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# Report to Cumbria County Council

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date 29 June 2017

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## Report on the Examination of the Cumbria Minerals and Waste Local Plan

The Plan was submitted for examination on 8 September 2016

The examination hearings were held between 29 November and 14 December 2016

File Ref: PINS/H0900/429/13

*Policy DC10 Criteria for landfill and landraise*

87. Strategic Policy SP3 Waste capacity states that proposals for landfill capacity must not undermine the waste hierarchy. Therefore, it is unnecessary and unjustified to duplicate the requirement within *Policy DC10*. Consequently, **MM50** is proposed to remove the duplication.

*Policy DC12 Criteria for non-energy minerals development*

88. Whilst the Plan designates Areas of Search, it does not provide any more policy support for applications within these areas than for those in undesignated areas. However, the authority has confirmed that Areas of Search are where it would expect to see future development taking place and where it would give policy support. Consequently, in order to be effective, **MM52** is proposed which gives policy support to proposals within Areas of Search.
89. Policy DC12 includes a criterion requiring cumulative impacts to be considered. However, cumulative impacts are already comprehensively covered in *Policy DC6 Cumulative environmental impacts*. Therefore, this duplication is unnecessary and unjustified. Consequently, **MM52** is proposed to remove it.
90. The supporting text on criteria for non-energy minerals discusses potential uses for building stone, emphasising conservation, repair to heritage assets and local vernacular buildings. Satisfying "need" should not be limited to demonstrating a requirement for a particular type of use, as the stone could be needed for a wide range of applications, including internal decoration and outside walling. However, the text could be construed in this restrictive way and, therefore, a wider approach is required to justify this section.
91. Furthermore, there is no mention of the stone products/processing industry, which can bring significant economic benefits to the County and should be recognised. Not to do so is unjustified. Accordingly, **MM51** proposes more supportive, comprehensive text to include other building stone uses and the stone products/processing industry.

*Policy DC13 Criteria for energy minerals*

92. This policy does not adequately test the potential effects on the community of energy minerals development and, therefore, protective criteria should be added as appropriate. Furthermore, given the potential for energy minerals development to impact on climate change, a specific reference to this consideration should be included. Without this, the policy is unjustified.
93. With respect to commercial exploitation of hydrocarbons, the policy requires "provision" to be made for mitigation of adverse impacts. However, without qualification "provision" could be strictly construed as including what may be considered to be "inadequate provision", rendering the policy ineffective. Therefore, to avoid uncertainty over policy compliance, the reference should be amended to "appropriate provision".
94. Furthermore, the policy does not fully reflect the PPG guidance on underground coal mining. Therefore, to accord with national policy, the list of impacts to be considered should be extended to include potential hazards of

old mine workings, the treatment and pumping of underground water and the monitoring and preventive measures for potential gas emissions.

95. Accordingly, **MM54** is proposed to deal with the above matters.
96. The supporting text to the policy refers to NPPF paragraph 14 and purports to set out its requirements. However, it is inaccurate. Therefore, to be compliant with national policy, **MM53** is proposed.

*Policy DC15 Minerals safeguarding*

97. The British Geological Survey's *Mineral safeguarding in England: good practice advice* states that MSAs should usually cover the whole resource and not be curtailed by other planning considerations. However, Millom and Barrow slag banks have not been safeguarded although, in practice, they are unlikely to be developed as they fall within nature and environmental designations. In any event, they are not considered to be economically viable and, this negates the need for safeguarding. Nonetheless, in order to justify this approach, the Plan should provide text to explain why these slag banks have been omitted from safeguarding. **MM55** is proposed to achieve this.
98. The supporting text also indicates that, contrary to the BGS's *good practice advice*, the building stone MSA has been removed. Without further explanation, this is unjustified. However, the Council has explained that in actual fact, the resources from which building stones are obtained, namely the igneous rocks, limestones and sandstones, are all safeguarded and, therefore, not unduly at risk of being sterilised. On this basis, and subject to further reasoning being set out as proposed in **MM56**, this approach is sound.

*Policy DC16 Biodiversity and geodiversity*

99. This policy sets out a list of matters to consider. However, not all applications will require all of these matters to be taken into account, rendering the policy unjustifiably inflexible. Therefore, to ensure flexibility and proportionality of evidence the policy should make clear that such matters will be considered "where appropriate". Furthermore, the wording of the policy assumes it is likely there will be an impact on biodiversity/geodiversity, which is not intended and is unjustified. This can be rectified by removing the word "likely" and inserting "potential". **MM58** is proposed to deal with both of these amendments.
100. NPPF paragraph 117 requires planning policies to identify and map components of local ecological networks, which the Plan does not do. However, within Cumbria, biodiversity details are held by the Cumbria Biodiversity Data Centre which is currently identifying networks of natural habitats and mapping biodiversity opportunities, amongst other things. This is an iterative process. Therefore, subject to the Plan identifying where this information can be obtained, the Council has justified its approach. **MM57** is proposed, which adds explanatory text and makes the link.

*Policy DC17 Historic environment*

101. The wording of this policy does not accord with the NPPF. Therefore, to ensure consistency with national policy, **MM59** is proposed.

Ref No.	Page No.	Paragraph/ Policy/Figure/ Table/Map/Box	Main Modification
MM54	135, 136	Policy DC13 Criteria for energy minerals	<p>approved without delay. Only where there are no policies relevant to the application or where relevant policies are out of date, does the policy require that the Council grant permission, unless material considerations indicate otherwise. Such a decision would need to take into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or if specific policies in that Framework indicate that development should be restricted. The Government states that unconventional gas development can benefit the economy by “improving security of supply, creating jobs, growth and investment, and supporting the transition to a low carbon economy at the least cost”.</p> <p>Amend Policy DC13, to read:</p> <p>“Proposals for energy minerals developments that conform to the Strategic and other Policies of this Local Plan will be supported subject to the following criteria:</p> <p><b>Exploration and appraisal of hydrocarbons</b></p> <p>Planning permission will be granted for proposals for exploration and appraisal of oil and gas resources provided that:</p> <ol style="list-style-type: none"> <li>the site and equipment is sited at a location where it can be demonstrated that it will not have any unacceptable social and environmental impacts; and</li> <li>the proposal provides for appropriate baseline monitoring prior to commencement of development; and</li> <li>the impacts of the development have been considered in relation to impact on climate change; and</li> </ol> <p>ed. the timely restoration and subsequent aftercare of the site, whether or not oil or gas is found.</p> <p><b>Commercial exploitation of hydrocarbons</b></p> <p>Planning permission will be granted for proposals for commercial exploitation of oil and gas, provided that:</p> <ol style="list-style-type: none"> <li>a full appraisal programme for the oil or gas field has been completed;</li> <li>the proposed location is the most suitable, taking into account social, environmental, geological and technical factors;</li> <li>the cumulative impacts of the development of the gas field and essential associated infrastructure have</li> </ol>

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			<p>been assessed; <del>and</del> appropriate provision is made for mitigation or compensation for significantly adverse <del>impacts on the</del> environmental and <del>communities</del> social impacts; and</p> <p>e. the impact of the development has been considered in terms of contributing to the mitigation of climate change.</p> <p>Combined planning applications for more than one phase will only be considered if all relevant information, including environmental information, to support the full extent of the application is provided.</p> <p><b>Underground Coal Gasification</b></p> <p>The criteria set out above in this policy, for exploration and appraisal and commercial exploitation, will also apply to proposals for onshore surface works or ancillary development to support offshore Underground Coal Gasification (UCG). Where a UCG proposal follows a planning permission for coal extraction only, a separate planning application will be required for development related to UCG.</p> <p><b>Coal</b></p> <p>Planning applications for coal extraction will only be granted where;</p> <ul style="list-style-type: none"> <li>the proposal would not have any unacceptable social or environmental impacts <del>is environmentally</del> acceptable; or, if not</li> <li>it can be made so by planning conditions or obligations; or, if not</li> <li>it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.</li> </ul> <p>For underground coal mining, potential impacts to be considered and mitigated for will include the effects of subsidence including: the potential hazard of old mine workings; the treatment and pumping of underground water; monitoring and preventative measures for potential gas emissions; and the disposal of colliery spoil. Provision of sustainable transport will be encouraged, as will Coal Mine Methane capture and utilisation.”</p>
MM55	137	Paragraph 15.26	<p>Add a final sentence to the end of this paragraph, to read:</p> <p>“Notwithstanding the fact that these environmental designations are, in effect, safeguarding these two slag</p>