MAIN MATTER 1 – Legal Requirements, Evidence Base & Relationship to other M&W DPDs

Whether the Documents meet all of the legal requirements of the Planning and Compulsory Purchase Act 2004 and associated Regulations (as amended in 2008), are informed by robust, up-to-date and proportionate evidence and are consistent with the Core Strategy and Generic Development Control DPDs.

ISSUES and QUESTIONS

1.1 What is the evidence to confirm that all the above legal requirements have been met? In particular what is the evidence to demonstrate that the requirements for the following matters are met:

(i) Has the DPD been prepared in accordance with the Minerals and Waste Development Scheme (MWDS); does its listing and description in the MWDS match the submission document; have the timescales set out in the MWDS been met?

(ii) Has regard been paid to the County Council Plan, the community strategies of the County’s borough councils and those of neighbouring local planning authorities and other relevant strategies?

(iii) Does the DPD comply with the Statement of Community Involvement (SCI) and has the Council carried out all consultation consistent with the SCI?

(iv) Has the DPD been subject to a Sustainability Appraisal and has the Council provided a final report of the findings of the Appraisal?

(v) Were any requirements for Appropriate Assessment under the Habitats Regulations met before publication of the DPD?

(vi) Has the general conformity of the DPD with the RSS been confirmed by the Regional Planning Body?

(vii) Does the DPD comply with all of the 2004 Regulations, as amended in 2008?

(viii) Specifically does it comply with the requirement regarding the publication of prescribed documents, their availability at the Authority’s principal offices and on the Authority’s website, the placing of local advertisements and notification of the DPD bodies?

(ix) How is the Regulation 13(5) requirement to list saved Structure and Local Plan policies that will be superseded met?
1.2 Do the proposed sites fully meet the identified requirements for waste management capacity and minerals production over the Plan period consistent with the adopted Core Strategy?

1.3 Having regard to the evidence base that underpinned the adopted Core Strategy, the 5th Annual Monitoring Report (LD153) and the information subsequently becoming available, how have the following been taken into account in the DPD and how does that influence, if at all, issue 1.2 above?

(i) Planning permissions granted (including on appeal) for waste and minerals developments since adoption of the Core Strategy and the implications for the number and locations of facilities required by the it;


1.4 With regard to the policies of the adopted Core Strategy and Generic Development Control DPDs:

(i) How will the Council ensure that reserve sites do not come forward in advance of first preference sites which is the (implied) policy position set out in paragraph 2.3 of the DPD (SAP1)?

(ii) How will the ‘Comments and Issues about the Proposed Sites’ in section 5 of the DPD (SAP1) be given policy effect?
MAIN MATTER 2 – Policies 1, 2 and 3: Proposed Waste Facilities Excluding Landfill

Whether the identified sites are justified, effective, deliverable and consistent with national policy and the Core Strategy

ISSUES and QUESTIONS

The County Council has been asked to prepare a short paper on the following two questions which will provide a context for the Hearing sessions to discuss each sub matter.

2.1 Policies 2 and 3 are not prescriptive about the type of waste management facility to be developed at each site. How do do the DPDs as a whole ensure that the range of waste facilities required for the capacity identified in Core Strategy policy 9 will be provided?

2.2 Policies 2 and 3 would appear to allow the development of energy from waste plants and other waste treatment facilities at each of AL3/AL18, AL8/AL31 and CA31. Has the full potential for cumulative impacts in each of these areas, taking account of other developments (see for example paragraph 3.9 of SAP4), been assessed?

Sub matter 1: Sites in Barrow

2.3 Generally, will the identified sites provide an appropriate pattern of waste management facilities for this part of the County, are the necessary delivery partners supportive, is the required infrastructure in place or explicitly programmed and are there any significant updates to the information in the Sustainability Appraisal (SAP3) and the Site Assessments Report (SAP8)?

2.4 Policy 3-additional sites Sandscale Park and Waterfront Business Park;
   (i) Are there any serious constraints to the deliverability of sites in Policy 3 that would require the alternative sites suggested by Catalyst Lend Lease and Furness Enterprise Limited to be considered and, if so, have they been subject to SA?

(May need to add BA 25 if anyone objects to its removal)

Sub Matter 2: Sites in Allderdale

2.5 Generally, will the identified sites provide an appropriate pattern of waste management facilities for this part of the County, are the necessary delivery partners supportive, is the required infrastructure in place or explicitly programmed and are there any significant updates to the information in the Sustainability Appraisal (SAP3) and the Site Assessments Report (SAP8)?

2.6 AL17/AL8-Policy 1;
   (i) Are there any outstanding issues concerning the deliverability of AL17?
   (ii) Can the impacts arising from proximity to housing be mitigated?
(iii) If AL17 cannot be delivered, what are the implications for the development of AL8 under policies 2 and 3?

2.7 AL3/AL8/AL18-Policies 2 and 3

(i) Does each of these sites have the capacity to be developed for both Policy 2 and Policy 3 facilities as implied?

(ii) How would the facilities provided at each and in total be controlled to be consistent with the numerical requirements of Core Strategy policy 9?

(iii) Could better use be made of the ‘First Preference’ and ‘Reserve’ status having regard to Main Matter 1.4 (i)?

2.8 AL34-Policy 2

(i) Are the Sustainability Appraisal scores still appropriate with regard to deliverability, economic potential and the County Wildlife Site and how would this affect the development of the site?

(ii) Having regard to (i) above, are there any serious constraints to the deliverability of this site that would require the alternative site suggested by Cumbria Waste Management to be considered and, if so, has it been subject to SA?

Sub Matter 3: Sites in Carlisle

2.9 Generally, will the identified sites provide an appropriate pattern of waste management facilities for this part of the County, are the necessary delivery partners supportive, is the required infrastructure in place or explicitly programmed (specifically, when will the CNDR be open) and are there any significant updates to the information in the Sustainability Appraisal (SAP3) and the Site Assessments Report (SAP8)?

2.10 CA24-Policy 1

(i) Has the need for the additional HWRC to serve north Carlisle been resolved with respect to CA24?

(ii) Is the allocation consistent with the Core Strategy and can the impacts on environmental assets and those arising from the proximity to housing and the cumulative effects of traffic be mitigated?

(iii) Are there any serious constraints to the deliverability of this site that would require the extension areas to the south and south west suggested by Cumbria Waste Management to be considered and, if so, have these been subject to SA?

2.11 CA11/CA30/CA31/CA28/CA29-Policies 2 and 3

(i) Given the reasons for the omission of CA28 and CA29 from the submitted DPD, which do not appear to be changed circumstances (paragraph 1.25 of SAP5), does the DPD remain sound?

(ii) Would CA31 and CA29 have the capacity to be developed for both Policy 2 and Policy 3 facilities as initially implied?
(iii) How would the facilities provided at each site and in total be controlled to be consistent with the numerical requirements of Core Strategy policy 9?

(iv) Could better use be made of the ‘First Preference’ and ‘Reserve’ status having regard to Issue and Question 1.3 (i)?

(v) Are the various issues identified in the Sustainability Appraisal for CA11, CA30 and CA31 capable of mitigation?

(vi) Would any effect of the proposed development of CA31 on the future development potential of the wider area be such as to make the DPD unsound if the site is included?

2.12 CA24-Policy 2
(i) Are there any serious constraints to the deliverability of these sites (CA11/CA30/CA31) that would require the extension areas to the south and south west suggested by Cumbria Waste Management to be considered and, if so, has it been subject to SA?

**Sub Matter 4: Sites in Copeland, Eden and South Lakeland**

2.13 Generally, will the identified sites provide an appropriate pattern of waste management facilities for these parts of the County, are the necessary delivery partners supportive, is the required infrastructure in place or explicitly programmed and are there any significant updates to the information in the Sustainability Appraisal (SAP3) and the Site Assessments Report (SAP8)?

2.14 CO34-Policy 1
(i) Can the site be redeveloped such that any impact on the identified environmental assets can be mitigated?

2.15 CO1, CO11, ED10, SL1B-Policy 1; CO11, ED31, ED1-Policy 2
(i) Can the various issues identified in respect of these sites be adequately resolved by appropriate references in the ‘Comments and Issues’ section (but see matter 1.4(ii) above).

2.16 *May need to add ED33 Tebay if objections to deletion*
MAIN MATTER 3 – Policy 4: Proposed Additional Non-Inert landfill Capacity

Whether the identified sites are justified, effective and consistent with national policy and the Core Strategy

ISSUES and QUESTIONS

3.1 Is policy 4 consistent with Core Strategy paragraph 7.31 which requires sites to be identified in the south, north and west of the County with priority to the south? AL31 would seem to be in the west, CA24 is in the north and the only identified site in the south (BA10) is a ‘reserve’ with reservations about the technical feasibility of landfilling recorded (paragraph 1.237 of SAP8).

3.2 What impact has the appeal decision at Bennett Bank (BA23) had on the requirement in Core Strategy policy 9 for an additional 2m m³ to be identified?

3.3 How has it affected the priority to be given to the south of the County and how, in any event, is this priority (Core Strategy paragraph 7.31) to be delivered through policy?

3.4 In this context are there any serious constraints to the deliverability of the existing or identified sites that would require the upgrading of site BA10 (Goldmire Quarry) to a ‘First Preference’ site as suggested by Holker Estates Company Ltd?

3.5 In the context of all the above, how would the deletion of ED7 (Thackwood) suggested by Hesket PC affect the soundness of the DPD?
MAIN MATTER 4 – Policy 5: Proposed sites for Low Level and Very Low Level Radioactive Wastes

Whether the identified sites are justified, effective and consistent with national policy and the Core Strategy.

ISSUES and QUESTIONS

This matter was debated during the Examination of the submitted Core Strategy and extensively reported upon by the Inspectors. The relevant Core Strategy policy (12) refers only to the Low Level Repository (LLR) near Drigg and paragraph 8.28 makes it clear that there is no policy for Very Low Level Wastes arising in Cumbria. It also sets out the reasons for this and explains that in the interim and before any review of the Core Strategy any proposals for managing these wastes would be considered in the context of the relevant Core Strategy and Generic Development Control polices, namely 1 and 2 and 1 to 4 respectively.

The only Annual Monitoring Report to be published since the adoption of the Core Strategy (LD153) makes no material mention of this matter. The Core Document List suggests that the UK strategy for the management of low level radioactive waste from the nuclear industry remains in draft (LD157) which appears to be confirmed by the Regulation 28 representation from Low Level Waste Repository Ltd.

The County Council has therefore been asked to provide a short statement setting out the evidence base for submitted DPD policy 5 explaining with reference to that evidence base the ways in which circumstances have changed since the adoption of the Core Strategy to support an approach that does not appear consistent with Core Strategy policy 12. Although it is not appropriate for that Inspectors’ Report to be a Core Document for this Examination, it may be helpful for the relevant extracts to be appended to the County Council’s statement. These would appear to be paragraphs 8.57 to 8.89 and 8.105 to 8.116.

Once the statement is available more detailed questions will be published to guide the discussion at the Examination hearing session.

This matter will also address the representations that sites AL31 (Lillyhall) and CO31 (Keekle Head) should be included in policy 5. In this context and without prejudice to anything arising from the County Council’s statement the question will be whether there are any serious constraints to the deliverability of the identified sites that would require either or both of the alternative sites suggested to be considered and, if so, have they been subject to SA?
MAIN MATTER 5 – Policy 6: Preferred Areas for Minerals and Policy 7: Mineral Safeguarding Areas

Whether the identified sites and areas are justified, effective and consistent with national policy and the Core Strategy.

Sub Matter 1: Gypsum

5.1 Would the DPD be sound if identified site M18 were not to be included within the Plan given Core Strategy policies 13 and 14?

5.2 Having regard to matter 1.4(ii), do paragraphs 5.129 to 5.133 adequately reflect the Sustainability Appraisal (SAP3) and paragraphs 1.818 to 1.834 of the Site Assessments Report (SAP8) and give appropriate guidance for the preparation and consideration of the planning application and associated submissions that would be required to bring the site forward?

5.3 If the boundary of the Mineral Safeguarding Area shown on the Proposals Map been not defined such that it is consistent with national policy and the Core Strategy thus rendering the DPD unsound what is the evidence for a different boundary which would correct this defect and make the DPD sound?

Sub Matter 2: Land Won Sand and Gravel

5.4 Generally, in the light of paragraph 3.14 of the DPD (SAP1) and any further information that may be available in response to matters 1.3 (i) and (ii) are sites M6, M8, M15 and M27 required for the DPD to be consistent with Core Strategy policies 13 and 14 and thus sound? Or is it the case that the need for sites in the west and south to be consistent with the second bullet of Core Strategy policy 13 requires the identification of sites in these areas at least?

5.5 M15-Policy 6

(i) How does the landowner objection affect the deliverability of this allocated site and the stated requirement for site(s) in the west?

5.6 M32 Goodyhills

(i) If there are serious constraints to the deliverability of site M15 that would require an alternative site in the west of the County should that suggested by Lakeland Minerals Ltd be considered and, if so, has it been subject to SA?

5.7 M27-Policy 6

(i) How does the apparent landowner objection affect the deliverability of this allocated site and the stated requirement for site(s) in the south?

5.8 M12-Roosecote Quarry
If there are serious constraints to the deliverability of site M27 that would require an alternative site in the south of the County should that suggested by Holker Estates Company Ltd be considered and, if so, has it been subject to SA?

5.9 Other sites

(i) Is site M6 considered to serve the north or the west of the County?
(ii) If the north, what is the evidence for the allocation of this site and M8 in the light of the stated landbank and its disproportionate distribution within the north of the County?
(iii) In these circumstances what evidence is there that the DPD would be unsound without the allocation of site M11 (Kirkhouse Quarry) as suggested by Lakeland Minerals Ltd? If it is to be considered, has it been subject to SA?

Sub Matter 3: High and Very High Specification Roadstones

5.10 M17-Policy 6

(i) Having regard to matter 1.4(ii), do paragraphs 5.109 to 5.110 adequately reflect the Sustainability Appraisal (SAP3) and paragraphs 1.666 to 1.678 of the Site Assessments Report (SAP8) and give appropriate guidance for the preparation and consideration of the planning application and associated submissions that would be required to bring the site forward?

5.11 M30-Policy 6

(i) Having regard to matter 1.4(ii), do paragraphs 5.138 to 5.141 adequately reflect the Sustainability Appraisal (SAP3) and paragraphs 1.913 to 1.923 of the Site Assessments Report (SAP8) and give appropriate guidance for the preparation and consideration of the planning application and associated submissions that would be required to bring the site forward?

(ii) Having regard to Core Strategy policy 14 are there any serious constraints to the deliverability of this site or any other factors that would require the inclusion of Homescales Quarry as an Area of Search as suggested by Aggregate Industries in order for the Plan to be sound and, if so, has it been subject to SA?

Sub Matter 4: Local Building Stones

5.12 Is there evidence to show that the Plan would be unsound if Baycliff Haggs, Kirkby Slate Quarry and Birkhams Quarry are not identified as Areas of Search or is the proposed approach (within Mineral Safeguarding Areas and subject to Generic Development Control policies at application stage) supported by the evidence base and consistent with the Core Strategy?

Sub Matter 5: Crushed Rock
5.13 In the light of paragraph 3.15 of the DPD (SAP1) and any further information that may be available in response to matters 1.3 (i) and (ii) would the Plan be unsound if Shapfell Quarry (M29) was not identified as an Area of Search as suggested by Lowther Estates and, if so, has the site been subject to SA?

**Sub Matter 6: Coal**

5.14 Is there sufficient evidence about the quality of the unworked coal and the effect (if any) on regeneration proposals to show that the Plan would be unsound if Broughton Moor (M28) was not identified as an Area of Search as suggested by the Coal Authority and Kier Minerals Ltd?

5.15 Why is it specifically referred to in paragraphs 5.48 to 5.49 of the Plan if it is not an allocated site?

**Sub Matter 7: Sites for Secondary or Recycled Aggregates Facilities**

5.16 Are policies 6 and 7 consistent with Core Strategy policy 13, final bullet or is the delivery mechanism primarily through the operation of Generic Development Control policy 4 (h)?

5.17 Site M24 (Derwent Howe Slag Bank) is identified as a preferred Mineral Safeguarding Area within policy 7 rather than a Preferred Area for Secondary Aggregates. What is the basis for this approach and do the issues raised by Allerdale BC suggest that the Plan would be unsound if the site continued to be allocated in one or other policy?

5.18 Although understood to be dealing with a different materials stream is there evidence to show that the Plan would be unsound if land at Roan Edge Quarry/Landfill (M30/SL25) was not identified as an Area of Search or Preferred Area for secondary and recycled aggregates facilities in policy 6?
MAIN MATTER 6 – Monitoring and Implementation

Whether the scheme in Section 6 of the DPD provides a robust basis to enable measurement to take place and the need for remedial action to be identified.

6.1 The Council will need to explain how the scheme set out in section 6 of the DPD (SAP1) relates to and relies upon Chapter 11 of the Core Strategy.

6.2 How are the key infrastructure elements required for the implementation of particular schemes (for example, the opening of the CNDR to bring forward the Carlisle waste sites) addressed in the monitoring scheme?

6.3 How are the significant effects identified in the Sustainability Appraisal and Sites Assessments Report as likely to arise in association with the development of the proposed sites to be monitored?

6.4 Is it clear that each of the delivery partners are signed up to the implementation of the allocated sites?
MAIN MATTER 7 – Proposals Maps, Mineral Consultation Areas and Other Matters

Any other miscellaneous, procedural and outstanding matters

7.1 Any other representations for changes to the Plan required in order for it to be sound not otherwise covered in previous Hearing sessions.

7.2 Council’s recommended changes to the Proposals Maps including any changes to the Mineral Consultation Areas.

7.3 Council’s recommended schedule of changes to the text including the changes required to move from the plan that was subject to the pre-submission consultation under Regulation 27 to the plan that was submitted for examination under Regulation 30 in view of the substantial difference between the two.