

# **Carlisle District Local Plan Examination**

Matters, Issues and Questions (MIQs)

## **Matter 1:**

Legal Requirements and Procedural Matters

## **Statement by Carlisle City Council**

November 2015



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**Q1. Has the Carlisle District Local Plan (LP) been prepared in accordance with the current Local Development Scheme (LDS), including its timetable, content and timescale?**

1.1 A revised LDS [SD 009] was published by the Council in February 2015 replacing an earlier 2012 edition for reasons set out in paragraph 1.2 of the document. The content of the submitted Plan, and that consulted upon at earlier stages of its preparation including the proposed submission draft (Reg 19), can be seen to be entirely consistent with the content and intended period of coverage outlined in both the previous and current LDS. The timetable for preparation has been broadly in accordance with that published within the LDS at Appendix A. A revised timetable for stages related to the examination of the Plan was made available on the Council's website at the point of submission.

**Q2. Has the LP been prepared to comply with the adopted Statement of Community Involvement, allowing for adequate and effective consultation and engagement of the community and all interested parties and meeting the minimum consultation requirements set out in the Regulations?**

1.2 The Council can confirm that the Plan has been prepared to comply with the adopted Statement of Community Involvement (SCI) [SD 010] and as such has allowed for the adequate and effective consultation and engagement of the community and all interested parties.

1.3 The SCI was approved by the Council in July 2013 and was therefore prepared within the context of and with respect to the minimum consultation requirements set out in the Town and Country (Local Planning) (England) 2012 Regulations.

1.4 The SCI sets out who and how the Council will notify and engage with in respect of plan preparation. Details of the consultation undertaken specific to the submitted Plan are set out in the Council's Consultation Statement [SD 007]. This is considered to demonstrate that consultation efforts have met and actually consistently exceeded those set out in the SCI. The summary table included on page 33 of the Consultation Statement is considered particularly helpful in this regard.

**Q3. Has the LP been subject to Sustainability Appraisal, including a final report on the published plan; and is it clear how the Sustainability appraisal influenced the final plan and dealt with mitigation measures? Has a Habitats Regulations Assessment under the Habitats Directive/Regulations been carried out to the satisfaction of Natural England?**

**1.5** The Council can confirm that the Plan has been subject to the process of Sustainability Appraisal (SA), as evidenced by the SA Report [SD 003] on the published Plan and as summarised in the SA Non-Technical Summary [SD 004]. The process of SA has been integral to the development of the Plan, with findings published and consulted upon alongside the Plan at each stage of its preparation.

**1.6** SA has been used as a mechanism for considering and communicating the likely effects of the Plan and any reasonable alternatives throughout the process. Pages 4 & 5 of the SA Report [SD 003] describe in more detail how the process of SA has influenced Plan preparation. Table 11 of the SA Report [SD 003] makes clear how the SA has influenced the Plan by identifying a number of resulting amendments to Policies. Whilst there are only a small number of resulting changes suggested within the final report, this illustrates the role that the SA has played in the progress of the Plan to date and the frontloading of the process. The SA, throughout the process of plan preparation has been instrumental in assessing the options available, both in terms of policy development and site selection, as evidenced by Appendix 7.

**1.7** Mitigation measures are clearly identified by Task B4 – Mitigating Potential Adverse Effects and Maximising Beneficial Effects on page 94: paragraphs 4.74-4.76 [SD 003]. This highlights that in the majority of cases where it is identified that policies have an impact, this is considered to be positive, as demonstrated by Appendix 9 of the Report [SD 003]. Whilst it was identified that in a small number of cases the Plan could possibly have a negative impact on a number of indicators, in all cases it was considered that these impacts would be largely mitigated by the presence of other policies within the Plan which place these issues at their fore. The cumulative effect of all the policies within the Plan would therefore afford protection against these effects, and the subsequent potential effects of development through the planning application process.

**1.8** The SA Report is clear that further mitigation measures are not considered to be necessary at this time. Cumulatively the assessment of policies (with improvements) and the assessment of selected sites as set out in the Plan have not identified any overall negative outcomes or significant adverse effects (Page 95, paragraph 4.77) [SD 003]. The SA therefore concludes that no mitigation measures are needed for the Plan.

**1.9** Throughout the SA process, consultation has played a key role in ensuring that the Plan has been guided towards the most sustainable outcomes. Consultation with statutory bodies during the course of the Plan's evolution has resulted in general support of the methodology adopted and agreement of the outcomes. In terms of wider consultation, the majority of representations relate to the SA assessment of specific sites. However these comments generally raise concerns which are more relevant to the development management process and are largely out with the scope of the SA.

**1.10** A Habitats Regulations Assessment (HRA) has been undertaken at each stage of the evolution of the Plan. The HRA is a screening stage of the overall duty under the Conservation of Habitats and Species Regulations 2010. The purpose of the screening stage is to determine whether the Plan is likely to have a significant effect on a European site. The final HRA [SD 005] was submitted alongside the Plan.

**1.11** The HRA has been made available for consultation at each stage of the Plan's preparation, in addition to the requirements in the Habitats Regulations that the appropriate nature conservation statutory body is consulted. Natural England has been proactively involved at each of these stages, and has helped shape the development of the HRA. Natural England commended the Council on the proactive approach of considering the requirements of the Regulations during the early stages of the development of the Plan. In addition, the Council has consulted Scottish Natural Heritage (SNH), as the northern and north western boundary of the District is adjacent to Scotland, and the Solway Firth SAC/SPA and the Upper Solway Flats and Marshes SPA and Ramsar site lies partially within Scotland. SNH had no specific comments to make at any stage.

**1.12** Notwithstanding the legal requirements prescribed in the Habitats Directive, there is no published standard methodology for an HRA. Therefore the methodology followed was as set out in the 'Habitats Regulations Appraisal of Plans: Guidance for Plan-

Making Bodies in Scotland (August 2012)' produced for SNH. The methodology employed has not been challenged.

**1.13** Natural England in its response to the consultation (Rep 0413) on the Proposed Submission Draft noted the following:

*“Natural England has no additional comment to make on the HRA and agrees with the conclusions. Natural England has worked closely with Carlisle City Council over the preparation of the HRA throughout the various stages of the plan making process”.*

**Q4. Does the LP have regard to national planning policy, including consistency with the National Planning Policy Framework (NPPF) and the Planning policy for travellers sites (PPTS)? Is there sufficient local justification for any policies that are not consistent with national planning policy? Does the submitted plan properly reflect the presumption in favour of sustainable development in the NPPF?**

**1.14** The Plan has been supported by the preparation of the Planning Advisory Service (PAS) Local Plan Soundness Self Assessment Toolkit [SD 013]. This document demonstrates that the Local Plan has been written with regard to and in consistency with the NPPF and the PPTS. It is not considered that the Plan contains any policies or proposals which constitute a departure from relevant national policy. The Council can also confirm that the Plan properly reflects the presumption in favour of sustainable development as outlined in the NPPF within policy SP1 of the Spatial Strategy and Strategic Policies.

**Q5. Does the LP comply with the Local Planning Regulations, including preparation, content and publishing and making available the prescribed documents?**

**1.15** The Council can confirm that the Plan has been prepared in accordance with the Town and Country Planning (Local Planning) (England) 2012 Regulations. All of the information to support this contention is considered to have been submitted alongside

the Plan. With respect to content it should be noted that the requirements of Regulation 8 (5) have been met through the inclusion of Appendix 3 within the submitted Plan.

**1.16** At each key stage of the Plan's preparation, whether formally required by the Regulations or not, the Plan and appropriate supporting documentation relevant to the stage reached have been made available in accordance with Regulation 35. The Council's Consultation Statement [SD 007] sets out in specific detail the approach to consultation at each key stage, including document availability, until the point of submission.

**1.17** The Council can confirm that the Plan was submitted and notification of this fact undertaken in accordance with Regulations 22 and 35. Furthermore notification of the Independent Examination was undertaken in accordance with Regulations 24 and 35. In addition to meeting the specific requirements of these Regulations, at each stage the Council wrote to notify all of those bodies and persons who had partaken in the preparation of the Plan to date, or who had registered an interest in the progress of plan preparation; placed a notice and therefore statement of fact with respect to the stage reached within their principal office (Carlisle Civic Centre) and the District's principal libraries; and placed notices in the Cumberland News which featured on Friday 3<sup>rd</sup> July 2015 (with respect to Reg 22) and Friday 16<sup>th</sup> October 2015 (with respect to Reg 24).

***Q6. Has the LP been prepared in accordance with the Duty to Co-operate and does it fully meet this legal requirement? What are the key outcomes from the co-operation with neighbouring authorities?***

**1.18** The Duty to Co-operate Statement (DtC) [SD 008] sets out how the Council has met the duty. It establishes any issues which exist and the resulting policy outcomes. It highlights joint evidence base work and draws attention to Cumbria-wide forums which actively engage in county-wide issues and policies. The statement sets out how close co-operation with other prescribed bodies, including infrastructure providers, has been undertaken including the outcomes.

**1.19** Carlisle's local planning authority neighbours in Cumbria are Allerdale Borough Council and Eden District Council, whilst to the east lies the unitary authority of Northumberland County Council. To the north Carlisle is bordered by Scotland, and the

District of Dumfries and Galloway, together with a small border with the Scottish Borders Council. Section 2 of the DtC Statement [SD 008] sets out how co-operation has been undertaken between neighbouring local planning authorities and Cumbria County Council, whilst section 6 sets out cooperation with other prescribed bodies.

**1.20** Regular meetings have been held with all the above neighbours since the inception of the Plan in 2012, with co-operation post-submission reflecting that the duty should be ongoing and sustained, and should continue beyond adoption into delivery and review. Strategic cross boundary matters that were identified included those set out below. However, not all these matters proved to be issues.

- AONBs;
- Hadrian's Wall World Heritage Site;
- River Eden Special Area of Conservation (SAC);
- secondary school capacity;
- strategic housing allocations;
- spatial mapping of joint boundary infrastructure.
- strategic transport network;
- Gypsies and Travellers;
- Wind turbines.

**1.21** Key outcomes from these discussions have included ensuring consistent policies for designations, and agreement that each district can accommodate its own objectively assessed housing needs. Some of these matters are indicated spatially on the Key Diagram as being cross boundary matters, for example the strategic green infrastructure represented by the two AONBs, and the Hadrian's Wall World Heritage Site (WHS), together with the strategic transport network.

**1.22** To elaborate further, Hadrian's Wall WHS traverses the local planning authority areas of Northumberland, Carlisle and Allerdale. The respective policies within Carlisle, Northumberland and Allerdale Local Plans which relate to the WHS all have the common aim of preserving the outstanding universal value of the site. These policies were derived in part from cross boundary co-operation, and in part from the provisions of the Hadrian's Wall WHS Management Plan, in which policies and objectives relate to

the conservation, preservation and management of the outstanding universal value of the WHS, and to protect this value through local plan policies.

**1.23** At the time of preparing preferred options, wind energy was identified as a cross boundary matter in particular between Allerdale Borough Council and Carlisle City Council. Allerdale has a high level of wind farm development, and became the first Local Plan to be adopted which included set back distances between houses and turbines. As such, the proposed Energy from Wind Policy in the Plan (CC 2) includes a similar approach. However, this Policy has been overtaken by the Written Ministerial Statement (WMS) on wind energy. The future shape of this policy in the Plan is discussed further under Matter 7.

**1.24** There are a number of examples of joint working and joint evidence bases with neighbouring authorities set out in section 3 of the DtC Statement [SD 008], which are tangible outcomes of working together. An example is the County-wide 2013 Gypsy and Traveller Accommodation Assessment which assesses the need for accommodation across the County. Other recent tangible outcomes include the transport modelling undertaken in conjunction with Cumbria County Council as outlined in paragraph 2.6 of the DtC [SD 008]. The transport modelling assesses the cumulative impacts of the Local Plan proposals on the road network and then goes on, through further work in the Transport Improvements Study [EB 026] to identify potential transport improvements in Carlisle.

**1.25** There has been a continuous process of engagement from the earliest inception of the Plan, which is ongoing, both through individual meetings with neighbouring authorities, and through the forum of the Development Plan Officers' Group, which includes representatives from all the districts within the County, together with neighbouring districts in adjacent counties, Scotland and the Environment Agency and Natural England. The most recent meeting took place in early October between Carlisle and its neighbours, Natural England and Cumbria County Council, and at which, amongst other matters, the implications for planning policy of the WMS on Wind Policy were discussed.

**1.26** Cumbria County Council, Allerdale Borough Council and Northumberland County Council have engaged in the Local Plan consultation process at Preferred Options and

Proposed Submission Stage, submitting responses to support the Council's efforts in relation to the DtC requirement. In particular Allerdale Borough Council has commented that the two districts do not share Housing Market Areas (HMAs) and that there are no cross boundary issues in terms of capacity to deliver housing. Allerdale further noted that the sub-regional centre role of Carlisle does not inhibit the role of Wigton, a market town within Allerdale which operates as a strong local centre, and which is complementary to Carlisle.

**1.27** Whilst Eden District Council has not formally responded to the Local Plan consultations, it has submitted a statement [EL2.001] setting out that it considers that the councils have worked proactively on an ongoing basis over time, and that each District can meet its development needs within its own boundaries.

**1.28** The key outcomes from co-operation with neighbouring authorities can be summarised as follows:

**Housing delivery** – the SHMA identifies that there are no shared housing market areas within Cumbria. Each District is capable of meeting its own housing needs.

**Policy HO 11 – Gypsy, Traveller and Travelling Showpeople Provision** – the 2013 update to the GTAA provided a current picture of needs within the District and neighbouring districts, and set out site provision requirements. This has enabled allocations to be made to ensure an appropriate level of supply is maintained across the County.

**Policy HE 1 – Hadrian's Wall World Heritage Site** – traverses Northumberland, Carlisle District, Allerdale and Copeland. Policy aims broadly similar between districts, and drawn up following detailed discussions with Historic England, with the aim of providing a strong policy framework to afford the site the strongest degree of protection as a whole.

**Policy GI 2 – Areas of Outstanding Natural Beauty** – Carlisle, Allerdale and Cumbria County Council are part of the Solway Coast Partnership together with Natural England, the Environment Agency and various community representatives. Carlisle, Cumbria County Council, Durham and Northumberland County Council are similarly key players in the North Pennines Partnership. The AONB policies across the local authority areas share common aims of conserving and enhancing the landscape, make reference to the

AONB Management Plans and locally specific guidance, and state that planning permission will only be given for major development in exceptional circumstances.

**Policy CC 2 – Energy from Wind** – following discussions and the outcome of the adoption of the Allerdale Local Plan, which identified separation distances of 800m between wind turbines and residential properties, (with the proviso that it may be appropriate to vary this threshold in certain circumstances), the Carlisle District Local Plan contains a similar policy requirement.

**Key Diagram** – indicates cross boundary features spatially, including both AONBs, Hadrian’s Wall WHS, the river network and the strategic transport network.