

Letters from Natural England re Habitats Regulations Assessment

CUMBRIA MINERALS AND WASTE DEVELOPMENT FRAMEWORK

**SUBMISSION DRAFT CORE STRATEGY AND GENERIC
DEVELOPMENT CONTROL POLICIES**

**RESPONSE TO THE INSPECTOR'S REQUEST FOR FURTHER
INFORMATION**

Date: 04 June 2008
Our ref: NW448
Your ref: RGE/p334/21

Mr Richard Evans
Principal Planning Officer – Economy, Culture and Environment
Cumbria County Council
County Offices
Kendal
Cumbria
LA9 4RQ

By email, hard copy to follow

Dear Richard Evans

The Town and Country Planning (Local Development) (England) Regulations 2004

CUMBRIA MINERALS AND WASTE DEVELOPMENT FRAMEWORK

Habitats Regulations Assessment and the Submission Draft Core Strategy and Generic Development Control Policies

Thank you for consulting Natural England on the above document. Your letter was received in our Kendal office on 12 May 2008.

As you know, Natural England is the statutory agency charged with the responsibility to ensure that England's unique natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The following comments should be read alongside my colleague Stephen Hedley's response to the SUBMISSION DRAFT CORE STRATEGY AND GENERIC DEVELOPMENT CONTROL POLICIES dated 28 May 2008.

Habitats Regulations Assessment (HRA)

Part 1: Background

We are pleased to see that majority of our suggestions in my colleague Chris Lumb's letter to you dated 3 March 2008 have been implemented. We note that the plan features have been fully explained and welcome the inclusion of maps to aid clarity. We suggest that further detail on the timescale of the plan is given to enable the HRA to be viewed as a stand-alone document.

Part 2: HRA

We are pleased to see that Section 8.1 has been expanded in the light of our previous comments. We would however welcome stronger wording to say that the sensitivities listed in 8.1 have the potential to cause adverse effect on European sites:

The table used to provide details of European sites would benefit from a description of each site in terms of its physical area, habitat types, presence of key species etc. Ideally the conservation objectives of the site should be set out in full, including the factors that contribute to the conservation value of the site. Also an explanation of the existing baseline conditions including species and habitat dynamics and ecology (including seasonal fluctuations), the physical and chemical compositions and the key structural and functional relationships that maintain the sites' integrity would be desirable.

Overall we are content with the findings of the assessment and agree with your conclusions. We also agree that further stages (i.e. site allocations policies) will require Appropriate Assessment.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours faithfully

Mark Hesketh
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Cc: Stephen Hedley, Natural England

Dear Sir

CUMBRIA MINERALS AND WASTE DEVELOPMENT FRAMEWORK: SUBMISSION DRAFT CORE STRATEGY AND GENERIC DEVELOPMENT CONTROL POLICIES

Thank you for consulting Natural England on these two submission documents.

As you know, Natural England is the statutory agency charged with the responsibility to ensure that England's unique natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.

We are pleased to be able to make representations on the plan. We have completed the Submission Stage Representation Forms, which will be sent with the paper copy of this letter, and have set out our comments below.

Our opinion is that there is much that we support in the two documents, the Core Strategy and Generic Development Control Policies. While we have some comments on the documents as currently worded, we do not consider them 'unsound' on the various tests of soundness.

We have, however, identified areas of supporting text and wording in policies that we consider could still be improved and we understand that you will be able to consider these and make amendments to the text, as appropriate.

In addition, we have included comments on the Habitats Regulations Assessment (HRA), which we ask that you take into account.

Our comments broadly follow the structure of the documents themselves.

Submission Draft Core Strategy

Chapter 3: Delivering the Overall Strategy

We welcome the expanded section on climate change.

Core Strategy Policy 1: Sustainable Location and Design

In our comments on the Changes to the Preferred Options Core Strategy ('Changes') last December, referring to the supporting text, we considered that woodland planting should not necessarily be singled out as the preferred afteruse in all mineral working and landfill site restoration schemes in order to combat climate change, given the potential for nature conservation or sustainable agricultural land management practices to deliver similar benefits. We suggested that soil resource protection and effective land management also have a significant role in combating climate change.

Unfortunately, the reasoned argument and suggestions that we put forward have not resulted in any change to Para 3.28.

We refer back to the comments in our letter of last December, and consider that the emphasis solely on tree-planting for "carbon offsetting" in this section is too limiting, and could act to the detriment of other environmental opportunities, such as nature conservation or sustainable agricultural land management, which are specifically encouraged in Policy DC16.

Core Strategy Policy 4: Environmental Assets (Previously Core Strategy 2 in the 'Changes')

In commenting at the 'Changes' stage, we suggested that the first bullet point in the section 'Environmental Assets not protected by national or European legislation' should read '*it is demonstrated there is an overriding need for the development*'. We are pleased that the suggested wording is now included in Core Strategy Policy 4.

Core Strategy Policy 5: After-use and Restoration (Previously CSP 3):

We welcome much of what is said in the supporting paragraphs (3.61, 3.62 and 3.63) to Core Strategy Policy 5.

We suggested at the 'Changes' stage that this topic might be more appropriately entitled "Reclamation and Afteruse;" with the term "Reclamation" encompassing both restoration and the aftercare period (i.e. the phases subject to planning control), while the term "Afteruse" raises additional considerations relating to the longer term viability and environmental impact of the proposed scheme. We still maintain that our suggested rewording would be a more accurate and appropriate title, in keeping with the Minerals Planning Guidance.

Core Strategy Policy 6: Planning Obligations (Previously Core Strategy Policy 5):

We commented at the 'Changes' stage that we support the use of planning obligations but we suggested that the bullet points should be widened to say 'secure protection and/or enhancement and the long term management of environmental assets'. This would, of course, only be in the event that it was not possible to achieve these aims for protection and enhancement through planning conditions. We are pleased that there is a policy in the Generic Development Control Policies (DC 17) which goes some way to covering this point.

Core Strategy Policy 7: Strategic Areas for New Developments and
Core Strategy Policy 14: Minerals Safeguarding

We refer you to the comments on High Greenscoe Quarry in our letter dated 12 April 2007.

Gypsum & Anhydrite: Pages 60 & 61 (Previously Page 71 in the 'Changes')

In relation to the 'Changes', we commented any future opencast Gypsum workings in the Kirkby Thore area would have potential impacts on landscape, land use and soil resources amongst others. These landscape, soil resources and other impacts would need to be assessed.

While these points have not resulted in any specific change to Paragraphs 10.29 – 10.32, we note that paragraph 10.32 accepts that stringent environmental safeguards will be necessary for any new sites. With regard to soil resources, we note that these points are addressed in general by Development Control Policy DC 15, and should be capable of being picked up in greater detail in the Site Allocation Policies and Proposals Map documents (due later 2008).

Core Strategy Policy 13: Supply of Minerals (Previously CSP17 in the 'Changes')

We welcome the change that 'at least one quarter of the aggregates used within Cumbria will be met by secondary or recycled aggregates'

Core Strategy Policy 16: Industrial Limestones (Previously CSP 20 in the 'Changes')

At the 'Changes' stage we supported the maintenance of environmental and other safeguards in this policy. Our understanding is that national policies relating to developments within Areas of Outstanding Natural Beauty will apply where relevant. However, it would be helpful and aid clarity if this could be explicitly stated in the supporting text to the policy.

Submission Draft Generic Development Control Policies

Policy DC 10: Biodiversity and Geodiversity

While we clearly support much of the policy, which concerns locally important biodiversity and geological conservation assets, we consider that the policy should include a clearer statement that development proposals should initially seek to *avoid* any adverse impacts and, indeed, as implied in the subsequent wording of DC10 and paragraph 5.9, seek to enhance, restore or add to the biodiversity and geodiversity resources. This would clarify that avoidance is prioritised over mitigation, which is covered in the second part of the policy, and would emphasise enhancement, restoration or adding to biodiversity and geodiversity resources.

We welcome the clear reference to Habitats Regulations Assessment in paragraph 5.10, and the clear statement that any developments that are unable to demonstrate no adverse effects on a European designated site will not be acceptable.

Paragraphs 5.22 – 5.28: Land Quality and Soil Resources and Development Control Policy DC 15: Protection of Soil Resources

We welcome the inclusion of this additional Policy and supporting text.

Paragraphs 5.29 – 5.32 and Development Control Policy DC 16: After-use and Restoration

We broadly welcome the more detailed Development Control Policy and supporting text. We strongly support, of course, the statement that 'afteruses that enhance biodiversity and the environment, conserve soil resources ...minimise the impacts of global warming, and are appropriate for the landscape character of the area will be encouraged. These could include: nature conservation, agriculture, leisure and recreation, and woodland.'

Referring back to our comments earlier in this letter on the text supporting Core Strategy Policy 1, where woodland planting appears to be favoured over the other environmental options set out in this policy (DC 16), we suggest that the earlier text should be brought into accord with Policy DC 16.

We suggest that criterion (a) of Policy DC 16 should be expanded to include a period of formal aftercare management for all habitat creation and similar nature conservation afteruses. Experience on reclaimed sites demonstrates that such afteruses can be more challenging, and dependant on effective long-term management to avoid possible failure due to unrealistic expectations or lack of funding.

DC 17: Planning Obligations

We support this policy, which goes some way to meet the point made in our earlier letter on the possibility of obligations securing enhancement and longer term management as part of a scheme.

Appendices for Submission Draft Core Strategy and Generic Development Control Policies

Appendix E: Sustainability Indicators

We welcome the Sustainability Appraisal Objective “To restore and protect land and soil.” However, as we suggested at the ‘Changes’ stage, we would suggest that a Key Indicator for this topic should be: “Number of sites certified as having been successfully reclaimed to approved afteruses and without loss of quality,” and that the linked Data Source might be: “Aftercare Monitoring by CCC, in partnership with all stakeholders” (e.g. Natural England). In our view, the current Indicator in Appendix E, namely; “percentage of mineral schemes covered by progressive restoration schemes” would not provide a meaningful measure of the *quality* of such reclamation (which should also include aftercare).

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Overall we are content with the findings of the assessment and agree with your conclusions. We also agree that further stages (i.e. site allocations policies) will require Appropriate Assessment.

Further information

If you wish to discuss any of the matters set out in this letter please do not hesitate to contact us at the above address.

Yours faithfully

STEPHEN HEDLEY
Regional Advocacy and Partnerships Team (North West)

Cc. Mark Hesketh, Cumbria (Government) Team and Peter Close, Geology, Landscape and Soils Team.

