

## **Report to Durham County Council**

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Inspectors appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the County Durham Minerals and Waste Policies and Allocations Document**

The Plan was submitted for examination on 3 July 2023

The examination hearings were held between 26 September and 5 October 2023

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## **Abbreviations used in this report**

AONB	Area of Outstanding Natural Beauty
CDP	County Durham Plan
DtC	Duty to Co-operate
GPDO	Town and Country Planning (General Permitted Development) Order 2015 (as amended)
HRA	Habitats Regulations Assessment
LAA	Local Aggregates Assessment
MM	Main Modification
NPPF	National Planning Policy Framework
NPPW	National Planning Policy for Waste
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SPA	Special Protection Area

## Non-Technical Summary

This report concludes that the County Durham Minerals and Waste Policies and Allocations Document Publication Draft Plan November 2022 (the Plan) provides an appropriate basis for the planning of minerals and waste in the County, provided that a number of main modifications (MMs) are made to it. Durham County Council has specifically requested that we recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared schedules of the proposed modifications and, where necessary, carried out sustainability appraisal (SA) and habitats regulations assessment (HRA) of them. The MMs were subject to public consultation over a six-week period. In one instance<sup>1</sup>, following the consultation, it has been necessary to amend the detailed wording of a MM. We have recommended including the MMs in the Plan after considering the SA, the HRA and all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Adjustments to ensure that the Plan's allocations are effective;
- Changes to ensure that development management policies are justified, effective, consistent with national policy and the adopted development plan;
- A range of modifications to the monitoring framework to specify clear triggers and associated actions that would be necessary should the Plan fail to deliver expected outcomes; and
- A number of other modifications to ensure that the Plan is positively prepared, justified, effective and consistent with national policy.

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<sup>1</sup> MM4

## Introduction

1. This report contains our assessment of the Plan in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). It considers first whether the Plan's preparation has complied with the duty to co-operate (DtC). It then considers whether the Plan is compliant with legal requirements and whether it is sound.
2. On the 19 December 2023, the Department for Levelling Up, Housing and Communities published its revised National Planning Policy Framework (NPPF) alongside other revisions to national policy. Paragraph 230 of that document indicates that the Plan should be examined against the version of the NPPF published on 5 September 2023. Therefore, when we refer to the NPPF in our report, we are referring to that published on the 5 September 2023.
3. The NPPF (paragraph 35) explains that in order to be sound, a local plan should be positively prepared, justified, effective and consistent with national policy. The starting point for the examination is the assumption that the minerals and waste planning authority has submitted what it considers to be a sound plan. The Plan was submitted in July 2023 and is the basis for our examination. It is the same document as was published for consultation in November 2022.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested (DCCEX01) that we should recommend any MMs necessary to rectify matters that make the Plan unsound and / or not legally compliant and thus incapable of being adopted. Our report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out SA and HRA of them. The MM schedule was subject to public consultation for six weeks. We have taken account of the consultation responses in coming to our conclusions in this report and in this light have amended the detailed wording of **MM4** from that consulted upon. This amendment is explained under Issue 4 below and does not significantly alter the content of the modifications as published for consultation. The reasons for the alteration are also explained in the Council's summary of the MM consultation (DCCEX09) and the change does not materially prejudice any parties' positions or undermine the SA or HRA that has been undertaken in any way.

## **Policies Map**

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Publication Draft County Durham Minerals and Waste Policies and Allocations Development Plan Document Submission Policies Map November 2022 as set out in DCC14.
7. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and consequent changes are needed to ensure that the Plan is effective in these terms. These further changes to the policies map were published for consultation alongside the MMs in the document titled Schedule of Proposed Changes to the Adopted Policies Map for Consultation January 2024 (Proposed Changes to the Policies Map) (DCCEX11).
8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the Publication Draft County Durham Minerals and Waste Policies and Allocations Development plan Document Submission Policies Map November 2022 (DCC14) and the further changes published alongside the MMs (DCCEX11).

## **Context and Scope of the Plan**

9. The Plan is non-strategic. It sets out detailed policies and four specific site allocations relating to minerals and waste uses. Strategic policies relating to the area, including those relevant to minerals and waste matters are set out in the County Durham Plan (2020) (CDP).
10. It is intended that the Plan will be read alongside the CDP and supersede all remaining policies of the County Durham Minerals Local Plan (2000) and the County Durham Waste Local Plan (2005).
11. The County covers some 229 settlements of differing character and size. There is a history of mining and mineral working across large parts of the Plan area. Mineral resources of regional and national importance are present in the County, including crushed rock, sand and gravel, natural building and roofing

stone and brick making materials. Important reserves of limestone are also found within the County.

12. The North Pennines Area of Outstanding Natural Beauty<sup>2</sup> (AONB) covers much of the west of the County. A substantial number of heritage assets are within the County, in many cases associated with the cultural history of the Prince Bishops, including the Durham Castle and Cathedral World Heritage Site, 90 conservation areas, well over 3,000 listed buildings and some 226 scheduled monuments.
13. A number of designated sites internationally recognised in relation to their biodiversity are also found within or adjacent to the Plan area, including Northumbria Coast Special Protection Area (SPA)/RAMSAR site, Teesmouth and Cleveland Coast SPA/RAMSAR site, and the Durham Coast Special Area of Conservation (SAC).

## **Public Sector Equality Duty**

14. We have had due regard to the aims expressed in S149 (1) of the Equality Act 2010. This has included our consideration of several matters during the examination including in relation to health impacts of dust, air quality and vibration. The Equality Impact Assessment (DCC32) demonstrates that the Plan would be unlikely to lead to any adverse impacts or cause discrimination to any particular groups with protected characteristics within the Plan area.

## **Assessment of Duty to Co-operate**

15. Section 20 (5) (c) of the 2004 Act requires us to consider whether the Council has complied with any duty imposed on it by section 33A in respect of the Plan's preparation. Details of how the Council has met this duty are set out in the DtC statement (DCC15) and the Council's written responses to pre-hearing questions. These documents set out where, when, with whom and on what basis co-operation has taken place over all relevant strategic matters.
16. The evidence (DCC15) demonstrates that throughout the plan-making process the Council has worked closely and cooperated on relevant strategic matters with all prescribed bodies, including neighbouring MPAs, as well as some further afield where strategic relationships have been identified. It also shows that the County has worked closely with others in the North East Aggregates

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<sup>2</sup> In November 2023 AONBs were renamed as "National Landscapes". However, these areas remain AONB insofar as all policy, legislation and guidance applies to the designated landscape. We continue to refer to AONB in this report reflecting the Plan as modified.

Working Party and the North East Mineral and Waste Planning Policy Officers Group.

17. We are therefore satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the DtC has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

### **Local Development Scheme**

18. The Plan has been prepared in accordance with the Council's Local Development Scheme (DCC1).

### **Public Consultation and Engagement**

19. The Council's Consultation Statement (DCC26) summarises the consultation and engagement undertaken and explains how the response has informed the Plan. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement (DCC2) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations).

### **Sustainability Appraisal**

20. The Council has carried out a SA of the Plan (DCC20, DCC21 & DCC22). They have prepared a report and technical summary and published it along with the Plan and other submission documents under Regulation 19. The SA report was updated to assess the MMs (the Sustainability Appraisal and Habitats Regulations Assessment Main Modifications Addendum) (DCCEX12). Overall, we are satisfied that the SA is proportionate, objective, underpinned by relevant and up to date evidence, and is compliant with legal requirements and national guidance.

### **Habitats Regulations Assessment**

21. The Plan was subject to a HRA during its preparation (DCC23) as required by the Conservation of Habitats and Species Regulations 2017 (as amended). The HRA identifies that the Plan is compliant with the Habitats Regulations. It concludes that the Plan will not result in likely significant effects alone (or in combination) on protected sites. The MMs have also been subject to HRA (DCCEX12) reaching the same conclusions. Natural England expressed no concerns or objections to the HRA processes in any of its responses at the Regulation 19 and MMs consultation stages. Taking these things together



leads us to the view that the HRA is adequate, and thus forms a reasonable basis for the Plan's approach to these matters.

## Superseded Policies

22. Regulation 8 (5) of the 2012 Regulations sets out that where plans contain policies that are intended to supersede other policies in the adopted development plan, this fact should be stated, and the superseded policies must be identified. Appendix A of the Plan includes a table which explicitly states which policies are to be superseded or replaced by new policies in the Plan upon adoption. This requirement has therefore been met.
23. However, in some cases, it is unclear whether or not the policies of the Plan relate to either mineral development or waste development or both, and in this way the Plan is inconsistent with national policy (per paragraph 16 (d) of the NPPF). **MM1** is therefore necessary, which addresses this by amending the policy titles to make this explicitly clear. In doing so, the MM secures consistency with national policy in these terms. Consequential modifications are also needed to the Council's submission policies map (PM1 and PM2 of DCCEX11) to reflect this change. For the avoidance of doubt, when we refer to the Policies of the Plan in this report, we refer to their titles and reference numbers as amended by **MM1**.

## Climate Change

24. The development plan, taken as a whole, includes policies designed to secure that the development and use of land in the Plan area contributes to the mitigation of, and adaptation to, climate change. Strategic policies relating to this matter are contained in the CDP. Climate change is specifically addressed in the CDP's vision, objectives 16 and 17 and its Sustainable Development Statement. Furthermore, Policy 29 of the CDP is concerned with sustainable design and seeks to achieve zero carbon buildings and support renewable and low carbon energy generation.
25. In addition, this Plan includes policies relating to sustainable transport (including MW1, MW7, MW20, M3, M8 and the individual site allocations), and for the aftercare and restoration of minerals and waste sites, which taken together, and amongst other things could contribute to the mitigation of climate change.

## Other legal requirements

26. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Conclusion

27. We therefore conclude that all relevant legal requirements have been complied with during the preparation of the Plan.

## Assessment of Soundness

### Main Issues

28. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified seven main issues upon which the soundness of the Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy or policy criterion in the Plan.

### **Issue 1 – Would the Plan facilitate an adequate supply of minerals (aggregates and crushed rock) in a manner consistent with the adopted development plan and national policy, and is the Plan positively prepared in this respect?**

29. The CDP vision seeks to ensure Durham remains an important source of minerals over the Plan period. Objective 20 of the CDP confirms the need to ensure a steady and adequate supply of both energy and non-energy minerals.
30. This is recognised by Policy M3 of the Plan which consistent with paragraph 211 of the NPPF, states that great weight will be given to the benefits of mineral extraction. Allocations are made in the Plan for mineral extraction at Thrislington West Quarry (Policy M21) and at Crime Rigg Quarry (Policy M22). These allocations are discussed in detail under Issue 3.

### Aggregates

31. County Durham is the largest producer of aggregates in the North East. Policies 49 and 50 of the CDP set out the amount of primary aggregates required over the Plan period and a locational approach to their supply based on the Joint Local Aggregate Assessment (LAA) for County Durham, Northumberland and Tyne & Wear (2018). The LAA was updated in April 2022 (DCC19) and informed the preparation of the Plan and was updated again in April 2023 (DCC31) after the Plan was submitted.
32. DCC19 and DCC31 use the rolling average of 10 years' sales data as the basis to calculate demand. Both also use a modified three-year sales approach to calculate demand. They use the most recent three-year period excluding 2020 sales because these were affected by the Covid-19 pandemic. DCC19 and

DCC31 both consider other relevant information and assess all supply options and overall, they are consistent with paragraph 213 (a) of the NPPF and follow the advice of the 'Minerals' Planning Practice Guidance (PPG). Both documents have been endorsed by the regional Aggregates Working Party and are robust assessments of resources within the Plan area.

33. Chapter 2 of the Plan provides an overview of minerals in County Durham based on the LAA. However, the submitted Plan includes outdated information in these regards, resulting in an ineffective basis for the Plan's policies on this matter. Consequently, **MM2** is needed in the interests of effectiveness to ensure the tonnages and years quoted reflect the most recent LAA (DCC31).
34. The CDP did not make any allocations for sand and gravel (Basal Permian, fluvial and glacial sand) because at the time of its preparation it was demonstrated that permitted reserves exceeded demand by some 2.195 million tonnes (2018 LAA). However, DCC19 shows permitted reserves have been worked faster than anticipated and that they were overestimated due to geological constraints. Site operators have also reported higher than expected sales increasing the annual demand requirement. Consequently, Table 1 of the Plan, informed by DCC19 concludes that allocations are needed to provide some 5.06 million tonnes of sand and gravel between 2021 and 2035.
35. Allocations are therefore made in the Plan for the winning and working of Basal Permian Sand at Thrislington Quarry (Policy M21) and at Crime Rigg Quarry (Policy M22). These are anticipated to provide for an additional 6.71 million tonnes of sand and gravel at a rate of production of up to 340,000 tonnes per year over the Plan period. These two allocations will therefore meet the demand and would ensure at least a seven-year landbank of sand and gravel is maintained as required by paragraph 213 (f) of the NPPF.
36. Other sites, which are currently being worked for these minerals are expected to cease production over the Plan period. This will mean production is concentrated on these two sites, particularly towards the end of the Plan period effecting the resilience of the supply. However, criterion 2 of Policy 51 of the CDP allows for non-allocated sites to be brought forward should they be required. Therefore, following the principle of monitor and manage, this will ensure flexibility and means that no further allocations need to be made in the Plan in order to meet any perceived supply shortfalls.

### **Crushed Rock**

37. There are three types of crushed rock produced in County Durham. These are magnesian limestone, carboniferous limestone and dolerite.

38. Policy 49 of the CDP based on the 2018 LAA and its information pertaining to permitted reserves required no further provision for magnesian limestone or dolerite extraction over the Plan period. However, the policy identifies that 14.3 million tonnes of carboniferous limestone would be necessary to supplement existing reserves to ensure this resource would not be depleted over the Plan period. The most recent LAAs (DCC19 and DCC31) show that the position with regard to magnesian and dolerite has not significantly changed since the adoption of the CDP but that provision remains required for 2.4 million tonnes of carboniferous limestone.
39. Against this background, Policy 58 of the CDP allocated land east of Hulands Quarry for further carboniferous limestone working. Subject to planning permission it is estimated this would produce around 300,000 tonnes of carboniferous limestone per annum. There is operator interest in bringing forward this allocation. Consequently, subject to the appropriate permissions, this existing allocation is sufficient to secure a steady and adequate supply of carboniferous limestone over the Plan period.
40. Overall, at the end of 2020 the LAA reported a crushed rock landbank of over 31 years. A 10-year landbank can therefore be demonstrated in accordance with paragraph 213 (f) of the NPPF and there is therefore no need to make any allocations for crushed rock in the Plan.

## **Conclusion**

41. Subject to the MM explained above and the allocations discussed under Issue 3, the Plan would facilitate an adequate supply of minerals in a manner consistent with the adopted development plan and national policy, and the Plan is positively prepared in this respect.

## **Issue 2 – Would the Plan make adequate provision for the management of waste in a manner consistent with development plan and national policies, and is the Plan positively prepared in this respect?**

42. Historically within the County, waste has been predominantly disposed of through landfill. This is mainly due to the large number of former quarries being traditionally restored through landfilling.
43. The National Planning Policy for Waste (NPPW) requires waste planning authorities to drive waste management up the waste hierarchy. Disposal of waste through landfill is the lowest tier in the hierarchy. Policies W16-W19 therefore compliment the strategic waste policies of the CDP and aim to drive waste management up the waste hierarchy.

44. The Plan allocates two sites (Policies W23 and W24) for inert waste disposal associated with minerals working restoration. These waste allocations are discussed in detail under Issue 3.

### **Policy W16 (Inert waste 'other recovery')**

45. The County Durham Waste Technical Paper (DCC30) explains that in County Durham, most construction, demolition and excavation waste (inert waste) generated over the Plan period that cannot be reused will need to be disposed of through landfilling. This will either be through existing landfill sites or as part of landfilling associated with the restoration of worked mineral sites.
46. In response, Policy W16 positively supports proposals which manage inert waste through other recovery. "Other recovery" is where waste can serve a useful purpose by replacing other materials that would otherwise have been used. Thus, consistent with national policy, Policy W16 seeks to drive the management of inert waste up the hierarchy through its use in activities that involve other recovery.
47. It is clear that the term "other recovery" is critical to the operation of Policy W16. However, although a definition is set out in a footnote to the justification text in the Plan, it is not clear what is meant by 'other recovery' in the policy text. This should be defined in the policy text so that it is explicitly clear how a decision maker should react when considering whether or not a proposal accords with Policy W16 or not. As drafted, though, Policy W16 is inconsistent with national policy (per paragraph 16 (d) of the NPPF), with an approach to 'other recovery' which is also not sufficiently justified.
48. Furthermore, DCC30 was published after the Plan was submitted. The contextual information in the Plan, in the form of tonnages of waste historically managed and projected should therefore be updated to reflect the most up to date evidence to provide an effective basis for monitoring.
49. **MM18** is therefore necessary, which would address all these issues in the interests of justification, effectiveness and ensuring consistency with national policy.

### **Policy W17 (Inert Waste Disposal via Landfill)**

50. The NPPW requires the waste planning authority to make adequate provision for waste disposal. Policy W17 therefore sets out the circumstances within which the disposal of new inert waste will be permitted through new or extended landfill sites.

51. Criterion 4 requires it to be demonstrated that proposals would not result in over provision of capacity which could lead to excessive importation from outside of the County. However, it is not clear how “excessive” would be assessed or measured. Instead, whether a proposal amounts to over provision depends on whether it can be demonstrated that it is necessary to be imported from outside the County or not. Furthermore, criterion 5 unnecessarily specifies the requirements for any restoration scheme when this is already covered in detail through Policy MW20 as amended. There is also no need for the final sentence of the policy to say all proposals should meet all requirements of Policy W17 as this is implicit in the preceding policy wording. Taken together, these considerations result in a policy which is ineffective.
52. Accordingly, these issues would all be addressed by **MM19** which is needed to ensure Policy W17 is effective.

### **Policy W18 (Non-Hazardous Landfill)**

53. Aycliffe Quarry East is County Durham’s only remaining non-hazardous landfill site. It is expected that solutions higher up the waste hierarchy will be found to manage this waste stream over the Plan period. However, this depends on the delivery of energy recovery and treatment capacity.
54. Policy W18 is read alongside Policy 60 of the CDP. The CDP policy requires proposals for new or enhanced waste management capacity to demonstrate either that they assist in meeting the identified need for new waste management capacity to manage specific waste streams over the Plan period, or that they meet an additional need which cannot be met by existing operational facilities within County Durham or the North East.
55. As explained in relation to Policy W17, whether a proposal amounts to over provision depends on whether it can be demonstrated that it is necessary to be imported from outside the County or not in line with the proximity principle. The use of the word “excessive” without definition in criterion 2 is therefore ineffective. Furthermore, the justification text should also cross-reference Policy 60 of the CDP, the strategic policy relevant to considering whether there is a waste management capacity need which cannot be met in County Durham or the North East.
56. Non-hazardous landfill produces landfill gas and operators are therefore required to seek approval of landfill gas management plans from the Environment Agency. This should be made explicitly clear in the justification text for effectiveness. Furthermore, the detail within Policy W18 with regard to restoration is unnecessary because this duplicates Policy MW20, contrary to the NPPF insofar as it requires plans to avoid unnecessary duplication (paragraph 16 (f)).

57. We therefore recommend **MM20**, which amends Policy W18 and its justification text in response to these issues. It is therefore necessary to secure effectiveness and consistency with national policy.

### **Policy W19 (Water Resources)**

58. The principal aquifer in the eastern part of County Durham is an important groundwater resource which is extracted for drinking water. If minerals and waste proposals are not appropriately managed, they have the potential to pollute and contaminate ground and surface water resources.
59. Policies 31 and 35 of the CDP are concerned with amenity, pollution and water management issues associated with all forms of development including minerals and waste. Policy W19 is read alongside these policies, but applies only where a proposal would involve landfill, landraise, or inert waste other recovery. However, it is not explicitly clear what type of proposals Policy W19 applies to resulting in an ineffective policy. Furthermore, the relationship between Policy W19 with CDP Policies 31 and 35 is not appropriately referred to in the justificatory text, which is another factor that inhibits effectiveness.
60. Moreover, the impacts on water resource captured by this policy differ to flood risk which is a separate issue. All developments are required to have regard to flood risk and this matter is covered in detail in this Plan in Policy MW1 and in Policy 35 of the CDP. However, this distinction is not drawn in the justification text which refers to flood risk issues. This results in ambiguity and thus ineffectiveness.
61. Paragraph 174 (e) of the NPPF is clear that planning policies should contribute to and enhance the natural environment by, amongst other things, preventing new development from contributing to unacceptable levels of water pollution; and that development should, wherever possible help to improve local environmental conditions such as water quality. As drafted the Plan fails to accord with these considerations or reflect relevant Environment Agency approaches to these matters at the planning application stage. This results in an ineffective policy position – particularly in terms of facilitating effective pre-application engagement (per paragraphs 39 to 42 of the NPPF).
62. Accordingly, in order to address the above soundness deficiencies **MM21** is necessary which deletes ambiguous references to flood risk, clarifies the type of development to which the policy relates, and emphasises the relationship with CDP policies, and the relevant Environment Agency Guidance. In these ways, the MM ensures effectiveness and consistency with national policy.

## Conclusion

63. Providing the MMs discussed above are made, the Plan would make adequate provision for the management of waste in a manner consistent with development plan and national policies, and the Plan is positively prepared in this respect.

### **Issue 3 – Are the Plan's allocations justified, effective and consistent with national policy and the adopted development plan?**

64. Allocations are made in the Plan for mineral working at Thrislington West Quarry (Policy M21) and at Crime Rigg Quarry (Policy M22). As discussed under Issue 1 these allocations seek to ensure a steady and adequate supply of Basal Permian sand by providing an additional 6.71 million tonnes within the Plan period. Although there is no shortfall, workings necessary to extract Basal Permian sand at Crime Rigg Quarry will also contribute to a steady and adequate supply of magnesian limestone.
65. As discussed under Issue 2 above, the Plan also identifies two site allocations for inert waste disposal, the first at Crime Rigg Quarry (Policy W23) and the second at Cold Knuckle Quarry (Policy W24). These sites are both existing mineral sites and the inert waste disposal will form part of their restoration.
66. All four allocations specify the point of access as via the existing access points when in fact there are number of different potential access points for each site and it is unclear which ones will be used. This is not effective, and MM is therefore needed to explicitly specify the point of access for each site for effectiveness. Furthermore, all four allocation policies specify requirements for restoration. This conflicts with NPPF paragraph 16 (f) because it is unnecessary when read alongside Policy MW20. Moreover, all four allocation policies require developers to demonstrate no unacceptable adverse effects without making specific reference to biodiversity, groundwater and the road network all of which are known constraints relevant to all sites which is ineffective. The justification text for all four allocation policies also fails to recognise that the Local Nature Recovery Strategy, although likely to be published during the Plan period, has not yet been completed. This is ambiguous and therefore ineffective.
67. **MM24 to MM27** would address all these matters ensuring Policies M21, M22, W23 and W24 are effective and consistent with national policy on these issues.

#### **Policy M21 (Site Specific Allocation at Thrislington West Quarry)**

68. Thrislington Quarry is an existing large Basal Permian sand and magnesian limestone quarry which is rail served via a spur off the east coast main line. It has been the principal producer of sand in the County for many years. The



current permission runs until January 2030 but permitted reserves of sand are anticipated to be exhausted during 2025.

69. Allocation of the site is consistent with the locational approach set out in Policy 50 of the CDP which prioritises extraction beneath the floor of existing quarries followed by lateral expansion. We note that the impact of the allocation on the Thrislington SAC has been assessed in the HRA and the risk of the impact on the integrity of the European site has been adequately ruled out.
70. The Plan therefore allocates some 18.5 hectares within and to the east of the existing operational void next to the A1(M). Based on the sand being worked at a rate of between 200,000 and 300,000 tonnes per annum, this would extend the life of the quarry to roughly 2045.
71. Overall, subject to **MM24**, Policy M21 and the allocation for mineral extraction is soundly based.

#### **Policy M22 (Site Specific Allocation Northern Extension to Crime Rigg Quarry)**

72. Crime Rigg is an existing medium sized quarry which produces magnesian limestone and Basal Permian sand. It is also used as an inert waste landfill site.
73. Around 9.5 hectares of land are allocated adjacent to the existing quarry. The allocation therefore accords with the locational approach of Policy 50 of the CDP and is estimated to facilitate the extraction of 910,000 tonnes of sand and 1,775,000 tonnes of overlying magnesian limestone. The site has been promoted by the existing quarry operator and is estimated to be worked at 40,000 tonnes and 100,000 tonnes per annum respectively extending the life of the quarry to between 2043 and 2045.
74. The Council's Landscape Assessment identifies that advance preparatory works such as screen mounding and tree planting would be necessary at this site – but this consideration is not reflected in the policy, which means that it is not justified in these terms. **MM25** addresses this and subject to it, Policy M22 and the allocation for mineral extraction is soundly based.
75. The Council will also need to modify its policies map on adoption to ensure the proposed allocation reflects the existing planning permission and includes the specific point of access as discussed above (PM1 of DCCEX11). Extracts of the Council's policies map are also included within the Plan and MM is therefore also needed to these maps in the interests of effectiveness [**MM30 & MM31**].

### **Policy W23 (Site Specific Allocation Inert Waste Disposal at Crime Rigg Quarry)**

76. The existing planning permission for mineral extraction at Crime Rigg requires restoration by 21 December 2024, and even if an extension of time was granted, it is estimated the existing void space would be exhausted by 2030.
77. The allocation is some 11 hectares and is an open void with perimeter mounding which forms part of the operational quarry and has been promoted by the quarry operator. Subject to the details and quality of the restoration it is estimated it could provide between 1.541 and 3.226 million cubic metres of inert void space. Based on the estimated importation of 200,000 tonnes of inert waste per annum this site would provide between 11.5 and 24 years capacity meeting inert waste disposal needs up to 2035 and potentially beyond the Plan period.
78. Crime Rigg Quarry is also a Site of Special Scientific Interest, but the lack of reference to Natural England's role in planning matters related to such sites results in an ineffective policy, which fails to accord with the NPPF's expectations (per paragraphs 39 to 42) relating to pre-application engagement and front-loading. Consequently, even though Natural England have not objected to the proposal, justification text should be added to make clear that any applicants should engage as early as possible with Natural England. Furthermore, given the known landscape context of the site, the lack of reference to necessary advance preparatory works such as screen mounding and tree planting results in a policy which is unjustified and ineffective.
79. Accordingly, **MM26** is necessary to address all these issues. Subject to it, Policy W23 and the allocation for waste disposal is soundly based.
80. As above, the Council will need to modify its policies map on adoption to ensure the proposed allocation reflects the existing planning permission and includes the specific point of access (PM1 of DCCEX11). Consequential modifications are also needed to the related map included in the Plan in the interests of effectiveness [**MM30 & MM31**]

### **Policy W24 (Site Specific Allocation Inert Waste Disposal at Cold Knuckle Quarry)**

81. Cold Knuckle Quarry forms part of the larger active minerals quarry known as Old Quarrington and Cold Knuckle Quarry. Restoration is already taking place through the permitted disposal of inert waste. Extant planning permissions require Cold Knuckle Quarry to be restored by July 2026.

82. The allocation is some 10.6 hectares and subject to the details of its restoration it is estimated that some 625,000 tonnes of inert waste could be accommodated. It would also enable the sale of one million tonnes of magnesian limestone which would have been used to achieve the approved restoration profile. Thus, the allocation would also avoid sterilisation of this mineral and contribute to a steady and adequate supply of crushed rock.
83. Advance preparatory works such as screen mounding and tree planting are required to respond to the landscape character of the site's surroundings. However, a lack of reference to these matters in the policy itself is unjustified, and references only to these issues in justification text results in ineffectiveness.
84. Accordingly, **MM27** is necessary to address these issues. Subject to it, Policy W24 and the allocation for waste disposal is soundly based.

## Conclusion

85. Subject to the MMs discussed above, the Plan's allocations are justified, effective and consistent with national policy and the adopted development plan.

## Issue 4 – Are the Plan's development management policies justified, effective and consistent with national policy?

86. Chapter 4 of the Plan sets out a number of development management policies for minerals and waste development.
87. Paragraph 4.4 of the Introduction explains how proposals will be determined in accordance with other plans. However, as drafted, the position of the development plan in the statutory decision-making scheme, and the status of certain documents is not accurately reflected, which results in an ineffective and unjustified policy position. Accordingly, **MM3** is necessary which clarifies the status of development plan documents and their role in the decision-making process and thus secures an effective and justified approach to this matter.
88. The introductory paragraphs of Chapter 4 also explain that applicants will be expected to engage with communities before planning applications are made for minerals and waste proposals. At the end of Chapter 4, justification text at paragraphs 4.97 and 4.98 explains the role of already established Local Liaison Groups in County Durham. However, this reads as justification text to Policy M11 which relates only to the periodic review of mineral planning permissions when this is not the case as the matter relates to all relevant policies. The reference results in an ineffective policy position on this issue. Moving these paragraphs to the introduction of Chapter 4 would make it clear that Local

Liaison Groups could potentially have a role in all matters covered by Policies MW1-M15, and M21 and M22.

89. Accordingly, **MM3** and **MM14** bring this change about and are therefore needed to ensure effectiveness.
90. The role of Local Liaison Groups and their relationship with relevant processes, including planning matters, are clearly set out in the Plan, and this is a justified approach. It follows that the incorporation of further references to Local Liaison Groups elsewhere in the Plan would not be necessary to achieve soundness, and that no further MM are therefore required on this issue.

### **Policy MW1 (General criteria for considering minerals and waste development)**

91. Policy MW1 sets out general criteria which all minerals and waste proposals must consider and demonstrate compliance with.
92. Criterion 1 requires developers to assess the effect of proposals on human health and amenity. However, this is ambiguous and thus contrary to paragraph 16 (d) of the NPPF. In order to rectify this, the policy should refer to the specific effects it is concerned with, which are visual impact, light pollution, air pollution, dust, noise, vibration, odour, vermin, birds and litter. Criterion 1 also states that separation distances will be required between minerals and waste development and residential properties and / or other sensitive receptors. However, the requirement for separation distances is drawn from the 'Minerals' PPG and relates only to minerals development. Furthermore, the term 'sensitive receptors' is too broad and without definition, and residential properties should be defined with reference to the Use Classes in the justification text. In response, Criterion 1 should be amended to address these issues and the related justification text should be modified to make clear that separation distances are only required where demonstrated through a technical assessment to be necessary to mitigate impacts. All these changes are necessary for effectiveness and to ensure a justified approach.
93. Justification text for criterion 2a which relates to landscape is given in paragraph 4.17. This requires proposals to avoid breaching local skylines. However, this is too rigid as any development could breach a skyline. No justification has been given for such a stringent approach, and the policy would be ineffective in these terms. Instead, proposals should assess impacts and have regard to effects on local skylines.
94. Criterion 2b relates to biodiversity and to ensure consistency with national policy (per paragraph 174 (d) NPPF) and effectiveness MM is needed to clarify impacts on biodiversity should be minimised and that a biodiversity net gain will be required. This MM is drafted to require a minimum of 10% net gain, which is

consistent with the relevant statutory requirements and means that proposals which meet that percentage would be compliant with this aspect of the policy. The use of the word “minimum” in this context does not therefore imply that the Plan’s expectations are more onerous than the relevant statutory requirements.

95. Criterion 2c requires proposals to assess impacts on the historic environment but does so in a manner that is inconsistent with national policy in terms of designated and non-designated assets. It also does not accord with the development plan in terms of the approach to the historic route of the Stockton and Darlington Railway. Consequently, to ensure consistency with national policy, the justification text should note this criterion applies to both non-designated and designated heritage assets and in cross referencing other related development plan policies it should also reference Policy 46 of the CDP, which is relevant to the historic railway.
96. Criterion 2d relates to surface water, ground water and flood risk. However, clarity is needed to establish that all water bodies will need to be considered and that any proposals will need to consider effects from the exploration through to the restoration phases to ensure consistency with national policy and effectiveness.
97. The strategic road network and public rights of way impacts are required to be considered under criterion 3. However, this does not take account of other routes used for recreational purposes such as the Sustrans and the Council’s network of Railway Paths (multi-user paths) the impact upon which should also be considered. It is thus inconsistent with national policy in these terms insofar as it expects plan-making to identify and pursue opportunities to promote walking and cycling (per paragraph 104 (c) NPPF). Moreover, criterion 3 should also set out what actions may be necessary if unacceptable adverse impacts are identified through assessment in the interests of effectiveness. Such measures could include diversions or stopping-up if it can be demonstrated there is no alternative mitigation. This should be clarified in the policy wording and justification text for effectiveness and to ensure consistency with national policy.
98. Paragraph 4.12 of the justification text says a health impact assessment will be necessary when there are specific health concerns. However, this could be too onerous and unnecessary in some circumstances, and this is not justified as a result. Therefore, in the interests of justification and effectiveness, the wording and supporting text should make clear that pre application advice should be sought from the Council’s Public Health Team to determine whether a health impact assessment is needed. Furthermore, amendment is necessary to clarify any assessment of health impact must be proportionate to the scale of development and should only be required where impacts are expected to be significant.

99. Subject to **MM4** which addresses all the issues identified above, Policy MW1, would be justified, effective and consistent with national policy. The wording of **MM4** has been adjusted from that consulted to incorporate minor changes relating to the PROW and multi-user path network. This adjustment has not altered how Policy MW1 would be applied as modified in any way, and its inclusion does not materially prejudice any interested parties' positions.

### **Policy M2 (Mineral Exploration)**

100. Although the geology of County Durham is generally well known, in some cases it is necessary to explore the precise extent and quality of resources. Policy M2 seeks to ensure mineral exploration takes place without unacceptable adverse impact on the environment or people, where planning permission is required.
101. However, the justification text at paragraph 4.41 of the Plan explains that safeguards will be put in place to mitigate any impacts identified without explaining what such safeguards would be, which results in an ineffective policy. Furthermore, the same paragraph and the associated footnote refer to permitted development under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) without giving full details of the relevant part and all the relevant classes – again this means that the policy is ineffective.
102. **MM5** would address these issues by adding justification text to clarify that planning conditions will be used to secure a number of relevant mitigations. It would also add the complete references to the GPDO to the footnote and Policy M2. **MM5** is therefore needed to ensure effectiveness.

### **Policy M3 (Benefits of Mineral Extraction)**

103. Consistent with paragraph 211 of the NPPF, Policy M3 makes clear that great weight will be given to the benefits of mineral extraction when considering minerals proposals. However, the justification text does not recognise that there could be benefits associated with mineral extraction which accrue through the operational phase of the development. **MM** is therefore needed to add this clarification in the interests of effectiveness (**MM6**).

### **Policy MW4 (Noise)**

104. Policy MW4 is applied alongside Policy 31 of the CDP which is concerned with amenity and pollution for all forms of development. Policy MW4 seeks to ensure noise impacts are assessed and plans are put in place to minimise and whenever possible remove noise emissions at source.
105. However, **MMs** are needed to ensure the terminology and standards specified in Policy MW4 are unambiguous (and thus accord with the NPPF at paragraph 16

(d)) and are consistent with national guidance<sup>3</sup>. Specifically, reference to locations should be replaced with the term “sensitive environmental sites” and the timing and thresholds should be aligned with the “appropriate standards for mineral operators for normal operations”. Whilst waste developments are not captured by the advice given in the ‘Minerals’ PPG, where such operations are an integral part of a wider minerals site it is justified for the relevant noise levels to apply to them. However, as drafted the policy does not reflect this position and is thus ineffective on this point. Accordingly, amendment is needed to clarify the policy position relating to waste operations that are not an integral part of minerals site activities.

106. For these reasons, **MM7** is necessary which addresses all of these issues in the interests of effectiveness and to ensure consistency with national policy.

### **Policy MW5 (Air Quality and Dust)**

107. Mineral and waste proposals have the potential to emit air quality pollutants and generate dust which if not managed can harm the environment and the amenity or health of people living nearby.

108. Paragraph 185 of the NPPF states planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Policy MW5 seeks to achieve this by requiring minerals and waste proposals to demonstrate they will not have adverse impacts in this regard.

109. However, as written it is not entirely clear how a development proposal or decision maker should react to Policy MW5 because it identifies a number of impacts without making it explicitly clear whether or not all or some of those impacts should be assessed or how they should be assessed.

110. Furthermore, it is not clear whether Policy MW5 is concerned with emissions associated with working at sites as well as those generated through vehicles travelling to and from them. The policy also fails to reference impacts on “residential properties” and “dust sensitive uses” making it inconsistent with the terminology of the PPG.

111. Moreover, the justification text makes specific reference to Nitrogen Dioxide and Particulates – PM10 and PM2.5. However, depending on the nature of the operation and site characteristics other pollutant types may also need to be

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<sup>3</sup> Guidance on the planning for mineral extraction in plan making and the application process - Paragraphs: 019, 020, 021 & 022 Reference ID: 27-019-20140306, Revision date: 06 03 2014

considered. This and the other above matters should be clarified in the interests of effectiveness.

112. **MM8** modifies the policy and its justification text to address these issues and is therefore needed for Policy MW5 to be effective and consistent with national policy.

### **Policy M6 (Blasting)**

113. Quarrying can require blasting operations in order to extract the resource. Policy M6 is to be applied alongside Policy 31 of the CDP which is concerned with amenity and pollution. Policy M6 seeks to ensure the impacts of blasting are limited and controlled to within acceptable levels. However, there are differing types of rock present in the County, and some are harder to blast effectively than others. The NPPF (paragraph 211 (c)) expects any unavoidable blasting vibrations to be controlled, mitigated or removed at source.

114. However, the policy and its supporting text do not make reference to the differing types of rock present in the area and the relative blasting considerations that might be relevant resulting in ineffectiveness. Consequently, amendments clarifying that the proposals should demonstrate blast vibration has been minimised informed by the specific material being extracted and site-specific circumstances are needed. Moreover, it should also be clarified in justification text that the precise acceptable level of peak particle velocity will be determined by the material being blasted as well as the blasting environment.

115. The relevant British Standards<sup>4</sup> set criteria for measuring, recording and analysing building vibration from vibration transmitted through the ground and for human exposure to vibration inside buildings. They are relevant to the consideration of such matters, but the Plan does not make adequate reference to them. Taken together with the other omissions referenced above, this also means that the policy is inconsistent with the NPPF in terms of the control, mitigation or removal of blasting vibrations. Consequently, these standards should be clearly referenced in the justification text in the interests of the policy's effectiveness. Furthermore, in line with those standards, the justification text should also clarify that Policy M6 is concerned with assessing the effects inside buildings.

116. **MM9** would address all these issues and is necessary to ensure Policy M6 is justified, effective and consistent with national policy.

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<sup>4</sup> BS 7385-2:1993 Evaluation and measurement for vibration in buildings - Guide to damage levels from groundborne vibration, 1993 & BS 6472-2:2008 Guide to evaluation of human exposure to vibration in buildings - Blast-induced vibration, 2008



### **Policy MW7 (Traffic and Transport)**

117. Policy MW7 seeks to ensure transport associated with minerals and waste proposals takes place safely and sustainably. It will be applied alongside Policy 21 (Delivering Sustainable Transport) of the CDP.

118. Criterion 2 and the associated justification text require developments to maximise the use of sustainable forms of transport. However, paragraphs 104 and 105 of the NPPF require opportunities to promote walking, cycling and public transport use are identified and pursued, and recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, which should be taken into account in plan-making.

119. Minerals can only be worked where they are found, in most cases these are remote countryside locations where walking, cycling and public transport use for people to access sites would not be practicable in the majority of cases. However, there can be opportunities to transport materials by rail, utilise new technologies for transportation and minimise emissions through ultra-low and low emission vehicles. Indeed, Thrislington West Quarry is served by a rail spur and loading facility. As drafted however, the policy is inconsistent with the NPPF (section 9) in terms of identifying and pursuing opportunities for sustainable transport solutions. Thus, to ensure consistency with national policy, the requirements for specific transport opportunities to be explored should be specified in the policy and sustainable transportation solutions should be 'encouraged'.

120. The justification text also refers to a traffic assessment whereas the policy wording refers to a transport assessment. This results in ambiguity, which is inconsistent with paragraph 16 (d) of the NPPF, and should be amended accordingly.

121. For these reasons, **MM10** is necessary and thus secures effectiveness and consistency with national policy.

### **Policy M8 (Mineral Rail Handling Facilities)**

122. Policy M8 sets out a permissive approach to mineral rail handling facilities. It replaces Policy 41 of the County Durham Minerals Local Plan (2000).

123. The justification text states the establishment of rail handling facilities to facilitate the importation of waste into County Durham will be resisted as this would be unlikely to meet the requirements of the proximity principle. However, other policies of the Plan will be used to determine whether or not it is appropriate to import waste. In the context of this specific policy, this statement is not positively prepared or justified as any application should be considered on

its merits. Accordingly, this statement should be deleted and **MM11** is therefore necessary, which brings about this change and secures positive preparation and a justified policy position.

### **Policy M10 (Ancillary Minerals Related Infrastructure)**

124. Minerals and waste developments usually require a variety of ancillary development such as buildings, plant and machinery. Policy M10 sets out a framework for considering development proposals for both temporary and permanent development where planning permission is required. However, as written it is unclear whether proposals need to comply with all or just some of the criteria listed in the policy or which specific criteria relate to temporary or permanent development or both. This results in an ineffective policy position. Accordingly, **MM12** is necessary which addresses this in the interests of effectiveness.

### **Policy M11 (Periodic Review of Mineral Planning Permissions)**

125. The Minerals Technical Paper identifies many active and dormant mineral extraction sites in County Durham. The 'Minerals' PPG<sup>5</sup> advises on the circumstances within which any periodic review must be undertaken. Policy M11, in-line with the PPG, makes clear that any review would involve the submission of an updated scheme of conditions and sets out what the Council would expect them to address. Policy M11 also notes that any schedule of conditions would likely include a restoration scheme.

126. However, it is ineffective for Policy M11 to specify any scheme of restoration should be high quality because the detailed requirements for restoration schemes are set out in Policy MW20. The unnecessary repetition of these requirements also results in ambiguity contrary to paragraph 16 (d) and (f) of the NPPF. Furthermore, the direct relationship with Policy MW20 in setting out the detailed requirements for restoration schemes as part of any periodic review is not currently clear, again meaning that the Plan is ineffective in these terms. It follows that this relationship should be made explicitly clear in the justification text. Accordingly, **MM13** is necessary, which makes the required changes in the interests of effectiveness and to secure consistency with national policy.

### **Conclusion**

127. Subject to the MMs explained above the Plan's development management policies are justified, effective and consistent with national policy.

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<sup>5</sup> Paragraph: 189 Reference ID: 27-189-20140306 Revision date: 06 03 2014

## **Issue 5 – Does the Plan set out a justified and effective set of policies relating to other minerals, oil and gas, and other resources; and is the Plan consistent with national policy in these respects?**

128. The supply of industrial minerals including raw materials for brick making and high-grade dolomite are addressed by Policies 52 and 57 of the CDP and are not within the scope of the Plan. Other minerals such as vein minerals, metalliferous minerals, lithium and silica sand are within the scope of the Plan.

### **Policy M12 (Oil and Gas Exploration, Appraisal and Production)**

129. County Durham does not have any history of conventional or unconventional oil or gas exploration. Neither resource has ever been produced in the County. Most oil and gas operations require Petroleum Exploration and Development Licences which are issued by the Department for Energy Security and Net Zero. There are no such licences in County Durham.

130. However, this does not mean that the potential for oil and gas would not be explored over the Plan period. Paragraph 215 (a) of the NPPF requires mineral planning authorities to plan positively for the exploration, appraisal and production of oil and gas. Policy M12 therefore sets out a positive framework for planning for these three phases of development in-line with paragraph 215 (a) of the NPPF.

131. A Climate Change Emergency has been declared in County Durham. This requires the mitigation of greenhouse emissions as far as possible and where there are residual emissions, measures will be necessary to offset these.

132. Criterion b recognises the Climate Change Emergency and states that proposals will need to demonstrate that they mitigate emissions as far as possible and offset residual emissions. However, it is unclear as to what this might entail, and what emissions would be in scope, and it thus results in an ineffective policy position. Instead, in order to be effective, it should be clarified that proposals should reduce emissions to the absolute minimum necessary before considering off-setting. On this basis, the wording of Criterion b should be amended in the interests of effectiveness. Furthermore, the Climate Change Emergency Declaration forms part of the evidence base for Policy M12, but the lack of a detailed reference in the justification text means that the Plan is unjustified in these terms.

133. A decision maker would require a developer to submit detailed evidence in response to criterion b of M12. There also could be many ways within which residual emissions could be offset. However, what should be submitted and what measures may be acceptable are unclear and thus contrary to paragraph

16 (d) of the NPPF. A MM is therefore needed to the justification to explain that a Carbon Emissions Management Scheme should be submitted and give examples of the type of measures which may be considered for off-setting residual emissions cross referencing relevant policies of the Plan, which would give the requisite clarity.

134. **MM15** would address these issues. We recommend it accordingly to ensure Policy M12 is justified, effective and consistent with national policy.

### **Policy M13 (Transport of Oil and Gas)**

135. Oil and gas are usually transported by pipelines. Proposals for pipelines of 10 metres in length or more are determined by the Secretary of State under the Pipelines Act 1962. However, pipelines of less than 10 metres require planning permission from the Council. Policy M13 therefore sets out a framework for determining any such proposals.

136. The policy requires pipelines to be placed underground. However, there may be some circumstances where this is not practicable. For example, due to archaeology, the presence of water courses, legal issues or economic constraints. The requirement is therefore unjustified, and instances where above ground pipes may be appropriate should be referenced. Furthermore, pipelines also need to be decommissioned when no longer needed and this should also be recognised by adding justification text and cross-referencing Policy MW20, as the current drafting of this policy is ineffective on this matter. **MM16** is therefore necessary which resolves these issues in the interests of effectiveness and justification.

### **Policy M14 (Vein Minerals, Metalliferous Minerals, Lithium and Silica Sand)**

137. Vein minerals (fluorspar and barytes) and zinc are known to be present in the North Pennines. However, County Durham's last fluorspar mine closed in 1999 and the most recent open pit barytes workings ceased in 2002. Zinc, a metalliferous mineral, was last worked in adjoining Cumbria in 1968. No sites have been promoted for working these vein minerals through the preparation of the Plan.

138. Northern Lithium has started exploring for this resource in Weardale as its understood to be present in ground water associated with Weardale Granite deep below the North Pennines. Before now, due to the required technology necessary and associated costs, exploration for lithium potential in the UK has been limited.

139. Silica sand is an essential raw material for glass making and specialist horticultural and industrial processes. There are known silica sand resources in

County Durham in the Millstone Grit. However, the only quarry in the County closed in 2011 due to a lack of demand, and it is currently unknown whether or not the silica sand resource present in the Plan area would meet the current industry specifications for relevant uses.

140. Barytes and fluorspar are identified on the European Union's fourth list of critical minerals. Lithium is identified on the European Union's fourth list of critical raw materials and has been identified as a UK strategic metal. Growing demand matched with a national depletion in easily won opportunities, means there could be interest in exploring the potential for working barytes, fluorspar and lithium in the Plan area over the Plan period.
141. Paragraph 210 (a) of the NPPF states that planning policies should provide for the extraction of mineral resources of local and national importance. Paragraph 214 (a) of the NPPF says that minerals planning authorities should plan for a steady and adequate supply of industrial minerals by, among other things, co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes.
142. Policy M14 of the Plan sets out a criteria-based approach to assessing any proposals for vein minerals, metalliferous minerals, lithium and silica sand. Whilst there is no certainty, there is clearly potential for proposals to come forward over the Plan period to extract the resources covered by Policy M14, which are clearly of national and international importance. Due to the lack of any definitive proposals or sites, there is no need for the Plan to make allocations relating to these resources, and the principle of a criteria-based policy which supports such developments is therefore justified.
143. However, many proposals for exploring the potential for these resources would be permitted development under the GPDO. Furthermore, Policy M2 (Mineral Exploration) would also be directly applicable to any proposals for exploration and provides a positive framework. As drafted, however, Policy M14 lacks specific reference to these important considerations and is ineffective as a result. Therefore, both the GPDO and Policy M2 should be cross referenced in the justification text in the interests of effectiveness.
144. Criterion 1c of Policy M14 says the Council will seek to ensure that great weight will be given to the benefits of extraction. However, to ensure consistency with Policy M3 and national policy, it should simply say that great weight will be given to benefits of extraction. Furthermore, some proposals will provide the feedstock for downstream industries which can support economic growth. Therefore, Policy M14 should also be modified to recognise that such considerations carry significant weight in line with paragraph 81 of the NPPF.

145. Part 1 of Policy M14 relates to all vein minerals, metalliferous minerals, lithium and silica sand whereas part 2 seems to relate only to lithium in recognition of the associated complexity of the processes for its exploration and extraction. However, this is not explicitly clear and should be clarified.
146. Furthermore, lithium extraction requires well-sites, site infrastructure and ancillary development necessary to undertake processes which differ from those necessary to explore and extract other types of resources considered in the Plan and this is not fully reflected in Policy M14. Moreover, Policy M14 unnecessarily provides details of decommissioning, restoration and aftercare when Policy MW20 sets out such requirements in detail. These considerations mean that the policy is ineffective in these terms.
147. These issues are all addressed by **MM17**, which is necessary for effectiveness and to achieve consistency with national policy.

## **Conclusion**

148. Subject to the MMs explained above the Plan sets out a justified and effective set of policies relating to other minerals, oil and gas, and other resources; and the Plan is consistent with national policy in these respects.

## **Issue 6 – Is the Plan’s policy relating to site restoration and aftercare, justified, effective and consistent with national policy?**

### **Policy MW20 (Mineral Site Restoration, Landfill and Landraise)**

149. Paragraph 210 (h) of the NPPF states planning policies should ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.
150. Policy MW20 applies to all mineral working proposals and is also applicable to landfill and landraise as temporary forms of waste development. It sets out how sites will be expected to be restored and what information will be necessary to ensure appropriate restoration takes place.
151. However, to ensure consistency with national policy (per paragraph 210(h) of NPPF) references to restoration and aftercare, should set out a requirement for ‘high-quality schemes’. Schemes could vary significantly based on the site circumstances and the duration of any operations. They may or may not include decommissioning for example. Schemes should therefore be reflective of site circumstances and be proportionate. This should be clarified in the justification text for effectiveness.

152. Furthermore, MM is also needed to explain in the policy and justification text that a 10% biodiversity net gain is required and not just net gain in line with the Environment Act 2021 which came into effect during the examination. Although not specified in the Act as a 10% minimum, the use of the word “minimum” reflects that 10% is not an absolute requirement and higher levels of biodiversity net gain may be possible and appropriate in some cases having regard to the full circumstances of any proposal and proposed restoration scheme.
153. Moreover, whilst any restoration should reasonably take account of a Local Nature Recovery Strategy, this has not yet been finalised for the Plan area. Thus, the justification text should be amended to reflect this position in the interests of effectiveness.
154. In line with the PPG<sup>6</sup> the justification text makes clear that a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. However, the PPG goes on to say, where an operator is contributing to an established mutual funding scheme, such as the Mineral Products Association Restoration Guarantee Fund or the British Aggregates Association Restoration Guarantee Fund, it should not be necessary for a minerals planning authority to seek a guarantee against possible financial failure, even in such exceptional circumstances. This should also be made clear in the justification text of the Plan to ensure consistency with national policy.
155. **MM22** addresses all these issues and is therefore necessary to ensure Policy MW20 is justified, effective and consistent with national policy.

## Conclusion

156. Subject to the MMs discussed above the Plan's policy relating to site restoration and aftercare is justified, effective and consistent with national policy.

## Issue 7 – Does the Plan provide a justified and effective monitoring and implementation framework?

157. Monitoring arrangements relating to the strategic aspects of minerals and waste matters are included in the CDP. The monitoring and implementation framework set out in the Plan is focused on assessing the continuing effectiveness of its non-strategic policies. However, as presented the relationship between the Plan's arrangements in these regards and those of the CDP are unclear. Neither is it abundantly clear how the triggers for action have been arrived at, or their relevance to the policy to be monitored. Moreover, terms relating to a 'significant increase' in enforcement action, or a 'significant

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<sup>6</sup> Planning Practice Guidance Minerals - Paragraph: 048 Reference ID: 27-048-20140306, 06032014

decrease' in void space are ambiguous and thus render their related triggers for action ineffective.

158. Taken together, these matters mean that the monitoring and implementation arrangements are ineffective. Consequently, in order to ensure effectiveness in these terms, **MM28** is required, which firstly, introduces further explanatory text on the relationship of the CDP monitoring arrangements to those of the Plan; secondly, makes clear how documents such as the LAA and the Environment Agency's Waste Data Interrogator will be taken into account; thirdly, explains the reasoning behind the thresholds for the triggers for action; and fourthly, adds further detail as to what will trigger actions in relation to increases in enforcement action, and decreases in void space. It follows that this MM would secure effectiveness in these regards.

159. Circumstances relating to lithium are in a period of rapid change both in the context of the potential to exploit the resource in the County, and in terms of its status as a mineral of national importance. However, the Plan does not set out explicit monitoring arrangements for lithium in particular, or other minerals of national importance more generally. As a result the Plan is not effective in these terms, and in these respects is also at variance with the NPPF insofar as it expects reviews of policies to be underpinned by relevant and up-to-date evidence (at paragraph 31), that policies should enable a rapid response to economic circumstances (at paragraph 82 (d)), and that a steady and adequate supply of industrial minerals should be planned for (at paragraph 214). As a consequence, **MM28** is necessary which would introduce text explaining the sources of information that would be relevant to these minerals, and how they would be assessed as part of wider monitoring activity. It follows that the MM is required to ensure that the Plan's monitoring arrangements are effective and consistent with national policy.

160. Furthermore, the indicator for measuring the effectiveness of Policies MW4 and MW5 relies on monitoring enforcement action. However, what would constitute a "significant" increase in enforcement associated with noise/dust/blasting is ambiguous and incapable of accurate measurement. Consequently, the indicator is ineffective. **MM29** would address this by amending the indicator to an annual increase of 100% which is unambiguous, measurable and therefore effective.

## Conclusion

161. For the reasons set out above, and subject to the MMs, the Plan would provide a justified and effective monitoring and implementation framework.



## **Overall Conclusion and Recommendation**

162. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

163. The Council has requested that we recommend MMs to make the Plan sound and/or legally compliant and capable of adoption. We conclude that the DtC has been met and that with the recommended MMs set out in the Appendix the Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*L Fleming and G J Fort*

INSPECTORS

This report is accompanied by an Appendix containing the Main Modifications.