“Does the Core Strategy ensure that the best integration of social, economic and environmental costs and benefits is achieved, by applying the principles of sustainable development and by carefully considering how best to maintain an adequate and steady supply of minerals, commensurate with protecting the environment and securing the prudent use of natural resources?”

Main Points Raised by The Coal Authority in Original Representation

- Minerals Strategy fails to reflect coal as a pro-active issue which does not offer sufficient flexibility to account for the changing energy requirements;
- The MCA for Coal should be based upon up to date evidence and should be shown on the Core Strategy Key Diagram;
- Safeguarding of Coal has not been properly undertaken in line with MPS1 and PPS12 as no Mineral Safeguarding Area has been defined;
- The implementation of Policy CS14 and Policy DC9 is unclear without a Proposals Map;
- Coal is only considered as an ‘other mineral’ under Policy DC7 which fails to reflect the importance of coal as a locally distinctive issue.

Changes Being Sought by The Coal Authority in Original Representation

A. A new paragraph, setting out the range and percentage of energy minerals (including coal) and non energy minerals that is present within the plan area;
B. Confirmation of the evidence base used to define the MCA and such an area should be defined upon a Proposals Map to accompany the Generic Development Control Policies DPD;
Cumbria Minerals and Waste Development Framework
Matter 7 – Minerals Core Strategy & Delivering The Minerals Strategy
Hearing Statement by The Coal Authority (427)

C. A Coal Mineral Safeguarding Area should be defined and be illustrated on the Key Diagram and be amplified in later documents (a pdf showing the 2008 Coal Resource Area for Cumbria was attached to the original representation);

D. Chapter 10 of the Core Strategy should be divided into energy and non-energy minerals;

E. Cross referencing should occur between Policy CS5 and Policy DC7.

The Coal Authority Examination Commentary – Minerals Strategy

“(i) Minerals Strategy

(a). Is the minerals strategy soundly based, appropriate for Cumbria and consistent with national and regional policy?”

1. The Coal Authority response to this issue is partly dealt with in their statements submitted under Matter 2 – Spatial Vision and Strategic Objectives together with Matter 3 – Delivering the Overall Strategy, and for the sake of brevity is not repeated here. Further commentary is dealt with under the Coal and Other Energy Minerals section below. In Summary however The Coal Authority considers the current strategic approach flawed for the detailed reasoning set out elsewhere in this and our other statements, together with our original submission representations.

The Coal Authority Examination Commentary – Safeguarding Mineral Resources

“(ii) Safeguarding Mineral Resources

(a). What is the basis for identifying Mineral Safeguarding Areas and Mineral Consultation Areas, including the extent and definition of the areas, how will detailed boundaries be defined and reviewed, and is the approach consistent with national policy in MPS1?

(d). What is the significance and status of the Current Minerals Consultation Areas shown on the Key Diagram?

(e). Is the approach and criteria set out in Policies CS14 & DC9 soundly based, consistent with national and regional policy and relevant to Cumbria?”

“(vii) Coal and Other Energy Minerals

(d). Should Policy CS14 safeguard coal reserves and should Mineral Safeguarding/Consultation Areas for coal resources be indicated on the Key Diagram, using the latest appropriate base data?”
2. The County Council have accepted the principle of identifying the MCA for Coal on the Key Diagram as they indicate in their letter of the 16th September 2008 to The Coal Authority suggesting a proposed Pre-Examination Change. This proposed course of action would help to meet the concerns of The Coal Authority, however it is imperative that this is based upon a credible and accurate evidence base which has not yet been clarified by the County Council. Nor have the County Council as yet actually published an illustration of how the proposed Coal MCA will appear on the Key Diagram. Consequently we are not yet clear on the spatial illustration of this key part of Policy 14 in the Core Strategy, nor have they indicated how the intend to illustrate DC Policy 9 also on safeguarding. Clarification is also required on what source of information the proposed Coal MCA is to be based, for example if they were proposing to use the Coal Authority polygon notified under Article 10 of the General Development Procedure Order, as that area covers historic mining activity, designed to deal with legacy mining issues, not safeguarding. Hopefully the County Council will be able to clarify this matter at the Examination.

3. National Guidance on safeguarding is set out in MPS1 Planning and Minerals in paragraph 13, however this gives no guidance in terms of a best practice approach. The MPS1 Companion Guide ‘Planning and Minerals: Practice Guide’ indicates in Paragraph 33 that “MPAs should seek advice from the minerals industry operating in their areas when they are considering the delineation of MCAs.” In this case Cumbria propose to continue to utilise 1982 defined areas as opposed to areas based upon consultation with the industry.

4. Good practice is set out in the document ‘A Guide to Mineral Safeguarding in England’ published in October 2007 which indicates that the best available geological and mineral resource information should be utilised as Step A, a good starting point for which is the impartial CLG/BGS County series of Mineral Resources Maps. Then Step B should be a refining of these resources in discussion with the Industry. Steps C and D then involve accounting for sterilisation resulting from proximal development; and taking into account other planning considerations. The County Council do not seem to have followed this Good Practice Approach.

5. The main issue in the view of The Coal Authority is whether the proposed Coal MCA is the appropriate tool for achieving the safeguarding aims for Policy CS14 and DC9. In our original submission representation we indicated that the approach to safeguarding fails Soundness
Test 4 as it is inconsistent with national policy in MPS1 and MPG3. Together with failing Soundness Test 7 as the evidence base is not robust or credible, and that Soundness Test 8 is not met as the ability for safeguarding to be implemented does not exist as the areas are not illustrated.

6. The Coal Authority believes that the coal supply in Britain should contain a significant proportion of indigenous production and the electricity generators made similar statements in their submissions to the 2006 Energy Review. This will offer energy security which is an important Government priority, plus the carbon footprint of indigenously produced coal is materially less than imported coal. MPS1 states that there should be the “...aim to source mineral supplies indigenously, to avoid exporting potential environmental damage, whilst recognising the primary role that market conditions play;...” More recently, The Energy White Paper 2007\(^1\) considered the issue of safeguarding and stated that “...the Government believes that these factors reflect a value in maintaining access to economically recoverable reserves of coal...” The Coal Authority consider that to achieve these Government aims it is vital that areas such as Cumbria where surface coal resources exist should be appropriately safeguarded through use of an MSA. This is even more important in areas where clear operator interest is demonstrated, as it is in Cumbria by Kier Mining who wish to pursue surface mining operations.

7. Paragraph 2.2 of PPS12 (2004) seeks to ensure that LDDs are “clear, succinct and easily understood by all.” The current approach gives a muddled impression, with safeguarding in principle cited in Policy CS14 and DC9 but no indication then given as to how that approach is to be implemented. Policy EM7 of the newly published RSS for the North-West (Sept 2008) requires plans and strategies to safeguard mineral resources from other forms of development. To achieve conformity the Cumbria Minerals & Waste Core Strategy needs to articulate and implement this ‘parent policy’.

8. MPG3 on Coal sets out some brief guidance on how development plans should address Coal, this includes statements in paragraphs 12 and 37 to ensure that coal resources are not unnecessarily sterilised. Within paragraph 11 it indicates that the main guidance for the

\(^{1}\) Department of Trade and Industry (DTI), Meeting the Energy Challenge – A White Paper on Energy, May 2007 CM7124
appropriate development plan policy approach is set out in MPG1 (now MPS1), and PPG12 (now PPS12).

9. MPS1 sets out the overall approach towards safeguarding of mineral resources, as part of the national objectives for minerals planning it sets out in paragraph 9 as including “to safeguard mineral resources as far as possible.” MPS1 goes on in paragraph 13 to detail the approach that LDDs should take towards safeguarding. The main approach being to “define Mineral Safeguarding Areas (MSAs) in LDDs, in order that proven resources are not needlessly sterilised by non-mineral development, although there is no presumption that resources defined in MSAs will be worked.” And then to “encourage the prior extraction of minerals, where practicable, if it is necessary for non-mineral development to take place in MSAs.” The Cumbria Core Strategy identifies mineral safeguarding as a principle being pursued in Policy CS14, which is then echoed in Policy DC9 of the Generic Development Control Policies DPD. However it has failed to implement national policy by not defining actual MSAs as MPS1 requires. The MPS1 companion ‘Planning and Minerals Practice Guide’ in paragraph 32 states “It is therefore important that mineral safeguarding areas (MSAs) are identified and that appropriate safeguarding policies are incorporated in DPDs.”

10. The County Council have instead defined MCAs for sand/gravel and limestone in the Core Strategy and now propose to include a Coal MCA. MPS1 discusses the use of MCAs in paragraph 13 as follows: “in two-tier planning areas, include policies and proposals to safeguard mineral resources within MSAs in County LDDs and show MSAs in district LDDs. Counties should define Mineral Consultation Areas (MCAs) based on their MSAs. MCAs should also be reflected in district LDDs. Where a planning application is made for non-mineral development within a MCA, the district should consult the county on the application.” From this statement of Government Policy, it is the view of The Coal Authority that the use of MCAs must be a secondary planning tool which follow the primary planning tool, that being the definition of a MSA. In this case no Mineral Safeguarding Areas have been defined, this first stage has been skipped and the Core Strategy only deals with Mineral Consultation Areas. In line with advice in MPS1, it could be assumed that the areas contained within the Mineral Consultation Areas, must by default also be considered to be Mineral Safeguarding Areas, and in our view they should be properly identified with both planning notations, MSA and MCA. The use of only a policy without an actual defined safeguarding area shown could be argued to add little to national policy.
11. Mineral Consultation Areas are effectively an ‘internal’ planning tool to ensure proper planning integration between District and County Planning Authorities in terms of exercising their respective development control responsibilities and duties. It is not the correct safeguarding tool to be utilised to implement Policy CS14 and DC9. The MPS1 Companion Guide ‘Minerals and Planning Practice Guide’ sets out what we consider to be the crucial wording “In two-tier planning areas, safeguarding of mineral resources can be achieved only through county and district councils co-operating in the exercise of their respective planning powers over land with potential for mineral extraction. This can be facilitated by defining all, parts of, or marginally more than a MSA as a Minerals Consultation Area (MCA). These provide the mechanism for district councils to consult county councils before granting planning permission, on any planning applications they receive for non-mineral developments which fall within the boundary of a MCA, and which would be likely to affect the winning and working of minerals...MPAs should seek advice from the minerals industry operating in their areas when they are considering the delineation of MCAs. However there is no presumption that resources safeguarded through MSAs or MCAs will actually be worked for minerals.” (our emphasis).

12. The document ‘A Guide to Mineral Safeguarding in England’ produced in October 2007 by CLG/BGS/Defra/Miro has been submitted as a Core Document, this sets out in detail a toolkit for defining MSAs then establishing MCAs based upon those MSAs. For the sake of brevity this document is not repeated here but is important to the likely discussion at the Examination. The Coal Authority would also draw attention to our original representation on Policy DC9 and paragraph 4.7, particularly in relation to the problem of excluding householder developments from safeguarding and the consultation areas. If necessary this can be expanded upon through discussion at the Examination.

The Coal Authority Examination Commentary – Key Diagram

“(vii) Coal and Other Energy Minerals

(d). Should Policy CS14 safeguard coal reserves and should Mineral Safeguarding/Consultation Areas for coal resources be indicated on the Key Diagram, using the latest appropriate base data?”

13. The Coal Authority response to this issue is dealt with fully in their statement submitted under Matter 8 – Other Matters (ii) Key Diagram, and for the sake of brevity is not repeated
here. The statement under Matter 8 also deals in depth with the issues in relation to the need for a ‘Submission Proposals Map’ to accompany the Generic Development Control Policies DPD.

The Coal Authority Examination Commentary – Coal and Other Energy Minerals

“(vii) Coal and Other Energy Minerals

(a). Is the policy towards future proposals for coal mining in Cumbria (including both deep and opencast mining) soundly based and consistent with national and regional policy?

(b). Does Policy CS18 provide sufficient policy guidance for energy minerals, in line with national and regional policy, and should there be a specific section/policy in the Core Strategy covering coal and energy minerals, including oil, gas, coal-bed methane and peat?

(c). What criteria will be used for considering proposals/allocations for future coal extraction (including deep and opencast mining)?

(e). Does Policy DC7 provide a soundly based and appropriate approach to proposals related to energy minerals developments, including coal?”

14. In March 2008, the Rt Hon. John Hutton MP, the then Secretary of State for Business Enterprise and Regulatory Reform stated that “...Fossil fuels will continue to play an important role in ensuring that flexibility of the electricity generation system as well. Electricity demand fluctuates continually, but the fluctuations can be very pronounced during winter, requiring rapid short term increases in production. Neither wind nor nuclear can fulfil that role. We therefore will continue to need this back up from fossil fuels, with coal a key source of that flexibility...” According to the recent Energy White Paper it is estimated that “by 2020 fossil fuels are expected to supply the great majority of UK energy needs and 14% of primary energy demand will be met by coal.” In the latest policy speech on this matter on the 22nd September 2008 the Secretary of State said “…and because energy security is a first thought, not an afterthought, I will not turn my back on another critical energy source for the UK: Coal...coal is a critically important fuel for the UK, its flexible, available, and will reduce our reliance on imported gas.” The new Secretary of State for Energy and Climate Change has yet to make any statements on coal, and the impact of EU decisions on carbon emissions from power stations is also unknown at this stage.

15. Extensive Coal reserves exist within West Cumbria, both surface and deep resources, which in the emerging energy market offer potential for exploitation within the plan period.
Soundness Test 9 from PPS12(2004) requires plans to be sufficiently flexible to deal with changing circumstances across the plan period. It is inevitable that there will be changing energy requirements across the plan period, and that current and future coal extraction is likely to continue. As examples The Coal Authority continues to receive applications and interest in licences for surface mining operations across England, Wales and Scotland, and has also recently granted licences for deep exploration in South Wales. Demand for indigenously produced coal is likely to continue given the priority for UK energy security and the likely development of new clean coal technology power stations. The first of these at Kingsnorth is currently under consideration, and energy generators have identified up to a dozen potential further clean coal power stations, including carbon capture potential. Many of these listed potential sites are across the Midlands and Northern England in locations currently occupied by existing coal fired power stations. Consequently the consideration of Coal as an ‘other mineral’ as set out in paragraph 10.39 of the Core Strategy does not reflect the importance of energy minerals to the plan area. The County Council indicated in their commentary on the submission representations that the content of the MWDF reflects the lack of industry interest in coal over recent years. However the Minerals Core Strategy should reflect the spatial planning issues likely to arise during the coming plan period, not be based upon a historical perspective.

16. The Generic Development Control Policies DPD is set out in the format of dealing with Non-Energy and Energy Minerals under different criteria in policies DC6 and DC7 respectively. This division between non-energy and energy is a logical and sensible approach, however it does not sit comfortably with the parent Core Strategy which is unfortunately not set out in the same manner. Indeed Core Strategy Policy CS18 only refers to Oil, Gas and Coal Bed Methane, whereas it would be better dealing with energy minerals in their entirety, as the omission of Coal from this policy could be argued to raise the issue of Soundness Test 6, in that the strategies and approaches between the two development plan documents are not coherent and consistent. To aid consistency between the two documents it is our view that the Core Strategy should be re-organised on the same basis, i.e. non-energy and energy minerals, with Policy CS18 becoming an Energy Minerals Policy. This would not represent a fundamental change but would aid clarity in the form and structure of both documents.

17. The Coal Authority encourages and supports the working of coal in environmentally and socially acceptable ways to meet the market requirements. The Coal Authority has set out
the positive impacts that surface mining operations can have in its original submission representations. The Coal Authority recognises and acknowledges the advice set out in MPG3 on dealing with planning applications in England. Wales and Scotland have different planning advice. The challenge for any Minerals and Waste Development Framework is how to create policies which are locally distinctive and do not simply re-state national or regional policy.

18. At present Policy CS18 does not cover all energy minerals, and it is considered that this would be much improved by being re-titled ‘Energy Minerals’, and cover Oil, Gas, Coal and Coal Bed Methane. At present the omission of coal from the policy makes it a less rounded approach towards energy minerals. It is also confusing as to what the policy means by offshore proposals as those will not normally fall within the scope of this plan area. Paragraph 12 of MPG3 indicates a list of criteria that it felt development plan policies should address, and paragraph 8 of MPG3 sets out five tests that extraction would need to make. The first test, on environmental acceptability, being the principal test, the second, on community benefits, being an alternative option, with the final three tests being Locational Exceptions in protected areas. The Coal Authority would not support the imposition of additional criteria or restrictions beyond these tests, given that national policy is already negatively worded with onerous criteria to be met before acceptability can be demonstrated, particularly in relation to surface mining. The Coal Authority is explicitly against the introduction of restrictions such as the use of buffer zones as these lead to the unnecessary sterilisation of resource. The Coal Authority is pleased to note that the County Council are not seeking to impose any such additional obligations or criteria in this MWDF.

19. Policy DC7 addresses opencast coal extraction, the relevant current terminology is actually ‘surface mining’, and it would be best if this modern terminology were to be used throughout the two DPDs. If Policy CS18 is amended as suggested above then the issue of internal consistency between the two DPDs will be achieved. The ability of the industry to continue its significant contribution to the energy supply in Britain is dependant equally upon the success in an extremely competitive energy market place and success through the rigorous planning processes. There is no shortage of reserves in Cumbria, and with an appropriate planning framework set out in the MWDF, The Coal Authority believes that the industry can find sites that meet the strict criteria, providing that the planning processes are undertaken in a professional, fair and impartial manner. The Policy DC7 differs to national
policy in that it merges tests 1 and 2 (environmental acceptability and community benefits) of paragraph 8 from MPG3, however The Coal Authority have not objected to this wording as it is considered to be broadly in line with national policy objectives. It is for the Inspector to assess the conformity issue against national policy under Soundness Test 4.

**Conclusion**

20. The Core Strategy as it currently stands does not adequately reflect the importance of coal to Cumbria as shown on the latest resource plans submitted as Core Documents. Instead this vitally important mineral has effectively been downgraded to inclusion only within the Generic Development Control Policies document. Policy CS18 should be amended to include coal and deal with the whole remit of energy minerals. Safeguarding areas should be defined for all relevant minerals including coal; these should be identified on the Key Diagram, and then be set out in detail on a Proposals Map to accompany the Generic Development Control Policies DPD. The same should apply to the proposed Coal MCA, the MSA and MCA should be based upon the latest available evidence base data. Policy DC7 would be better worded to refer to surface mining as this is now the appropriate terminology within the industry and in relation to aligned matters such as the licensing regime.

**The Coal Authority**

20th October 2008