

Cumbria County Council Minerals and Waste Local Plan: Pre-Submission Draft

Guidance for completing the representation form

1. Introduction

The County Council is consulting on the Pre-Submission Draft of the Cumbria County Council Minerals and Waste Local Plan from Monday 23 May until Monday 4 July 2016. This stage of the consultation is the final opportunity for representations to be made prior to the Plan being submitted for Independent Examination. The Planning and Compulsory Purchase Act 2004 (as amended)¹ (the 2004 Act) states that the purpose of the examination is to consider whether the Minerals and Waste Local Plan complies with legal requirements, the Duty to Co-operate and is 'sound'.

At this stage, representations should relate to the soundness of the document, compliance with the Duty to Co-operate and legal compliance. The representation form will ask you whether you consider that the Plan is sound and legally compliant and, if not, which 'tests of soundness' or other requirements you feel it does not satisfy.

You should complete a separate representation form for each comment you wish to make relating to the publication. Guidance on how to complete a representation form is contained below.

2. Legal Compliance

At the Examination, the Inspector will first check that the Plan meets the legal requirements under s20(5)(a) and the Duty to Co-operate under s20(5)(c) of the 2004 Act, before moving on to test for soundness.

You should consider the following before making a representation on legal compliance:

- The Development Plan Document (DPD) in question (the Pre-Submission draft of the Cumbria County Council Minerals and Waste Local Plan) should be within the current Local Development Scheme (LDS) and the key stages should have been followed. The LDS is effectively a programme of work prepared by the Local Planning Authority (LPA), setting out the DPDs it proposes to produce over a 3 year period. It will set out the key stages in the production of any DPDs that the LPA propose to bring forward for independent examination. If the DPD is not in the current LDS, it should not have been published for representations. The LDS should be on the LPA's website and available at their main offices.
- The process of community involvement for the publication in question, should be in general accordance with the LPA's Statement of Community Involvement. The Statement of Community Involvement (SCI) is a document that sets out an

¹ View the 2004 Act at:
<http://www.legislation.gov.uk/ukpga/2004/5/contents>

LPA's strategy for involving the community in the preparation and revision of DPDs and the consideration of planning applications.

- The publication should comply with the Town and Country Planning (Local Planning) (England) Regulations 2012. On publication, the LPA must publish the documents prescribed in the regulations, and make them available at their principal offices and on its website. The LPA must also notify the Local Plan bodies (as set out in the Regulations) and any persons who have requested to be notified.
- The LPA is required to provide a Sustainability Appraisal Report when it publishes a Local Plan. This should identify the process by which the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure that they reflect social, environmental and economic factors.

You should consider the following before making a representation on compliance with the Duty to Co-operate:

- The Duty to Co-operate came into force on 15 November 2011 and any Plan submitted for examination on or after this date will be examined for compliance. LPAs will be expected to provide evidence of how they have complied with any requirements arising from the duty.
- The 2004 Act establishes that non-compliance with the Duty to Co-operate cannot be rectified after the submission of the Plan. Therefore, the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan.

3. Soundness

Soundness is explained fully in the National Planning Policy Framework (NPPF, paragraph 182). The Inspector has to be satisfied that the Plan is positively prepared, justified, effective and consistent with national policy.

- **Positively prepared** – the Plan should be prepared, based on a strategy that seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so, and consistent with achieving sustainable development;
- **Justified** – the Plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the Plan should be deliverable over its period, and based on effective joint working on cross-boundary strategic priorities; and
- **Consistent with national policy** – the Plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

If you think the content of the Pre-Submission draft of the Cumbria County Council Minerals and Waste Local Plan is not sound, because it does not include a policy where it should do, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by any national planning policy? If so it does not need to be included.
- Is what you are concerned with covered by any other policies in the Pre-Submission draft of the Cumbria County Council Minerals and Waste Local Plan, on which you are seeking to make representations, or in any other Plan?
- If the policy is not covered elsewhere, in what way is the Pre-Submission draft of the Cumbria County Council Minerals and Waste Local Plan unsound without the policy?
- If the Pre-Submission draft of the Cumbria County Council Minerals and Waste Local Plan is unsound without the policy, what should the new policy say?

4. General advice

If you wish to make a representation seeking a change to the publication or part of the publication, you should make clear in what way the publication or part of the publication is not sound, having regard to the legal compliance, Duty to Co-operate and the four requirements set out above.

You should try to support your representation with evidence, showing why the publication should be changed. It will be helpful if you also say precisely how you think the publication should be changed. Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

Where there are groups who share a common view on how they wish to see the Pre-Submission draft of the Cumbria County Council Minerals and Waste Local Plan changed, it would be very helpful for that group to send a single representation that represents the view, rather than for a large number of individuals to send in separate representations that repeat the same points. In such cases, the group should indicate how many people it is representing and how the representation has been authorised.