

Delegated Decision

14 September 2023



Statement of Common Ground with Natural England in relation to the Durham Minerals and Waste Policies and Allocations Development Plan Document

Ordinary Decision

Report of Regeneration, Economy and Growth

Amy Harhoff, Corporate Director - Regeneration Economy and Growth

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 This report seeks approval from the Corporate Director of Regeneration, Economy and Growth for a Statement of Common Ground with Natural England in relation to the Minerals and Waste Policies and Allocations Development Plan Document.

Executive Summary

- 2 On 21 June 2023 Full Council agreed the Publication Draft of the Minerals and Waste Policies and Allocations Development Plan Document (M&WDPD) for submission for examination by an Independent Inspector. At the same meeting Full Council agreed that the Director of Regeneration Economy and Growth, in consultation with the Portfolio Holder for Economic Regeneration, could agree Statements of Common Ground (SOCG) with neighbouring authorities and other interested parties to demonstrate effective and on-going joint working in relation to the M&WDPD. Subsequently, the Council submitted the M&WDPD to the Secretary of State for Levelling Up, Housing and Communities on 3 July 2023 for independent examination.
- 3 The National Planning Policy Framework (2021) includes a requirement to prepare and maintain one or more SOCG, documenting the cross boundary matters being addressed and progress in cooperating to address these.
- 4 The Planning Inspectors appointed to examine the M&WDPD have indicated they would welcome a SOCG between the Council and

Natural England on the Habitats Regulation Assessment Screening which accompanies the Plan, and any other relevant aspects of the Plan.

- 5 The SOCG (included in Appendix 2) confirms Natural England has no objections to the Publication Draft M&WDPD Sustainability Appraisal and Habitat Regulations Assessment Screening Report and considers there to be no unresolved strategic matters arising from the policies and proposals of the Publication Draft M&WDPD. It also proposes a main modification to supporting paragraph 9.35 (d) of the M&WDPD to further emphasise Natural England should be engaged at an early stage in the development of proposals and will be consulted on applications which may impact upon Crime Rigg Site of Special Scientific Interest.
- 6 If agreed the SOCG will be submitted to the Planning Inspectors and form part of the evidence base.

Recommendation

- 7 The Corporate Director of Regeneration, Economy and Growth is recommended to:
 - a) agree the Statement of Common Ground between Durham County Council and Natural England in relation to the Minerals and Waste Policies and Allocations Development Plan Document.

Background

- 8 On 21 June 2023 Full Council agreed the Publication Draft of the Minerals and Waste Policies and Allocations Development Plan Document (M&WDPD) for submission for examination by an Independent Inspector. At the same meeting Full Council agreed that the Director of Regeneration Economy and Growth, in consultation with the Portfolio Holder for Economic Regeneration, could agree Statements of Common Ground (SOCG) with neighbouring authorities and other interested parties to demonstrate effective and on-going joint working in relation to the M&WDPD. This was in line with the recommendations of Cabinet at its meeting on 17 May 2023. Subsequently, the Council submitted the M&WDPD to the Secretary of State for Levelling Up, Housing and Communities on 3 July 2023 for independent examination.

The requirement for Statements of Common Ground

- 9 The Duty to Cooperate was introduced by the Localism Act 2011 and places a duty on local planning authorities to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters. The Local Planning Regulations 2012 (Part 2: Duty to Cooperate) prescribes which other bodies we must cooperate with in addition to relevant adjoining authorities. Natural England is one such prescribed body. Paragraph 27 of the National Planning Policy Framework (2021) states that to demonstrate effective and on-going joint working, strategic policymaking authorities should prepare and maintain one or more SOCG, documenting the cross boundary matters being addressed and progress in cooperating to address these.

Joint Working and the M&WDPD

- 10 Durham County Council (hereafter referred to as the Council) has worked collaboratively with neighbouring authorities and prescribed bodies in the development of policy content within successive stages of both the County Durham Plan (CDP) and M&WDPD. The M&WDPD seeks to complement the CDP which contains strategic policy on minerals and waste. The Publication draft M&WDPD has been subject to three stages of formal consultation and Natural England has been consulted at each stage.
- 11 In response to the Regulation 18 Notice of Intent consultation Natural England highlighted the areas they expected the M&WDPD to address. The Council in its response outlined how these areas were addressed in the CDP or would be addressed in the M&WDPD.

- 12 In response to the Regulation 18 Draft Plan Consultation Natural England commented in relation to two site allocations. On Thrislington West Quarry, Natural England sought the addition of further detailed wording to require developments to avoid impacts on the nearby designated sites and for restoration to enhance and improve ecological linkages. Policy MW21 (Site specific allocations at Thrislington West Quarry) and supporting text were amended accordingly. Natural England welcomed the wording in the site characteristics section of site specific allocation upon Policy MW22 (Northern Extension to Crime Rigg Quarry).
- 13 Following the close of the Regulation 18 Draft Plan stage consultation the Council sought Natural England's views on site allocation proposals via email. This correspondence helped inform the Council's decision on which other site allocations to take forward in the Regulation 19 Publication Draft Plan. In particular, based on Natural England's comments and in the absence of detailed evidence the Council concluded it could not allocate the northern section of Quarrington North. In relation to site Crime Rigg Quarry, Natural England stated the plan should set criteria based policies that include the need for strong evidence to demonstrate the viability of the northern extension becoming the replacement Site of Special Scientific Interest (SSSI). This informed Policy MW23 (Site Specific Allocation Inert Waste Disposal at Crime Rigg Quarry).
- 14 Natural England did not respond at the Regulation 19 Publication Draft stage of consultation.

Statement of Common Ground

- 15 The Planning Inspectors have indicated they would welcome a SOCG between the Council and Natural England on the Habitats Regulation Assessment Screening which accompanies the Plan, and any other relevant aspects of the Plan. A SOCG will help demonstrate to the Inspector there are no outstanding strategic matters in relation to the M&WDPD.
- 16 The SOCG is contained within Appendix 2. In summary, it confirms Natural England has no objections to the Publication Draft M&WDPD or its accompanying Sustainability Appraisal and its Habitat Regulations Assessment Screening Report and considers there to be no unresolved strategic matters arising from the policies and proposals of the Publication Draft M&WDPD.
- 17 The SOCG also proposes a main modification to supporting paragraph 9.35 (d) of the M&WDPD which relates to Policy MW23 to further emphasise Natural England should be engaged at an early stage in the

development of proposals and will be consulted on applications which may impact upon Crime Rigg SSSI.

Next Steps

- 18 If agreed the SOCG will be submitted to the Planning Inspectors and form part of the evidence base. After examination and following consultation on any modifications proposed, the Council will be asked to adopt the M&WDPD. The Council will continue to cooperate with the Natural England as outlined in the SOCG.

Background papers

[Report to cabinet, Submission of Minerals and Waste Policies and Allocations Development Plan Document and Revised Statement of Community Involvement, 17 May 2023](#)

Contact:

Tel: 03000 265244

Mike Allum

Mike.Allum@durham.gov.uk

Claire Bradley

Claire.Bradley@durham.gov.uk

Appendix 1: Implications

Legal Implications

The Duty to Cooperate was introduced by the Localism Act 2011. Section 33A of the Planning and Compulsory Purchase Act 2004 requires local planning authorities and prescribed bodies to cooperate in the preparation of development plan documents in order to maximise their effectiveness. The Town and Country (Local Planning) Regulations 2012 (Part 2: Duty to Cooperate) (as amended) prescribes which bodies are subject to the Act.

Finance

None.

Consultation

The M&WDPD has been subject to consultation in accordance with the Town and Country Planning (Local Planning) (England) Regulation 2012 and the Council's Statement of Community Involvement. There is no requirement to consult on the SOCG. They will be made publicly available for information as part of the M&WDPD examination library.

Equality and Diversity / Public Sector Equality Duty

None.

Climate Change

Preparation of the emerging M&WDPD took into account NPPF guidance on planning for climate change.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

Not applicable.

Procurement

None.

Appendix 2: Statement of Common Ground

1. List of Parties involved:

- Durham County Council
- Natural England

2. Signatories:

Signature:

Date:

Signature: REDACTED

Antony Muller, Senior Adviser, Natural England Northumbria Area

Team

Date: 13.9.23

3. Functional and geographical relevance

Natural England are the government's adviser for the natural environment in England, helping to protect England's nature and landscapes for people to enjoy and for the services they provide. Natural England covers the whole of County Durham and are responsible for:

- Promoting nature conservation and protecting biodiversity;
- Conserving and enhancing the landscape;
- Securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment;
- Promoting access to the countryside and open spaces and encouraging open-air recreation; and

- Contributing in other ways to social and economic well-being through management of the natural environment, e.g., changes to wildlife licensing to improve flexibility for developers.

4. Relevant Strategic/ Cross Boundary Matters

Natural Environment

It is agreed that:

- The site allocations within the Publication Draft Minerals and Waste Policies and Allocations Document (hereafter referred to as the M&WDPD) are informed by a robust site assessment which includes consideration of impacts on biodiversity and geodiversity.
- The County Durham Plan together with the provisions of the Publication Draft M&WDPD provides appropriate policy to ensure minerals and waste developments do not result in unacceptable adverse impacts on biodiversity and geodiversity including nationally and locally protected sites, protected and priority species and habitats, and trees, woodlands and hedges. It reflects requirements in the NPPF in relation to protecting and enhancing the natural environment, including providing for net gains in biodiversity.

Impact upon landscapes

It is agreed that:

- The site allocations within the Publication Draft M&WDPD are informed by a site assessment which includes consideration of landscape impacts.
- The County Durham Plan together with the provisions of the Publication Draft M&WDPD provides appropriate policy to ensure minerals and waste developments do not result in unacceptable adverse impacts on protected landscapes and landscape character and quality.

Climate Change

- The County Durham Plan together with the provisions of the Publication Draft M&WDPD provides appropriate policy to ensure minerals and waste developments demonstrate how they will minimise greenhouse gas emissions and how they have incorporated measures to adapt, mitigate, reduce vulnerability and increase resilience to the future impacts of climate change.

Water Management and Water Resources

- The site allocations within the Publication Draft M&WDPD are informed by a site assessment which includes consideration of hydrogeology and flood risk.
- The County Durham Plan together with the provisions of the Publication Draft M&WDPD provides appropriate policy to ensure minerals and waste developments do not result in unacceptable adverse impacts on surface water, groundwater and flood risk.

Site allocation MW23: Inert Waste Disposal at Crime Rigg Quarry

To further emphasise Natural England's role in relation to proposals impacting upon Crime Rigg Quarry Site of Special Scientific Interest a main modification is proposed to supporting paragraph 9.35 (d):

Geodiversity - In terms of geodiversity Crime Rigg Quarry is currently designated as a Site of Special Scientific Interest (SSSI). The acceptability of any impacts upon Crime Rigg Quarry SSSI will therefore be a key consideration. Any planning application for the import of inert waste to restore the allocation to a low level should demonstrate that adverse effects on the SSSI do not occur, unless it can be demonstrated that the benefits of the development clearly outweigh impacts. Infilling the quarry void to predevelopment levels of something similar would result in the permanent concealment of the SSSI interest features. While Natural England have advised that they anticipate that the proposed geological exposures at the northern extension to Crime Rigg Quarry would be comparable with the existing SSSI interest features and have therefore agreed in principle to the proposed allocation, for a planning application for the import of waste to restore the allocation to a pre-development level to be considered acceptable it will be necessary for the applicant to demonstrate the viability of the northern extension becoming the replacement SSSI, whilst at the same time demonstrating that comparable special interest features will be exposed during the transition period (e.g., the landfill operations are concurrent with the new SSSI interest feature exposures). Accordingly, Natural England should be engaged at an early stage in the development of proposals and will be consulted on applications which may impact upon the SSSI.

Sustainability Appraisal and Habitat Regulations Assessment

- All sites which have been allocated have been assessed through both Sustainability Appraisal and screened in accordance with the Habitat Regulations Assessment which has screened out all likely significant effects on the proposed allocations and policies within the Publication Draft M&WDPD.
- Natural England has no objections to the Publication Draft M&WDPD Sustainability Appraisal November 2022 and Publication Draft M&WDPD Habitat Regulations Assessment Screening Report November 2022.

In conclusion, Natural England considers there to be no unresolved strategic matters arising from the policies and proposals of the Publication Draft M&WDPD.

5. How we have engaged/Governance Arrangements

The governance arrangements related to the Duty to Cooperate are:

- Through formal consultation on successive stages of the County Durham Plan, the M&WDPD and accompanying Sustainability Appraisals and Habitat Regulations Assessments; and
- Specific meetings between Durham County Council and Natural England and further dialogue via email and telephone.

6. Timetable for review and ongoing cooperation

Summary of future plan preparation

LPA	Submission Date	EIP Hearings	Estimated Adoption	Adoption
County Durham Plan				October 2020
County Durham Minerals and Waste Policies and Sites DPD	July 2023	September 2023	Winter 2023/24	

Monitoring and review mechanisms

Durham County Council and Natural England will continue to cooperate on strategic issues using the governance and methods set out in section 5 above. Triggers for review of the Statement of Common Ground will likely relate to the stages of plan preparation shown in the table above.