

Matters, Issues & Questions:

Legal Matters – Duty to Cooperate

Question 1 - 4

Legal Matters

Duty to Co-operate

1. In a few paragraphs give a brief summary of how the duty to co-operate has been met.

The decision to prepare a Minerals and Waste Joint Plan (the Plan) was in response to existing or emerging issues of cross boundary significance between North Yorkshire County Council, City of York Council and North York Moors National Park Authority and the introduction of a formal requirement for cooperation on relevant matters. The relevant issues are detailed in paragraph 2.12 of the *Duty to Cooperate Statements (CD03 October 2017 and CD39 November 2016)*.

The *Duty to Cooperate Statements (CD03 October 2017 and CD39 November 2016)* summarise how, through the Duty to Cooperate, the Authorities have worked with relevant bodies, organisations and groups in preparing the policies and assessing the sites in the Plan. The *Duty to Cooperate Statements (CD03 October 2017 and CD39 November 2016)* provide details identifying strategic cross boundary issues and how these have been dealt with by engagement with the relevant duty to cooperate bodies. The strategic issues for the Plan area were identified through the gathering of evidence and through the consultation process; the significant issues relevant to Duty to Cooperate were identified. The significant issues relate either to cross boundary interactions across the boundary of the Plan area, or to the need for coordination across the two tiers of planning authorities on significant minerals and waste planning matters within the Plan area. The table below from Chapter 5 of CD03, page 17, listed the strategic issue identified and a comment summarising how the issue has been considered and addressed.

	Strategic Issue	Comment
1	Addressing waste infrastructure and capacity requirements within the York and North Yorkshire Waste Partnership area to help ensure a coordinated approach to provision.	Influential in decision to prepare Plan and reflected in waste arisings and capacity assessment for the NY Sub-region and proposed approach to provision of waste management capacity in the Plan.
2	Ensuring coordination in Planning between the Yorkshire Dales National Park Authority and the remainder of the NY sub-region in Planning for the management of waste arising in the YDNP.	Addressed via a memorandum of understanding between the Plan Authorities and the YDNP and reflected in the evidence base via a waste arisings and capacity study for the North Yorkshire sub-region and in the

		policies of the Plan (e.g. Policy W02).
3	Ensuring coordination in Planning between Redcar and Cleveland Borough Council and the Plan area in the approach to waste arising in that part of the NYMNP falling within Redcar and Cleveland.	Addressed via a memorandum of understanding between the Plan authorities and RCBC and reflected in the waste arisings and capacity assessment supporting the Plan.
4	Identifying any significant dependency on waste exports from the Plan area and the implications of these for waste capacity Planning in the area.	Addressed through review of available evidence including liaison with relevant WPAs and preparapgraption of a Waste Position Statement in collaboration with other WPAs in Yorkshire and Humber. Reflected in the Plan, particularly via policy approach supporting increased capacity within the Plan area to move towards net self-sufficiency (e.g. Policy W02).
5	Ensuring availability of minerals supply for the City of York area, particularly aggregates needed to sustain growth and development, recognising the imbalance in distribution of resources across the Plan area.	Influential in decision to prepare Plan and joint Local Aggregates Assessment for the NY sub-region and reflected in policy approach to provision of aggregates (Policies M01 to M09).
6	Identifying any expected changes in demand for aggregate minerals in the Plan area, taking into account the strategically important role of the Plan area in the supply of sand and gravel to other locations in Yorkshire and the Humber and the North East in particular, and the implications of these for Planning for future requirements in the Plan area.	Addressed through review of available evidence on aggregates movements including liaison with relevant MPAs, preparation of a NY sub-regional Local Aggregates Assessment and a discussion paper on demand forecasting. Reflected in the scale and distribution of provision to be made in the Plan (Policies M02 to M09).
7	Identifying any significant dependency on import of aggregate minerals from other MPAs and the implications of these for Planning for future requirements in the Plan area.	Addressed through review of available evidence, including liaison with relevant MPAs and preparation of a NY sub-regional Local Aggregates Assessment. Reflected in a memorandum of understanding with the Yorkshire Dales National Park Authority and in the aggregates supply policies in the Plan which seek to ensure that adequate supply from indigenous resources can be maintained throughout the Plan period (Policies M02 to M09).
8	Ensuring coordination in respect of any cross boundary issues with NYCC in relation to proposals for development of potash/polyhalite resources within the NYMNP.	Influential in decision to prepare Plan, although the Planning permission subsequently granted for the Sirius Minerals polyhalite mine project did not include land within the NYCC area.
9	Ensuring coordination in Planning for hydrocarbons development taking into account the location of Petroleum Exploration and Development Licences straddling the NYCC border with both CYC and the NYMNP.	Influential in decision to prepare Plan and reflected in policy approach for Hydrocarbons (policies M16, M17 and M18).

10	Considering the supply position for silica sand, as a nationally scarce mineral, both within and outside the Plan area, including the likely future availability of imports to the Plan area.	Addressed through correspondence with Norfolk CC, other MPAs supplying silica sand to establish the expected future supply position. Reflected in the policy approach to the supply of silica sand (Policy M12).
11	Identifying any expected changes in demand for building stone in the Plan area, taking into account the wide geographical markets sometimes served by this mineral, and the implications of these for Planning for future requirements in the Plan area.	Addressed through liaison with relevant parties including adjacent MPAs, lower tier LPAs in North Yorkshire and industry. Reflected in policy approach to supply of building stone (Policy M15).
12	Ensuring a coordinated approach to safeguarding, reflecting the wide distribution of minerals resources, including across the Plan area boundary, and the need to develop an agreed approach to safeguarding between County and District level Planning authorities in the 'two-tier' part of the Plan area.	Addressed through evidence (cross-boundary safeguarding paper) and in liaison with adjacent MPAs and lower tier LPAs in NYCC area and reflected in policy approach to safeguarding and consultation (Policies S01 and S06).
13	On-going cooperation on general Planning matters which have informed the Planning process and policies and issues for the Plan.	Addressed through development of evidence, exchange of correspondence and other liaison with District and Borough Councils, Prescribed and Specified Bodies.

To support the delivery of Duty to Cooperate several cross boundary evidence base documents have been produced including a *Local Aggregate Assessment for the North Yorkshire sub region (LPA05, MEB01, MEB22 and MEB23)* a waste arisings and capacity study for the North Yorkshire sub region (*WEB03, WEB04, WEB05 and WEB06*) *Marine Aggregates Study for the Yorkshire and Humber area (MEB13)* and *Quarrying of Magnesian Limestone for Aggregate in the Yorkshire and Humber Region (MEB15)*. North Yorkshire County Council has also chaired meetings of the Yorkshire and Humber Aggregate Working Party and Waste Technical Advisory Group. Local Authorities wider than the Yorkshire and Humber Region have also been involved in Duty to Cooperate activities as recorded in *CD03* and *CD39*. This helps demonstrate how the duty to cooperate has been met.

2. To what extent have elected members of the various Authorities been involved in duty to co-operate minerals and waste issues?

A Minerals and Waste Plan Joint Member Working Group was set up following the commencement of work on the Plan. The role of the group was to provide a forum through which to discuss issues and provide member input across the three Authority areas involved in the preparation of the Plan, including work relevant to Duty to Cooperate. The agenda and minutes for each meeting held over the development of the Plan are included on the web page www.northyorks.gov.uk/minerals-and-waste-joint-plan.

The Group comprises two elected member representatives from each of the three Authorities, including the portfolio holder for planning or equivalent. The Group does not have decision making powers, but it has helped develop a coordinated approach to policy across the Plan area, reflecting shared priorities and ensuring that a mutually acceptable approach is adopted. The Group endorsed the signing of memoranda of understanding which have been produced to address some of the key issues relating to the Plan area.

In addition, separate member working groups within each Authority have been involved in providing input, relevant to issues addressed through Duty to Cooperate, during development of the Plan.

Each consultation stage of the Plan has been signed off by relevant elected members at each of the three authorities and the reports which have been taken to committee have taken account of any relevant duty to cooperate matters.

3. Are there any outstanding objections relating to the duty to co-operate and its fulfilment by the Plan Authorities? If so, please give details?

There are no outstanding objections relating to duty to cooperate and its fulfilment by the Plan Authorities. Any issues raised in representations received to the *Publication draft* consultation were considered and a response and any action taken were recorded in the *Summary of responses received at Publication and Authorities response (CD38)*. The objection provided in response to the *Addendum of Proposed Changes to the Publication draft (CD09)*, (3699/0028/PC068/LC.U), by an individual respondent, (page 31 in *CD16: Summary of responses received to Addendum of Proposed Changes to Publication draft*), repeats the point they made at Publication stage, (3699/0437/U, page 136 in *CD38: Summary of responses received at Publications and Authorities response*), which was actioned through the *Addendum of Proposed changes to the Publication Draft (CD09)*.

No Specified Consultees or other Authorities indicated that the Duty to Cooperate had not been met at either *Publication* or *Addendum of Proposed Changes* stage. Historic England raised specific issues regarding the allocation of two sites. In addition to the formal stages of consultation, Historic England have been engaged throughout the preparation of the Plan, further details of which are provided in Table 18 of the *Duty to Cooperate Statement (page 38) (CD03)*. As key stakeholders in the site assessment process weight was given to the opinion expressed by them that the site boundaries for two of the sites (MJP17 (Land to South of Catterick, page 36, CD18) and MJP21 (land at Killerby, page 32, CD18) proposed for allocation for sand and gravel should be reduced in size and this lead to PC102 and PC104 in the *Addendum of proposed changes (page.23-4) (CD09)*, which is the subject of an objection by the submitter of the site.

Selby District Council raised issues in consultation responses as detailed in Table 3 of the *Duty to Cooperate Statement (page 26) (CD03)*. There has been ongoing liaison with Selby District Council throughout 2017 regarding safeguarding issues, following publication of the Plan resulting in being able to move from a position of concerns regarding the *Publication Draft (0074/0861/S03 &*

0074/0862/S04) to one of support (0074/0010/PC085/S) for the proposed amendment PC85 in the *Addendum of Proposed Changes (page 20) (CD09)* as it views this as demonstrating that a pragmatic approach will be taken when implementing safeguarding requirements. The District Council also supports PC85. The Authorities intention is to seek to work constructively to ensure that a proportionate approach is taken.

4. How have the Authorities determined what a strategic matter for minerals and waste is?

The Authorities have identified the issues and challenges that the Plan has addressed through consideration of national policy and guidance, local policies and strategies, the review of factual, technical and independently sourced information contained in the evidence base, consideration of specific items of evidence produced to support the Plan and consultation comments received during consultation on the Plan. Interpretation of the information received through this process has, through successive iterations of the draft Plan, led to the identification of the range of key issues and challenges summarised in the issues and challenges summary under paragraph 3.4 of the *Publication Draft (CD17)*.

Based upon the evidence outlined in Chapter 2 and in Chapter 3, the issues and challenges which are considered to be of most significance to the Joint Plan are summarised in the issues and challenges summary. This was first published in the *Issues and Options Consultation Document (IPC01)* (Paragraph 3.5, page 33 of IPC01) followed by the *Preferred Options main consultation document (PPC01)* (Paragraph 3.4 page 36) and then under paragraph 3.4 (page 35) of the *Publication Draft (CD17)*.

The Vision and Objectives in Chapter 4 of the *Publication Draft (CD17)* respond to the issues and challenges identified under paragraph 3.4 (page 35) of the same document and reflect the outcomes of public consultation as well as the evidence base and wider policy context. The strategic issues identified, through implementation of the vision and objectives identified, inform policies in the Plan.

Section 5 of the *Duty to Cooperate Statement (page 17) (CD03)* identifies the strategic cross boundary minerals and waste planning issues for which cooperation may be required. These strategic cross boundary issues, further detail of which is provided in paragraph 2.88 (page 33) of CD17, have informed the identification of strategic issues in the Plan.

Prepared by;

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