

## **North Yorkshire County Council, City of York Council and North York Moors National Park Authority Minerals and Waste Joint Plan (MWJP)**

### **Draft Matters, Issues and Questions (MIQs)**

This document lists matters (topics), issues (points for consideration), and questions that will form the basis for discussions during the hearing sessions and supply the context for any further written statements. Matters and Issues may change as the examination progresses, although participants will be given an opportunity to comment on any new Matters and Issues that arise. If sufficient information is provided on any particular questions I may decide not to pursue them further in any depth.

Answers to questions should be supported with reasons, unless exceptionally it is clear from the question that a simple yes or no answer is required. There may be some overlap between questions, in which case answers may be cross referenced as appropriate. Text that may be found in submitted evidence documents or within the Plan itself need not be repeated at length, but references (with page and paragraph numbers) to those documents should be provided where relevant. Responses to each Matter should start on a new page.

All questions should be answered by the Authorities. Other participants may respond to issues relevant to points they have made in their earlier representations. At the hearing sessions, opportunity will be given to participants to raise any other soundness issues set out in their previous representations and not covered in these MIQs.

The Authorities should confirm that all modifications agreed by the Authorities in the *Publication Draft Responses and Authorities Response*, February 2017 (CD38) have been made in the *Addendum of Proposed Changes to Publication Draft*, July 2017 (CD09) and have been consulted upon and therefore form part of the MWJP under examination.

References below to the NPPF are to the National Planning Policy Framework (March 2012), the NPPW to the National Planning Policy for Waste (October 2014), and the PPG to the on-line Planning Practice Guidance.

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

3. Are there any outstanding objections relating to the duty to co-operate and its fulfilment by the MWJP Authorities? If so, please give details?
4. How have the Authorities determined what a strategic matter for minerals and waste is?

### **Other Legal Issues**

5. Has the MWJP been prepared in accordance with the Authorities' Local Development Schemes?
6. Was consultation on the MWJP carried out in compliance with the Authorities' Statements of Community Involvement?
7. Is the Sustainability Appraisal (SA) adequate?
8. Does the Habitats Regulations Assessment (HRA) adequately set out why Appropriate Assessment is not necessary? Does the HRA identify any negative impacts that the MWJP might have, which require mitigation and, if so, has such mitigation been secured through the Plan?
9. Does the HRA process take account of the *Wealden* judgement (Wealden V SSCLG [2017] EWHC 351 Admin) and potential "in combination" air quality impacts of traffic flows on relevant designated areas?
10. Overall, have the requirements of the *Conservation of Habitats and Species Regulations 2017* been met?
11. Is the Plan as a whole in compliance with Section 19(1A) of the *Planning and Compulsory Purchase Act 2004* (as amended), which requires development plan documents to include policies designed to secure that the development and use of land in a local planning authority's area contribute to the mitigation of, and adaptation to, climate change?
12. Which policies in the MWJP are designed to secure a contribution from development and use of land in the Plan area to the mitigation of, and adaptation to, climate change and, in brief, how do they do this?
13. Does the MWJP comply with section 40 of the *Natural Environment and Rural Communities Act 2006* with respect to the duty to conserve biodiversity?
14. Does the MWJP comply with Regulation 8(4) and (5) of the *Town and Country Planning (Local Planning)(England) Regulations 2012* relating to consistency with the adopted development plan and identification of superseded policies? Very briefly state the purpose of the MWJP and its relationship with the development plan overall
15. Does the MWJP comply with all relevant legal requirements, including those in the 2004 Act (as amended) and the 2012 Regulations?

## Soundness Matters

### Matter 1: Minerals

**Issue: Whether the vision, objectives and strategic minerals policies seek to provide a sufficient supply of locally and nationally important minerals in an efficient and sustainable manner and whether the proposed allocations are the most appropriate**

#### Questions:

##### *Overview*

1. Does the MWJP identify all the main challenges to providing minerals sustainably in the Plan area, and are these challenges properly reflected in the vision and objectives and incorporated in policy?
2. How does the MWJP seek to achieve the efficient use of minerals resources?
3. Bearing in mind that minerals can only be worked where they are found, does the MWJP seek to achieve the most appropriate spatial strategy for minerals development? How is this reflected in the Plan?

##### *Minerals allocations in general*

4. Besides the SA and *Notes from Site Panel Assessment Sessions*, October 2016, are there any other overall assessments in the evidence base relating to each of the individual sites put forward?
5. In general how have mineral sites been assessed for allocation in the MWJP? In a few paragraphs please provide a brief overview including the methodology, how constraints and opportunities have been considered, and how allocations have been chosen over omission sites. References (with page and paragraph numbers) may be given to relevant evidence.
6. Are the reasons for selecting allocated minerals sites/preferred areas/areas of search over reasonable alternatives made clear in the SA? Have all reasonable alternatives been assessed and are reasons for rejection set out?

7. Should the policies state in which area (district/borough/national park/city) the allocation/preferred area/area of search is located to provide clarity and to facilitate its location within Appendix 1?
8. Are all allocations shown on the Policies Map, and to be effective should the Policies Map be referred to in the various policies that allocate minerals sites/areas?
9. Where it has been agreed by the Authorities to amend the boundaries of minerals allocations (such as MJP17 and MJP21) are the new boundaries shown in Appendix 1?
10. How does the evidence demonstrate that the allocations in each of Policies M07 (Concreting sand and gravel), M08 (Building sand), M09 (Crushed Rock), M13 (Clay) and M15 (Building Stone) are appropriate to meet identified requirements?
11. In general how does the Plan seek to ensure that any significant constraints/adverse impacts of development of these allocations are overcome/mitigated to an acceptable level?
12. Are any of the specific allocations likely to result in significant adverse impacts that could not be sufficiently mitigated? In such cases how have the benefits of allocation been demonstrated to outweigh the detriment?
13. Do any of the regulatory bodies have outstanding concerns about any of the allocations? If so, what are these concerns and how have they been addressed?

#### *Aggregates in general*

14. Give a very brief overview of how aggregates requirements have been determined. Are there any outstanding issues with the methodology used?
15. Should references to "minimum" landbank time periods be changed to "at least" to be consistent with national policy? (NPPF paragraph145)

#### *Concreting Sand and Gravel*

16. Although MWJP paragraph 5.17 states that the supply of building sand and concreting sand and gravel has been addressed separately, and Tables 1 and 2 relating to summary requirements break down the provision into different types and distributions (north/south), should the total provision for each type and distribution be set out within Policy M02 (Provision of sand and gravel) to give it the weight of policy? (I note that

for crushed rock, Magnesian Limestone is split from other limestones within Policy M05).

17. Whilst it may be justified to state in MWJP paragraph 5.15 that “*..it is not considered appropriate to specify, at this stage, the precise level of further provision that may be needed in order to maintain a minimum 7 year landbank at 31 December 2030*” (with reviews going forward ensuring greater accuracy), it is nonetheless important to be clear in the policy that the MWJP still makes provision for a steady and adequate supply of the different aggregates based on current information for the Plan period. The wording of the second paragraph of Policy M02 appears somewhat ambiguous. It could be taken to mean the additional provision needed to maintain a 7 year landbank as of 31 December 2030 or alternatively any extra provision for the Plan period that might be identified by later LAAs? To be effective, would the Policy benefit from clearer wording?
18. Should reference be made to a “*mid-term review*” or should there be a commitment to carry out a review within 5 years from adoption? (PPG ID: 12-008-20140306). The Town and Country Planning (Local Planning)(England)(Amendment) Regulations 2017, regulation 4 “*Review of local development documents*” states that reviews of local plans must be completed every five years, starting with the date of adoption of the local plan. This regulation is due to come into force on 6 April 2018.
19. In order to be effective should Policy M03 (Overall distribution of sand and gravel provision) refer to the Mineral’s Key Diagram (and cross-reference its location in the Plan) which shows the Southwards distribution area and the Northwards distribution area?
20. In order to reflect the geographical application of policies M03 (Overall distribution of sand and gravel provision), M04 (Landbanks for sand and gravel) and M07 (Meeting concreting sand and gravel requirements) should the Southwards distribution area and the Northwards distribution area be shown on the Policies Map and should this be referred to in these policies?
21. Does Policy M07 (Meeting concreting sand and gravel requirements) allocate sufficient sites in both northwards and southwards distribution areas to meet current forecasts of need for the main types of concreting sand and gravel throughout the Plan period including at least a 7 year landbank at the end of the Plan period?
22. Table 1 (Summary of requirements, allocations and sites for concreting sand and gravel) only seeks to provide just enough concreting sand and

gravel to meet current estimates of needs. Should there be planned additional provision to ensure flexibility in meeting requirements?

23. In M07 Part 2) ii) for clarity and effectiveness, should the Areas of Search for concreting sand and gravel be identified as "Area of Search A" and "Area of Search C" to correspond with MWJP Appendix 1? Should it be stated that consideration should be given to the key sensitivities and development requirements in Appendix 1?

24. Natural England objects to the allocation in Policy M07 of Land at Pennycroft and Thorneyfields, Ripon (MJP14) on the basis of potential damage to Ripon Parks SSSI and River Ure Bank Ripon Parks SSSI in terms of hydrology and geomorphology. Can these potential impacts be acceptably mitigated? How has the balancing exercise justified the allocation?

#### *Building sand*

25. Table 2 (Summary of requirements, allocations and sites for building sand) only seeks to provide just enough building sand to meet current estimates of needs. Should there be planned additional provision to ensure flexibility in meeting requirements?

26. The Settrington Estate objects to the allocation in Policy M09 of Land at Settrington Quarry (MJP08) on the basis of adverse impacts on neighbouring residents in respect of noise, dust, health, safety and wellbeing. Can these potential impacts be acceptably mitigated? How has the balancing exercise justified the allocation?

#### *Crushed Rock*

27. Paragraph 5.4 of the MWJP states that there are three main types of crushed rock: Carboniferous limestone, Magnesian limestone and Jurassic limestone. I note that a separate landbank is to be maintained for Magnesian limestone. Should there also be separate landbanks for Carboniferous limestone and Jurassic limestone? If not, why not? Do they have different qualities and different applications/end uses? (PPG 27-066-20140306)

28. If separate specific landbanks were to be maintained, would the MWJP make sufficient provision for at least a 10 year landbank for each type of crushed rock throughout the Plan period, or would additional allocations be needed?

29. Table 3 (Summary of requirements, allocations and sites for Magnesian limestone) only gives details for Magnesian limestone. Where are the figures for the other main types of limestone (Carboniferous and Jurassic)? How does the Plan seek to ensure that requirements for these types of limestone are met?
30. Table 3 seems to show insufficient provision of Magnesian limestone in that the requirement is 22.4mt (7.4 plus 15.00) but estimated reserves in proposed allocations are only 14.5mt (7.00 plus 7.5). Are there any other sites/areas of search that are suitable for allocation? If not, how is it intended that the shortfall will be met, if at all?
31. Are there sufficient resources of crushed rock to make a geographical distribution of sites (similar to concreting sand and gravel)? If so, should this be done, given the extensive Plan area?
32. Should Policy M06 (Landbanks for crushed rock) provide more flexibility with respect to new reserves from Areas of Outstanding Natural Beauty (AONBs) by inserting "as far as practical" in the second paragraph (NPPF paragraph 144 second bullet uses this phrase)?
33. Is the basis for discounting the omission site at Whitewall Quarry (MJP12), which extracts Jurassic limestone, justified? I note that the *Discounted sites summary document* (SD18), October 2016, indicates that there is no need to release additional reserves of Jurassic Limestone, yet the Plan does not provide figures to support this. Is this an existing working quarry? What would the economic impact be of its closure? Does it supply crushed rock and building stone?

*Silica sand*

34. With respect to Policy M12 (Continuity of supply of silica sand), the MWJP at paragraph 5.66 says that the resource at Blubberhouses Quarry overlaps with internationally important nature conservation designations. Bearing this in mind and also the national importance of silica sand, should part 2) of the policy make reference to potential impacts on integrity and potential "Imperative Reasons of Overriding Public Interest" (IROPI) subject to securing compensatory measures that ensure the overall coherence of the Natura 2000 network in accordance with *The Conservation of Habitats and Species Regulations 2017*?
35. NPPF paragraph 146 (3<sup>rd</sup> bullet) requires at least a 10 year stock of permitted reserves to support individual silica sand sites. Is the reference

to a "10 year landbank" in paragraph 5.68 of the Plan consistent with national policy?

36. MWJP paragraph 5.64 states that further reserves of silica sand may need to be released for Burythorpe Quarry (foundry sand) during the Plan period. Given the national importance of silica sand in this area for foundry usage and its national scarcity, should Burythorpe Quarry be allocated in Policy M12? Was Burythorpe Quarry ever put forward for allocation?
37. With respect to the omission site at Blubberhouses Quarry (MJP15), should it be allocated in Policy M12, given the national importance of silica sand in the area for glass manufacture and its national scarcity?
38. Are the reasons for discounting Blubberhouses Quarry set out in the *Discounted sites summary document*, October 2016 (SD18) justified?
39. The *Discounted sites summary document* indicates that it is not sufficiently clear through a strategic level assessment whether site MJP15 could be developed and whether policy protection of the Nidderdale AONB and North Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) could be achieved. However, I note from this document that a planning application has been submitted for the site, which presumably included more detailed information. Please confirm the current position and whether more detailed information is available to inform the allocation process.
40. If the site were to be allocated, could this conflict with *The Conservation of Habitats and Species Regulations 2017 Part 6 (Assessment of plans and projects)*? What information is available on whether the site is likely to have a significant effect on the North Pennine Moors SPA or SAC? Has an Appropriate Assessment been carried out on the site and, if so, with what results? Could any impact on the integrity of the SPA or SAC be justified by IROPI and the securing of compensatory measures that ensure the overall coherence of the Natura 2000 network?
41. Whilst great weight should be given to conserving landscape and scenic beauty in AONBs and *planning permission* for major development should only be granted in exceptional circumstances (NPPF paragraphs 115 and 116), silica sand resources are of national importance and great weight should be given to the benefits of mineral extraction (NPPF paragraph 144 1<sup>st</sup> bullet)? Taking account of the PPG (ID: 27-008-20140306) has the right balance been reached in not allocating Blubberhouses Quarry site?

42. I note that there is potential for the realignment of the A59 at Kex Gill to overlap with the Blubberhouses Quarry site. However, given that there is no definitive route for this road and no land has been safeguarded for its development, should this potential realignment influence the allocation of Blubberhouses quarry? What are the views of North Yorkshire County Council Highways Authority? Does Highways England have any remit for this and, if so, what are its views?
43. Should Burythorpe Quarry and/or Blubberhouses Quarry be allocated to give certainty to when and where development may take place (PPG ID: 27-009-20140306)?
44. In relying on criteria based policies rather than allocations, and taking account of development management policy D04: (Development affecting the North York Moors National Park and the AONBs), does the MWJP provide adequate opportunities to ensure there are reasonable prospects of producing sufficient supplies of silica sand to maintain adequate stocks of permitted reserves as per NPPF paragraph 146?

#### *Clay*

45. Long Marston Parish Council, Nether Poppleton Parish Council and Upper Poppleton Parish Council object to the allocation in Policy M13 (Continuity of supply of clay) of Land north of Duttons Farm, Upper Poppleton (MJP52) largely on the basis of its impacts on traffic, the environment, flooding, agricultural land and the neighbourhood. Can these potential impacts be acceptably mitigated? How has the balancing exercise justified the allocation?
46. Yorkshire Wildlife Trust and Escrick Parish Council object to the allocation in Policy M13 of the Preferred Area on land adjacent to former Escrick Brickworks (MJP55) largely on the basis of the impact on the York-Selby cycle path Site of Importance for Nature Conservation (SINC), agricultural land, traffic and the local environment generally. Can these potential impacts be acceptably mitigated? How has the balancing exercise justified the allocation? It is also suggested that the area is too large. Is the size of the area justified?

#### *Building Stone*

47. In order to demonstrate that there is, as far as practicable, a sufficient supply of building stone (NPPF paragraph 142), should the Plan contain more information on the scale and type of main building stone produced in the Plan area and, as far as possible, an indication of reserves and how long it is estimated they might last?

48. Is the allocation of only one site (Land at Brows Quarry – MJP63), together with existing operating sites, enough to demonstrate that there are reasonable prospects of supplying sufficient building stone of the main types required throughout the Plan period?
49. In the event of identifying any shortfall during the Plan period, and in the absence of other suitable sites coming forward for allocation, could preferred areas or areas of search be designated for any of the main building stone types and if so, would this be appropriate?
50. In order to support the various stages of winning, working and processing of building stone, should Policy M15 (Continuity of supply of building stone) cover the stone products/processing industry?
51. In accordance with NPPF paragraph 28, which encourages local plans to support rural enterprises, should there be specific policy support for sustainable stone processing at appropriate locations (e.g. quarries)?
52. Policy M15, paragraph 2 seems to allow for a greater, more general scope of production if the building stone is for outside the area i.e. for "**important requirements** ... outside the area"; whereas for inside the area it needs to make a more specific contribution to "the quality of the **built and/or historic environment**". Is this intended? Is this too restrictive? (My emphasis)
53. 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?

#### *Hydrocarbons*

54. Briefly explain how the section of the Plan that deals with hydrocarbons is consistent with national policy.
55. Does the Plan set out a clear and readily understandable policy structure for hydrocarbons?
56. Taking account of the Written Ministerial Statement of 16 September 2015, does the hydrocarbon section of the Plan provide the right balance between supporting appropriate hydrocarbon development (taking account of economic and social benefits) and protecting the environment and sensitive receptors from its potential impacts?
57. Should there be specific policy provision within the hydrocarbon section of the Plan covering the potential impact on climate change? Are the policies

consistent with NPPF paragraph 94 requiring local planning authorities to adopt proactive strategies to mitigate and adapt to climate change?

58. Should there be a distinction in Policy between conventional and unconventional hydrocarbon extraction?
59. Should there be more flexibility in dealing with potential exploration, appraisal and production of unconventional hydrocarbons in the North York Moors National Park, particularly as some Petroleum Exploration and Development Licenses (PEDL) lie within the National Park?
60. With respect to Policy M16 (Key spatial principles for hydrocarbon development) briefly explain the reasons for choosing a distance of 3.5km for the AONB/National Park buffer zone in part d) of the policy and how this is intended to work in practice. Is this the most appropriate distance for such a buffer?
61. With respect to Policy M17 (Other spatial and locational criteria applying to hydrocarbon development) part 4) and paragraph 5.146 does the 500m buffer around residential and other sensitive receptors strike the right balance between development and protection? Should there be more flexibility in separation distances and should this be dealt with on a site by site basis (PPG 27-018-20140306)?
62. Is the possible requirement of a financial guarantee in Policy M18 (Other specific criteria applying to hydrocarbon development) part 2) iii) for unconventional hydrocarbon development justified due to its novel approach or techniques? (PPG 27-048-20140306)
63. Has sufficient consideration been given to the potential impact on the strategic road network from hydrocarbon development and are there any outstanding concerns from Highways England or the Highways Authority?

#### *Coal*

64. Do Policies M20 (Deep coal and disposal of colliery spoil) and M21 (Shallow coal) strike the right balance between environmental considerations and the benefits of extracting coal? Could there be any conflict with NPPF paragraph 149 or are there sufficient safeguards in place to mitigate unacceptable adverse impacts?
65. Should specific consideration of the potential impact on climate change of coal development be included in this section of the Plan? Are the policies consistent with NPPF paragraph 94 requiring local planning authorities to adopt proactive strategies to mitigate and adapt to climate change?

*Potash/Polyhalite/Sylvinite/Salt*

66. Should there be more support for Potash extraction, given its national importance and national scarcity?
67. Policy M22 ((Potash, polyhalite and salt supply) requires at i) that proposals do not detract from the special qualities of the National Park. As some detraction is likely, should this policy be more flexible by requiring instead (for example) that proposals do not cause unacceptable impacts?
68. For reasons of effectiveness, should the justification text explain briefly what the North Yorkshire Polyhalite Project is and its benefits to the local and national economy?
69. On the understanding that Polyhalite and Sylvinite are the two main forms of potash mined, to be effective should Policy M22 specifically provide for the extraction of both types or does the generic reference to potash suffice? Should Policy M22 refer to Polyhalite, Sylvinite and other forms of potash?
70. Should the MWJP seek to provide reserves of both main types of potash?
71. Whilst great weight should be given to conserving landscape and scenic beauty in National Parks and **planning permission** for major development should only be granted in exceptional circumstances (NPPF paragraphs 115 and 116) is this sufficient justification for not **allocating** potash sites of national importance bearing in mind that great weight should also be given to the benefits of mineral extraction (NPPF paragraph 144 1<sup>st</sup> bullet)? Taking account of the PPG (ID: 27-008-20140306) has the right balance been reached in not allocating specific potash sites of national importance? Should there be allocations to give certainty to when and where development may take place (PPG ID: 27-009-20140306)? (My reference)
72. In relying on criteria based policies rather than allocations, and taking account of development management policy D04: (Development affecting the North York Moors National Park and the AONBs) does the MWJP provide adequate opportunities to ensure there are reasonable prospects of producing sufficient supplies of Polyhalite, Sylvinite and potash generally to provide the goods that the country needs as per NPPF paragraph 142?

## **Matter 2: Waste**

**Issue: Whether the vision, objectives and strategic waste policies seek to manage waste sustainably and provide sufficient and appropriate waste management capacity in appropriate locations.**

### **Questions:**

#### *Overview*

73. Does the MWJP identify all the main challenges to providing sufficient, sustainable waste management facilities in the Plan area, and are these challenges properly reflected in the vision and objectives and incorporated in policy?
74. How does the plan overall support the movement of waste management up the waste hierarchy?
75. Does the MWJP seek to achieve the most appropriate spatial strategy for waste development? How is this reflected in the Plan?
76. How does the Plan reflect the proximity principle?
77. How does the Plan support the Authorities in maintaining net self-sufficiency over the Plan period?
78. MWJP paragraph 6.26 indicates that there has been significant variation in waste flows between areas within Yorkshire and Humber which account for the majority of import and export movements. It is important to have an understanding of the scale of import and export movements to gauge the level of net self-sufficiency in the Plan area. Given this variation, what weight can be given to only one year's figures (2014) in the Plan? Should there be information for other years to provide a more robust indication of overall waste flows?

#### *Waste management allocations in general*

79. Besides the SA and *Notes from Site Panel Assessment Sessions*, October 2016, are there any other overall assessments in the evidence base for each of the individual sites put forward?
80. In general how have waste management sites been assessed for allocation in the MWJP? In a few paragraphs please provide a brief

overview including the methodology, how constraints and opportunities have been considered, and how allocations have been chosen over omission sites. References (with page and paragraph numbers) may be given to relevant evidence.

81. Are the reasons for selecting allocated waste sites/preferred areas over reasonable alternatives made clear in the SA? Have all reasonable alternatives been assessed and are reasons for rejection set out?
82. How does the spatial distribution of allocations and the policy support given to other potential non-allocated development seek to optimise the location of facilities and travel modes and distances?
83. In general how does the Plan seek to ensure that any significant constraints/adverse impacts of development of waste allocations are overcome/mitigated to an acceptable level?
84. Do any of the regulatory bodies have outstanding concerns about any of the allocations? If so, what are these concerns and how have they been addressed?
85. Would any of the specific allocations result in significant adverse impacts that could not be acceptably mitigated? In such cases how have the benefits of allocation been demonstrated to outweigh the detriment?
86. Should the policies state in which area (district/borough/national park/city) the allocation/preferred area/area of search is located to provide clarity and to facilitate where the allocations can be found within Appendix 1? Should any missing allocation references be added to the policies? (Policy W04 1) iii) does not give a reference for the Allerton Waste Recovery Park facility)
87. Are all allocations shown on the Policies Map, and to be effective should the Policies Map be referred to in the various policies that allocate minerals sites/areas?

*Meeting waste management needs*

88. Give a brief overview of the methodologies and sensitivities used for forecasting waste arisings over the Plan period. What assumptions have been used and are these the most appropriate? Do the four different recycling scenarios and three economic growth factors in the *North Yorkshire Sub Region Waste Arisings and Capacity Requirements* update report (September 2016) provide a robust evidence base to predict waste arisings for all waste streams?

89. Why does Local Authority Collected Waste (LACW) remain constant for all scenarios and is this justified?
90. Have the most appropriate scenarios been taken forward in MWJP Table 7 (Practice scenarios)?
91. Two recycling scenarios are shown in Table 7 for Construction, Demolition and Excavation (CD&E) waste presumably leading to different requirement figures for managing/treating this waste stream. However, MWJP Table 8 (Projected capacity gaps/surplus) does not indicate any variation in the gap/surplus for CD&E. Explain.
92. Are transfer stations included in Table 8? If so, under what heading and if not, why not?
93. Have the waste arisings forecasts taken account of housing and employment growth and other waste producing activities?
94. For clarity, consistency and effectiveness, should MWJP Table 4 (estimate of main waste arisings) state in the "Comment" column that the CD&E waste arisings exclude waste covered by Environment Agency permit exemptions?
95. Is the planned provision of new capacity based on robust analysis of best available data and information, and an appraisal of options?

*Meeting requirements for LACW*

96. Does the MWJP reflect the objectives and targets for managing LACW in the Joint Municipal Waste Management Strategy 2006?
97. How does the evidence demonstrate that the allocated sites in Policy W03 (Meeting waste management capacity requirements - LACW) are appropriate to meet identified LACW management requirements?

*Meeting requirements for Commercial and Industrial (C&I) waste*

98. How does the evidence demonstrate that the allocated sites in Policy W04 (Meeting waste management capacity requirements – C&I waste including hazardous C&I waste) are appropriate to meet identified C&I waste management requirements?

99. If C&I allocations in Policy W04 could manage a combination of LACW and C&I waste as stated in paragraph 6.55, to be effective should reference also be made to this in Policy W03?
100. How is it envisaged Policy W04 part 1) v) will work in practice? What timescales are to be given for energy recovery capacity in part 1) iii) to become operational before considering other applications?
101. Should site WJP01 in Richmondshire be allocated in Policy W04 to enhance the network of recycling, transfer and treatment facilities for C&I waste? The reason given in the *Discounted sites summary document* of October 2016 for not allocating the site is that it would result in the loss of an end of life vehicles facility. The site promoter says that no end of life vehicle operations take place on site because it is financially unviable, and the Environment Agency were requested to cancel the permit some years ago. Have the Authorities visited the site? Is the site safeguarded for end of life vehicle operations?

*Meeting requirements for CD&E Waste*

102. How does the evidence demonstrate that the allocated sites in Policy W05 (Meeting waste management capacity requirements – CD&E waste including hazardous CD&E waste) are appropriate to meet identified CD&E waste management requirements?
103. Nether Poppleton Parish Council and Upper Poppleton Parish Council object to the allocation in Policy W05 of Land at Duttons Farm, Upper Poppleton (WJP05) largely on the basis of its impacts on traffic, local communities, the environment, flooding, agricultural land and neighbourhood businesses. Can these potential impacts be acceptably mitigated? How has the balancing exercise justified the allocation?
104. Yorkshire Wildlife Trust object to the allocation in Policy W05 of Land adjacent to former Escrick Brickworks (WJP06) largely on the basis of the impact on the York-Selby cycle path SINC, agricultural land, traffic and the local environment generally. Can these potential impacts be acceptably mitigated? How has the balancing exercise justified the allocation? Escrick Parish Council objects to the large size of the site. Is the scale of the site justified?
105. Should the existing site at Whitewall Quarry (MJP13) in Ryedale be allocated in Policy W05 to enhance the network of recycling, transfer and treatment facilities for CD&E waste? Is there a need for further capacity in this area? Are the reasons given in the *Discounted sites summary document* of October 2016 relating to traffic justified?

### **Matter 3: Transport, infrastructure and safeguarding**

**Issue: Whether the vision, objectives and plan policies together seek to provide appropriate direction for transport and infrastructure development and safeguarding.**

#### **Questions:**

##### *Overview*

106. Does the MWJP identify all the main challenges relating to the transport of minerals and waste, providing infrastructure and safeguarding, and are these challenges properly reflected in the vision and objectives and incorporated in policy?

##### *Transport*

107. How does the MWJP seek to promote the most sustainable modes of transport?
108. With regard to Policy I01 (Minerals and waste transport infrastructure) is land at Barlby Road, Selby (MJP09) the only transport and infrastructure site that can be reasonably allocated?
109. Has the SA assessed all reasonable alternatives?
110. Are there reasonable prospects of all significant constraints and adverse impacts being overcome at MJP09 or, if not, does the site assessment demonstrate that there are overriding benefits?

##### *Other infrastructure*

111. How does the MWJP seek to ensure that appropriate opportunities are provided for sustainable infrastructure?
112. Is Policy I02 (Locations for ancillary minerals infrastructure) too restrictive in requiring at part 1) i) ancillary development to produce a "value added" or complementary product?
113. Is Policy I02 part 3) too restrictive in preventing ancillary development in the North York Moors National Park unless located at Boulby mine or Doves Nest Farm mine?

114. At paragraph 7.12 of the MWJP should the *Town and Country Planning (General Permitted Development) Order 1995* be substituted by the *Town and Country Planning (General Permitted Development) Order 2015* for new development?

*Safeguarding*

115. Are appropriate areas safeguarded for all economically significant minerals and those that have reasonable prospects of becoming economically viable in the future?

116. Do the Mineral Safeguarding Areas (MSAs) cover the whole mineral resource in accordance with the BGS guidance (paragraph 4.2.3 *Mineral safeguarding in England: good practice advice*)?

117. For any minerals not fully safeguarded, does this comply with BGS guidance paragraph 4.2.7? Give brief reasons.

118. Do the MSAs follow the advice in the BGS *Minerals Safeguarding Areas for North Yorkshire County Council (SEB01)*, *Minerals Safeguarding Areas for the City of York (SEB02)* and *Minerals Safeguarding Areas for North York Moors National Park (SEB03)*?

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

120. Are there any cross boundary issues relating to safeguarding?

121. Provide a very brief summary of how safeguarding has been addressed with relevant adjoining minerals planning authorities.

122. Given that gypsum is safeguarded within the Tees Valley area and along the border with the MWJP area, are there any objections from the Tees Valley Councils over the approach taken for gypsum in the MWJP and its lack of safeguarding?

123. Are all known building stone resources of significance identified on the Policies Map and thereby included in S01 (Safeguarding mineral resources) Part 1) iii)?

124. The MWJP (paragraph 8.17) indicates that potash resources cover a relatively large area and that the Authorities do not consider it is necessary or proportionate to safeguard the whole potential resource. Bearing in mind that this is the only known workable resource in the country and is of strategic national importance, is it justified to not safeguard the whole potential resource?

125. Explain briefly why each of the different buffer requirements set out in Policy S01 are the most appropriate.
126. In determining underground buffer zones for potash, has the most appropriate balance been struck in Policies S01 Part 2) and S02 (Developments proposed within Minerals Safeguarding Areas) Part 3) between providing flexibility for hydrocarbon development and protecting the potash?
127. What evidence is there to indicate that potash reserves and resources could be impacted by hydrocarbon extraction?
128. What evidence is there to support the proposed 2km underground buffer around the potash resource?
129. Although mentioned in the Plan's supporting text at paragraph 8.18, in order to be effective in controlling the potential impact on potash and to give it the weight of policy, should hydraulic fracturing be included in the list of developments that require the submission of information in Policy S02 Part 2)?
130. To be effective, should Policy S02 Part 3 be more positively worded towards hydrocarbon development, whilst maintaining the potash protection?
131. For effectiveness and to give proper direction as to what "exempt" development is, should Policy S02 Part 1 vi) be cross referenced to the location of the Safeguarding Exemption Criteria list?
132. To be effective should the Plan more clearly explain what the practical implications are for development applications on safeguarded land, safeguarded sites and surrounding buffers?
133. Is all appropriate waste infrastructure included for safeguarding in Appendix 2 of the Plan and identified on the Policies Map?
134. With reference to *Safeguarding of waste infrastructure* (SEB06), very briefly summarise how this infrastructure has been identified.
135. With reference to Policy S03 (Waste management facility safeguarding) how has the 250m buffer zone around waste management sites been determined and is this buffer justified?
136. Does the word "frustrate" in Policy S03 give sufficiently clear guidance to developers on what is meant or is additional explanation required?

137. Should Policy S03 include lack of viability as a criterion?
138. Should Policy S03 cross reference the location of the Safeguarding Exemption Criteria list?
139. To be effective, should Policies S03 (Waste management facility safeguarding), S04 (Transport infrastructure safeguarding) and S05 (Minerals ancillary infrastructure safeguarding) make reference to safeguarded sites being set out in Appendix 2 of the Plan?
140. Is all appropriate transport infrastructure included for safeguarding in Appendix 2 of the Plan and identified on the Policies Map?
141. Very briefly summarise how this infrastructure has been identified.
142. With reference to Policy S04 how has the 100m buffer zone around transport infrastructure been determined and is this buffer justified?
143. Should Policy S04 include lack of viability as a criterion?
144. Should Policy S04 cross reference the location of the Safeguarding Exemption Criteria list?
145. Does the word "frustrate" in Policy S04 give sufficiently clear guidance to developers on what is meant or is additional explanation required?
146. With reference to *Safeguarding of minerals infrastructure* (SEB05), very briefly summarise how this infrastructure has been identified.
147. With reference to Policy S05 (Minerals ancillary infrastructure safeguarding) how has the 100m buffer zone around infrastructure sites been determined and is this buffer justified?
148. Is all appropriate minerals infrastructure included for safeguarding in Appendix 2 of the Plan and identified on the Policies Map?
149. Should Policy S05 include lack of viability as a criterion?
150. Should Policy S05 cross reference the location of the Safeguarding Exemption Criteria list?
151. Does the word "frustrate" in Policy S05 give sufficiently clear guidance to developers on what is meant or is additional explanation required?

152. Should Policy S06 (Consideration of applications in Consultation Areas) cross reference the location of the Safeguarding Exemption Criteria list?
153. To be effective, should the Safeguarding Exemption Criteria in paragraph 8.47 be given the weight of policy?
154. Is the list comprehensive in that it includes all development that should be exempt?

#### **Matter 4: Development Management Policies**

**Issue: Whether the vision, objectives and development management policies strike a sound balance between seeking to provide appropriate development and protecting the environment and sensitive receptors.**

#### **Questions:**

155. Should Policy D02 (Local amenity and cumulative impacts) part 1) make reference to local communities and residents?
156. With reference to Policy D03 (Transport of minerals and waste and associated traffic impacts) is it disproportionate to require a green travel plan for all proposals generating significant levels of road traffic or should it only be required where appropriate?
157. With respect to the exceptional circumstances for development in the National Park and AONBs in Policy D04 (Development affecting the North York Moors National Park and the AONBs) Part 1) a) is the wording "will" usually include a "national need" and contribution to the "national economy" too restrictive?
158. Should Policy D04 Part 1) b) and/or c) be more flexible by increasing the scope of economic considerations and taking account of economic sustainability?
159. Is there any difference in the scope or application of Policy D04 Part 1 d) to that set out in the NPPF paragraph 116 third bullet point?
160. Should the last sentence of Policy D04 Part 1 read "unavoidable" rather than "avoidable" and what is meant by "appropriate and practicable compensation"?

161. Is Policy D04 Part 3 too restrictive? Should some flexibility be introduced by amending "will not" be permitted to, for example, "will not usually" be permitted?
162. With respect to Policy D05 (Minerals and waste development in the Green Belt) are Part 2) of the Policy and amendment PC93 in the *Addendum of Proposed Changes to Publication Draft*, July 2017 consistent with paragraph 88 of the NPPF, which states "*Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, **and** any other harm, is clearly outweighed by other considerations?* (My emphasis)
163. Policy D05 Part 2) is more restrictive than national policy in that it classifies both new buildings and other forms of waste development as inappropriate whereas NPPF paragraph 89 only refers to new buildings. Is this justified and is it consistent with national policy (including NPPW)?
164. Should Policy D07 (Biodiversity and geodiversity) part 1) clearly distinguish the hierarchy of international, national and locally designated sites and is it consistent with NPPF paragraph 113? Should it address biodiversity and geodiversity in general and reference the specific protections provided under parts 2) to 6)?
165. Does Policy D07 provide sufficient protection to sites lower down the hierarchy such as those identified in part 1)?
166. Does Policy D07 3) provide sufficient protection to Sites of Special Scientific Interest (SSSIs), ancient woodland and aged/veteran trees?
167. In Policy D07 6) is "offsetting" an effective compensatory measure and should it be a requirement? Should consideration be given to overall gains in biodiversity through reclamation and should Policy D10 (Reclamation and afteruse) be cross referenced?
168. In Policy D07 6) iv) what is the rationale behind requiring compensatory gains to be delivered within the minerals or waste planning authority area in which the loss occurred? How are cross-boundary aspects of biodiversity taken into account?
169. In Policy D07 should more emphasis be given overall to considering cumulative impacts?
170. In Policy D09 (Water environment) should reference in part 4) to "sustainable **urban** drainage systems" be to "sustainable drainage systems (SuDS)? (my emphasis)

171. Paragraph 9.97 of the introductory section to Policy D11 (Sustainable design, construction and operation of development) refers to policies in other local plans in the area requiring homes to meet BREEAM and the Code for Sustainable Homes standards. However the Written Ministerial Statement of 25 March 2015, which deals with housing standards amongst other things, streamlines housing standards so that they comply with national standards and the Building Regulations (apart from access and water in justified cases). Therefore, BREEAM and the Code for Sustainable Homes (now withdrawn) no longer apply to dwellings. Consequently, is the reference and implied reliance in paragraph 9.97 on these standards being used for local homes consistent with national policy?
172. Should reference to "sustainable **urban** drainage systems" in paragraph 9.98 of the Policy Justification to D11 be to "sustainable drainage systems" (SuDS)? (My emphasis)
173. In Policy D12 (Protection of agricultural land and soils) is the last sentence (even with amendment PC97), which states that development that disturbs or damages soils of high environmental value will not be permitted, still too restrictive? Does "high environmental value" need further explanation if it is to remain?
174. Should the exemptions list set out in paragraphs 9.115 to 9.117 be given the weight of policy and incorporated into Policy D13 (Consideration of applications in Development High Risk Areas)?
175. To be effective, should there be a map in the MWJP identifying the High Risk Areas and should this be referred to in Policy D13?
176. The last part of the Development Management chapter, which deals with section 106 agreements, Community Infrastructure Levy and Planning Performance Agreements, contains some policy statements in paragraphs 9.118 to 9.120, yet there is no policy. Should a policy be included in the Plan for these matters?
177. Does the Development Management chapter adequately address air quality overall?

### **Other Questions**

178. Are the provisions for implementation and monitoring effective and do they identify appropriate triggers for review?

179. Are there any other circumstances besides those listed in paragraph 4.11 of the MWJP which should trigger a review/partial review of the Plan?

180. In Appendix 3 of the Plan (Monitoring), are all the actions and triggers set out in the last two columns proportionate and realistic?

*Elizabeth C Ord*

Inspector

18 January 2018