

Cumbria Minerals and Waste Local Plan (MWLP) Agenda for Waste and Other Matters Listed for Hearing on 6 & 7 December 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 the submission of 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 Similarly, if there are any evidence documents, which have been superseded or updated, the Council should provide these details.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 minerals 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: 6 December 2016

Inspector's Opening and Introductions

Questions

Legal Matters

Matter 1a: Duty to Co-operate

1. The 2014 Waste Needs Assessment (LD267) page 28, paragraph 8.1.6 indicates that 51 authorities were consulted about cross border movements. Does this 51 include the 34 authorities mentioned in paragraph 8.4.3 who were contacted in relation to hazardous waste?

2. Paragraph 8.1.6 indicates that these authorities had no concerns about waste exports from Cumbria. Were any other duty to co-operate concerns raised by any of these authorities that remain unresolved?
3. Paragraph 8.2.4 of the Assessment indicates that, using a threshold of 1,000 tonnes or above for defining a strategic movement of waste (apart from hazardous), 13 authorities would come within the duty to co-operate considerations. What is the basis for using the 1,000 tonnes threshold and is this the most appropriate figure?
4. For hazardous waste, paragraph 8.4.2, page 31 of the 2014 Waste Needs Assessment (LD267) indicates that 100 tonnes or above was used as the threshold for the duty to co-operate. What is the basis of this figure and is it the most appropriate?
5. Paragraph 8.4.3 indicates that all but two of the 34 authorities that met the threshold were contacted. Were any concerns raised about exports to these authorities or any other duty to co-operate matters that remain unresolved?
6. With respect to the two authorities that were not contacted, said at paragraph 8.4.3 to be Woverhampton and Warwickshire, what hazardous waste is being exported to them and for how long have these wastes been exported to these authorities? Have any significant issues ever arisen over these exports?
7. Were any other criteria used to determine waste strategic matters for waste of any kind for the purposes of invoking the duty to co-operate and if so, what were they?
8. To what extent have elected members of the various Councils been involved in duty to co-operate waste issues?

Matter 1b: Other Legal Matters

Participants' issues

9. Any legal issues relating to waste that participants wish to raise will be discussed at this stage.

Soundness Matters

Matter 1: Vision, Objectives and Overall Strategy

Participants' issues

1. Any vision, objectives or overall strategy issues that participants wish to raise will be discussed at this stage.

Matter 2: Waste Strategy

Future Waste Arisings, Capacity and Capacity Gaps

It would be helpful to gain a clear understanding from the Plan itself (as opposed to the evidence base) of the figures used to reach conclusions on waste management capacity gaps/sufficiency of facilities for the various waste streams and management types. Setting out figures in the Plan for estimated future waste arisings/management requirements (at the end of the Plan period and for interim dates) and figures for existing capacity would aid the reader's understanding of the scale of need and provision.

(Building on Qus 18-20 M&Is).

2. The Plan does not seem to give figures on how much waste the County is likely to have to manage over the Plan period. What are the forecast quantities of future waste arisings/management requirements for each of the main waste streams over the Plan period? Should these figures and what they are based on be set out in the Plan (for the end of the Plan and interim periods)?
3. Should the high, medium and low growth scenarios in the 2015 Waste Needs Assessment (LD300) be explained in the Plan along with the preferred scenarios chosen as the most realistic options?
4. The Plan does not set out the figures for how much overall capacity exists for managing each of the main waste streams. Should broad summary figures for existing capacity be set out in the Plan?
5. I note from the Council's answer to M&I Qu 78 that site allocation CA31 has now gained planning permission for an Energy Recovered Fuel facility with capacity to take up to 195,000 tonnes of Refuse Derived fuel. Should the capacity of this facility be included in the figures?
6. The Plan (page 23, paragraph 3.47) refers to estimated required capacity in the 2014 Waste Needs Assessment (LD267) under "Best" case and "Pragmatic" case scenarios, and the "Best" case scenario is also referred to with respect to mixed recycling (page 26, paragraph 3.57). How does this relate to the "high", "medium" and "low" growth scenarios in the 2015 Waste Needs Assessment? What Assessment figures is the Plan based on? If based on figures from both Assessments, to aid reading and understanding, should the Plan make clear how the figures relate?

7. Should the capacity gap figures for built facilities including composting be set out in the Plan (at interim dates and at the end of the Plan period)?
8. The Plan gives details of current waste capacity for landfill (Table 3.7 on page 21) and refers to an identified capacity gap arising (paragraph 3.50 on page 24). However, it does not give forecast figures for the overall amount of waste that is likely to require landfilling. In order to understand how the identified capacity gap arises, should these forecasts, and the main assumptions upon which they are based, be set out in the Plan (for interim dates and the end of the Plan period)?
9. The Plan indicates (page 24, paragraph 3.48 1st and 2nd bullets) that to provide sufficient landfill capacity current consents due to expire will need time extensions. What confidence is there that the various landfill consents that are due to expire within the Plan period will come forward for time extensions?
10. Should there be policy support for any time extension applications that might come forward for existing identified landfill facilities?
11. Should one or more landfill consents not come forward for a time extension, what flexibility is there in the Plan to deal with the waste elsewhere?
12. Is it appropriate for all landfill applications to be dealt with via the same development control policies, in particular Policy DC10 *Criteria for landfill or landraise*, or should time extensions be distinguished from other applications?
13. The Plan indicates (page 24, paragraph 3.48 4th bullet) that a need for additional composting facilities will arise in 2020 if a time extension were not granted for an existing facility. Should this facility be identified and policy support provided for any time extension application that might come forward for it?
14. Should this composting facility not obtain a time extension, what flexibility is there in the Plan to deal with the waste elsewhere?
15. Is it appropriate for all composting applications to be dealt with via development control policies, in particular Policy DC9 *Criteria for waste management facilities*, or should time extensions be distinguished?
16. In order to understand whether there might be any impact on capacity from exemptions, should the Plan briefly explain why waste management exemptions have not been included in assessed local waste management

capacity, as set out in the 2014 Waste Needs Assessment, section 9.4 (pages 37-38)?

17. The 2014 Waste Needs Assessment (LD267) at page 25, paragraph 6.3.8 indicates that the Plan should provide for some new agricultural waste capacity for recycling, although it recognises that most of the material will be similar to commercial and industrial waste and so the capacity might be provided at facilities handling those wastes. Should the Plan make clear what forecast quantities of agricultural waste are estimated to be managed off site and what facilities are available to manage this waste?
18. (Qu 23 M&Is) With respect to the waste water supply project incorporating Bridekirk water treatment works, please provide an update on the planning applications set out in the Council's response and what element each application is for. Should the Plan be updated to reflect these developments?

Hazardous Waste

19. The 2014 Waste Needs Assessment (LD267) states (page 19, paragraph 5.3.10) that *"the small quantity of material going directly to recovery or recycling facilities identifies a lack of local capacity that the Waste Plan might seek to address."* It adds (page 19, paragraph 5.3.13) *"This analysis shows the limited scale of local hazardous waste management."* And (page 20, paragraph 5.3.13) *"The reason for the decline in recycling/re-use/recovery is a potential cause for concern as the levels managed locally are much lower than the amount that is exported..."*. It continues (page 33, paragraph 8.5.2) *".....it appears that planning for locally managed, rather than local arising, hazardous wastes would help ensure existing capacity is used effectively and efficiently, and to maintain recycling without resulting in local over-capacity. On this basis, should the Plan provide more support for any hazardous waste management facility application that might come forward?"*
20. Should there be a criteria based policy in the Plan for any hazardous waste management proposal that might come forward?

Exports and Imports

21. Table 3.3 on page 17 of the Plan provides overall waste export data from 2006 to 2014. Is it possible to add overall waste imports for these years in order to better understand historical self-sufficiency?

Participants' issues

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

Part B: 7 December 2016

Matter 6: Development Management Policies

Participants' issues

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

Matter 7: Allocations Policies

Policy SAP1

24. Policy SAP1 simply lists sites. To be effective and provide Policy support for any waste application on listed sites, should the Policy state what the significance of the list is? Should it state that appropriate applications at these sites will be supported?

Policy SAP2

25. Policy SAP2 simply lists sites. To be effective and provide Policy support for any waste application on listed sites, should the Policy state what the significance of the list is? Should it state that appropriate applications at these sites will be supported? Whilst paragraph 18.5 provides some context, is this sufficient?

Broad locations

26. Should the identified Broad Areas set out in paragraph 3.77 on page 32 of the Plan be set out in a Site Allocations Policy, particularly as the Plan appears to be giving support to appropriate waste proposals coming forward in these locations? (This would appear to be consistent with the way Areas of Search have been dealt with for minerals).

Carlisle allocations

CA30 Kingmoor Road recycling centre

27. The Carlisle site assessment document (SD19) states on page 117 (selection criterion 9) that the site is within a designated area. In order to demonstrate deliverability, please confirm the designation and its status and explain how mitigation might make a proposal acceptable on this site.

CA31 Kingmoor Park East

28. (Qus 78 & 88 M&Is). Please provide information on potential timescales for bringing forward the recently granted Energy Recovered Fuel facility at site CA31 and whether there are any significant barriers to development.

Other allocation matters

29. With respect to Electricity North West's representation (003) have their identified assets been added to the relevant waste allocations in the Site Assessments document and has this made any difference to the site assessments?

Participants' issues

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

Submission Version Main Modifications

31. I will hear any comments on the Council's suggested main modifications within SD48 that relate to waste. 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.

Other Matters

Whether the MWLP deals adequately with Air Quality

32. Having regard to PPG ID 32-002-20140306, and the recent judgement handed down in Client Earth v SoS for ERFA [2016] EWHC 2740 (Admin) that quashed the national Air Quality Plan, should the MWLP specifically address air quality and risks from pollution?
33. Should there be a DC policy dealing with air quality?
34. Are there any Air Quality Management Areas that may be affected by the Plan's policies? If so, how does the Plan ensure that air quality in these areas is protected from polluting emissions?

Any other matters

35. I will take comments on any other matters that participants wish to raise.

Any closing housekeeping matters

Elizabeth C Ord

Inspector

18 November 2016