purpose of designating an Area of Search? Should applications within Areas of Search be given more policy support?

DC13 Criteria for energy minerals

43. Under "Commercial exploitation of hydrocarbons"
- Should criterion "b" include "social factors" to ensure social sustainability is properly considered?
 - Should criterion "d" say "appropriate provision" rather than just "provision", to avoid arguments over what may be considered inadequate provision being said to be policy compliant?
44. Should the section on "Coal" refer to impacts on communities?
45. Are there any other criteria or amendments that are required to ensure that the Policy is sound?

DC15 Minerals safeguarding

46. (Qu 68 M&Is) with regard to the MSA notification exemption of temporary development, the Council has stated that "*Any mineral likely to be needed during the Plan period will be provided for through the identified Areas of Search and Preferred Areas. There is, therefore, no need to insert a caveat to ensure that temporary development can be completed and the site restored within a timescale that would not inhibit extraction.*" How does this negate the need for flexibility? Is it not possible that mineral planning applications might come forward outside identified Areas of Search and Preferred Areas (but within MSAs) that require consideration under Policy DC12 criteria?
47. (Qu 70 M&Is). As with Birkhams quarry, I should like to discuss further Millom and Barrow slag banks and whether they should be safeguarded in light of paragraph 4.2.9. of the BGS guidance. Additional comments in support of the Council's and other participants' positions are invited.

DC16 Biodiversity and geodiversity

48. Should more flexibility be introduced into the policy by adding the words "where appropriate", and "any potential" in first bullet?
49. (Qu 91 M&Is). Should the text to DC16 refer to the NPPF requirement in paragraph 117 and explain how it is being met, drawing on the Council's answer to this question?

DC17 Historic environment

50. (QU 73 M&Is). As with Policy SP14 the different tests in paragraphs 133 and 134 should be noted and care taken to ensure consistency so that full weight can be accorded to DC17. The Council may wish to put forward a suggested modification for discussion at the hearing.

DC22 Restoration and aftercare

51. To what extent will the County Council have control over afteruses? What types of afteruse will come within the County Council's remit and what afteruses will come within the Districts' remit? How does the County Council intend to implement this policy in practice?
52. With respect to Natural England's representation (022) should Plan paragraph 16.49 be reworded to reflect PPG ID: 27-40-20140306, ie should it make reference to restoration enabling Best and Most Versatile agricultural land to retain its longer term capability? Should the reference to Best and Most Versatile agricultural land being restored to a "similar standard" be removed, given that this could allow previously degraded land to be restored to degraded land?

Participants' issues

53. Any development management matters that participants wish to raise will be discussed at this stage.

Matter 7: Allocations Policies

SAP4 Areas for minerals

54. Policy SAP4 simply lists Preferred areas and Areas of Search. Should it state in the Policy what the significance is of these designations to provide policy support for applications coming forward?

SAP5 Safeguarding of existing and potential railheads and wharves

55. Rather than simply listing the safeguarded facilities, in order to be effective, should the Policy state that these facilities are safeguarded?

Allerdale Sites

AL32 Potential rail sidings

56. The Allerdale site assessment document (SD17) on page 27 indicates that there could be a conflict between this site and the expansion of the adjacent waste water treatment works and that there are existing wind turbines on site. How is it envisaged these conflicts might be resolved and how might they affect deliverability?

M28 Broughton Moor, Great Broughton

- 57.(SD17 page 68). It is stated that this area is safeguarded as a shallow coal resource but that the County Council eliminated the possibility of coal extraction prior to a current regeneration scheme. Does this mean that this resource is to be sterilised?

Barrow sites

M27 Roosecote sand quarry

- 58.(Qu 84 M&Is). A discussion of the potential benefits and harms of designating the preferred area at Roosecote will take place, noting in particular representations from Centrica and Burlington Slate Ltd besides those of the Council.

Carlisle sites

M11 Kirkhouse sand and gravel quarry

- 59.With respect to any expansion of Kirkhouse Quarry and considering Lakeland Minerals representation (018) should a greater Area of Search be designated? Would designating a greater area provide more flexibility?

Copeland sites

M22 Birkhams building stone quarry

- 60.The Copeland site assessment document (SD20) on page 201 states that because there is insufficient information to develop a comprehensive MSA for all types of building stone in Cumbria, an MSA for one quarry, without others that may be equally important, is not considered to be sound. Please explain why this is considered unsound and why identifying this quarry as an Area of Search would not be appropriate.

Other allocation matters

- 61.With respect to Electricity North West's representation (003) have their identified assets been added to the relevant minerals allocations in the site assessments documents and has this made any difference to the site assessments?

Participants' issues

- 62.Any allocation matters that participants wish to raise will be discussed at this stage.

Submission Version Main Modifications

63.I will hear any comments on the Council's suggested main modifications within SD48. As set out in the draft M&Is dated 12 October, I consider the main modifications in SD48 to be:

M10, M11, M16, M17, M18, M19, M21, M22, M23, M26, M27, M29, M30, M31, M32, M34, M39, M40.

64.The Council's Appendix 1 to their answers to M&Is, setting out replacement policies, should ensure that Policy titles match the suggested wording of the Policy (eg SP15 "aftercare").

Other Matters

65.Given the changes to Government departments, references in the Plan to the "Department of Energy and Climate Change" might, where appropriate, need to be changed to the "Department for Business, Energy and Industrial Strategy".

66.I will take comments on any other matters that participants wish to raise at this stage.

Any closing housekeeping matters

Elizabeth C Ord

Inspector

18 November 2016