



WEST CUMBRIA
MINING

Planning Statement

Woodhouse Colliery
2020

Cumbrian Metallurgical Coal Project

REASONS FOR THE 2020 UPDATE

This is a revised and updated version of the Planning Statement submitted with the application for planning permission for the proposal to extract metallurgical coal from a site to the south of Whitehaven. This 2020 version has been produced to reflect a change to the proposal, and to take account of additional information which has been produced by the applicant, West Cumbria Mining.

The proposed change will not require any change to the description of the development, nor will there be any change proposed to the boundaries of the application site or to any of the external design elements associated with the scheme. The only change to the proposal relates to the processing of the extracted material and the chemical composition (as opposed to quantum) of some of the coal that is exported from the site. The proposal originally envisaged that alongside 'reject' (non-coal) material there would be two washed coal products from the processing plant – Metallurgical Coal and 'Middlings' Coal.

The revised proposals include a change to the way in which the raw mine output (Run of Mine) is processed so that there will now be a single coal product - metallurgical coal. Metallurgical coal attracts a premium price given its use in the production of steel and, given that there is no domestic production of Metallurgical Coal in the UK there is a clear financial incentive in maximising the production of this type of coal. This change comes not from a change to the material extracted, but from the way in which that extracted material is processed. Since the submission of the original application, there has been ongoing review and refinement of the methods of coal processing. This has, in part, been facilitated by further detailed testing of the coal samples. Coal samples have been retrieved during a two-year programme of drilling which has taken place both on and offshore and had not been completed at the time of the original application. The result of this further analysis of coal samples and the method by which coal is separated from non-coal has led to a refinement in the process that will enable the proposal to produce solely metallurgical coal.

The proposal hitherto provided for peak annual production rates of 2.78m tonnes split between 2,430,000 tonnes of Metallurgical Coal and 350,000 tonnes Middlings Coal. The proposal now is for the peak production of 2.78m tonnes to be of metallurgical coal only. Therefore, there is no overall change to the total amount of processed coal being exported from the development.

In addition to the change to coal processing, some additional information is also provided within the revised submission to clarify and update the position set out in the original ES. This includes further information on the greenhouse gas (GHG) emissions associated with the project. This updated Planning Statement accompanies a revised Environmental Statement which now includes an additional chapter presenting information on greenhouse gas emissions. This updated Planning Statement draws on the findings from that chapter including the additional GHG assessment that has been undertaken, and updates the consideration of this issue under the heading of sustainability, having regard to any additional policies or further material considerations that may be relevant. The general approach to GHG emissions has hitherto been based upon substitution. That is, recognising that coal produced by the Proposed Development for the UK and European market would replace coal that would otherwise have been extracted and imported from further afield, principally in the USA. In effect GHG emissions from metallurgical mining operations in the USA and trans-Atlantic shipping would be displaced through the production of metallurgical coal at the Proposed Development. Metallurgical coal produced at the Proposed Development would be used in preference to that produced in the USA because of a number of commercial advantages, including reduced transport distances and costs. Further information has now been provided to explain why this outcome would be very likely to occur and to respond to points raised in documents produced by objectors following Cumbria County Council's previous consideration of this issue. In addition to this further information, a GHG emissions assessment has now been included within the Environmental Statement to provide a worst case analysis of GHG emissions caused by the Proposed Development in the event that the local planning authority concludes, in light of the further information that it has now received, that it cannot be reasonably certain that the Proposed Development will result in a comparable reduction in metallurgical coal production, and the associated GHG emissions, elsewhere in the world.



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Summary

SUMMARY

INTRODUCTION

- S.1 This is a revised Planning Statement which has been produced following a change to the Proposed Development, to take account of some additional information which has been provided, and to update the previous Planning Statement in the light of policy changes.
- S.2 The change to the Proposed Development eliminates the production of 'middlings' coal. Refinement of the design of the coal processing methods has resulted in all washed coal product from the mine now being of a type which can be used as metallurgical coal. This change does not result in any changes to the external design of the mine, nor does it change the volume of output. The effect of this change is that at peak production the mine would produce 2.78m tonnes of metallurgical coal per annum, in place of the 2.43m tonnes of Metallurgical coal and 350,000 tonnes per annum of middlings coal that were previously proposed.
- S.3 The additional information which has been provided is included in an additional chapter to the Environmental Statement [ES] on the Greenhouse Gas [GHG] emissions of the Proposed Development. The findings of this additional chapter draw upon expert evidence on metallurgical coal and steel markets and an independent calculation of GHG emissions.
- S.4 The opportunity has also been taken to update the Planning Statement to reflect minor changes to the development plan and national guidance since the production of the previous Planning Statement.
- S.5 The purpose of the planning statement remains unchanged. It identifies and applies the key considerations which will be used in the determination process for the planning application for the Proposed Development - a new metallurgical coal mine at Whitehaven, Cumbria. These considerations comprise:
- The policies and provisions of the statutory Development Plan; and
 - Other material considerations.

Key tests

- S.6 The key tests for new coal extraction development are contained within the statutory development plan at Policy DC13 of the Cumbria Minerals and Waste Local Plan [MWLP] and paragraph 211 of the National Planning Policy Framework [NPPF], which is a material consideration.
- S.7 Both the adopted policy [DC13] and NPPF [Paragraph 211] effectively apply a two-stage test. The first stage for Policy DC13 is whether or not there are any unacceptable social or environmental effects. For paragraph 211 the first stage of the test is a determination as to whether or not the development is 'environmentally acceptable'. In both cases the test does not need to proceed to stage two if effects are acceptable or can be made so by planning condition or obligation. Policy DC13 includes an additional requirement of social acceptability in the first stage of the test. However, as the development does not give rise to any unacceptable social impacts the approach at stage 1 is consistent with the NPPF and can be treated as such for the determination of this application.
- S.8 The second stage is engaged if the conclusion at the first stage is that the development will lead to unacceptable environmental effects which cannot be made acceptable by conditions or obligations. The second stage is to determine whether or not the benefits, be they national, local, or community, 'clearly outweigh' the likely environmental impacts. Where the second stage is applied, in order to grant permission the benefits must be of sufficient magnitude as to 'clearly outweigh' the proposal impacts i.e. in weighing up benefits and impacts those benefits need to go beyond simply just exceeding the impacts.

Stage 1

- S.9 Determining whether or not an impact or effect is unacceptable requires a degree of judgement. To guide that judgement the approach that has been adopted is to assess whether impacts from the Proposed Development are such that it leads to conflict with environmental policies of the statutory development plan or national policy and guidance.
- S.10 The Environmental Impact Assessment [EIA] process identifies and assesses the potential environmental impacts of the Proposed Development on a topic by topic basis. The process highlights where significant effects are likely to occur and so provides an opportunity to develop mitigation to eliminate, reduce or offset those impacts. Mitigation can take the form of revisions or additions to design, amended operational practices or compensatory measures off site. The

iterative process of assessment followed by the development of mitigation and then re-assessment serves to minimise likely impacts.

- S.11 For the Proposed Development this process has successfully reduced some of its potential impacts to the point where there is broad compliance with local and national policy and guidance. However, there are a number of topics where some conflict with policy has been identified. There is some limited conflict with ecology, landscape/visual and historic environment policies. Additionally, the proposals would lead to the generation of additional greenhouse gases in the event that coal extracted by the Proposed Development does not completely substitute existing coal production. These emissions have the potential to conflict with the aims of policies in the development plan and national guidance. As there is some conflict with some policies the second stage of the test is engaged.

Stage 2

- S.12 Stage 2 of the test requires the likely adverse effects to be weighed against the benefits of the Proposed Development. In carrying out this exercise, it is first necessary to give consideration of the relative weight that should be given to each of the benefits and harms.

Weighting of environmental effects

- S.13 Most of the environmental impacts of the proposal have been minimised through the EIA process. There are some modest impacts which lead to some conflict with policy in relation to ecology, landscape/ visual and historic environment impacts. The conflict with these policies is however limited having been minimised by the measures set out above. Therefore, these impacts are afforded moderate weight in the balancing exercise.
- S.14 The other key environmental impact is the Proposed Development's potential greenhouse gas emissions. These emissions have been the subject of an independent calculation which is part of the new chapter of the ES. In the event that these emissions are not offset through product substitution, these emissions were calculated for the different phases of the site – construction, operation, and decommissioning. The emissions are expressed as tonnes of carbon dioxide equivalent (tCO₂e) and are summarised in the following table:

Lifecycle stage	Total Stage GHG emissions (tCO ₂ e)	Emissions per annum (tCO ₂ e)
Construction	85,105	42,553
Operation	18,328,183	366,564
Decommissioning	17,907	17,907
Total Emissions	18,431,196	

- S.15 To assist in putting these emissions into some reasonable perspective at each stage the emissions were examined in the context of the UK Carbon Budgets. Where GHG emissions from the Proposed Development are equal to or more than 1% of the relevant annual UK Carbon Budgets, the impact of the Proposed Development on the climate is considered of high significance.
- S.16 It has been assumed that the first year of construction would take place within the period of the 3rd Carbon Budget, the second year of construction and four years of operation would take place in the 4th Carbon Budget, and five years of operation would occur during the 5th Carbon Budget. Adopting the worst-case assessment set out above, the percentage contribution of emissions from the Proposed Development to these Carbon Budgets are 0.002%, 0.077% and 0.104%, respectively. The magnitude of impact of the Proposed Development is assessed as being 'low' against the current UK Carbon Budgets. The operations of the Proposed Development are not expected to affect the UK in meeting its current Carbon Budgets.
- S.17 However, the AECOM Report also recognised that the operations and decommissioning activities will intersect with steeply reducing future Carbon Budgets and the net zero emissions target of 2050. Emissions from the Proposed Development are therefore likely to become significant after 2050 without an emissions reduction strategy. The applicants have agreed to enter into a binding legal agreement, to require the periodic (5 yearly) review and re-assessment of anticipated GHG emissions. The assessments would be gauged against future, as yet unknown, carbon budgets or any other mechanisms which might be put in place to monitor the UK's progress to net zero in 2050 and beyond. Each assessment of GHG emissions would need to confirm that the continued operation of the mine, would not compromise the ability of the UK Government to meet its carbon emissions reduction obligations or the mine

would be required to provide additional mitigation or cease/reduce operations.

- S.18 There are some anticipated changes which will assist the operators of the mine to ensure that emissions from the operation of the mine will reduce. A significant component of the GHG emissions calculation comes from the electricity used at the mine. Currently this is assumed to be primarily generated by the combustion of fossil fuels. The UK Government will continue with national reductions in fossil-fuel based power stations. These will be replaced with low carbon and renewable energy generation. Any indirect emissions attributed to the operation of the mine from its electricity use will progressively decrease through grid decarbonisation. The calculation includes emissions of methane released as coal is mined. Methane is a potent greenhouse gas. The installation of a methane capture and utilisation plant will potentially eliminate the majority of fugitive methane emissions. It would have the added benefit of providing a source of electrical power for the Site that will further reduce the need for grid electricity.
- S.19 In so far as the UK and EU steel industry is concerned, significant GHG emissions currently result from the transportation of metallurgical coal over large distances as this coal is imported from America. These emissions would be eliminated or significantly reduced by domestic production of metallurgical coal much closer to its point of use.
- S.20 Similarly, as coal produced from the Proposed Development would displace coal production elsewhere, GHG savings would occur from reduced levels of production from the current sources of metallurgical coal production.
- S.21 For the reasons set out in paragraphs S.14 to S.20 above, the potential environmental harm from GHG emissions associated with the Proposed Development are attributed moderate adverse weight for the purposes of the assessment against MWLP Policy DC13 and Paragraph 211 of the NPPF.

Weighting of Benefits

- S.22 Through the construction of the mine, and throughout its period of operation, there would be significant beneficial effects to the local economy. The Proposed Development represents investment of £165 million. That investment will be targeted at local businesses. Over 500 jobs would be created when the mine is operational with further employment anticipated to be up to 1,000 created indirectly. Up to 50 apprenticeships would be available. The mine has an anticipated life of 50 operational years. The potential employment and investment benefits the mine would be provided over the medium to long term.
- S.23 There is a correlation between economic prosperity and the social wellbeing of communities. The socio-economic profiling undertaken for the Socio-Economic Chapter of the ES revealed that the Borough of Copeland generally enjoys significantly higher rates of earning than all other comparator areas. However, the district wide figures mask pockets of significant deprivation. For example, Sandwith, which is located just to the south of the Marchon site, is ranked as being in the bottom three wards of deprivation in England. The employment offer which would be available at the mine would be available to a broad spectrum of candidates. Many of the roles and jobs at the mine would not require direct previous experience. Additionally, the apprenticeship scheme would provide significant opportunities for those living in the area to earn and train for a nationally recognised qualification at the same time. The employment offer at the mine would complement that of the nuclear industry providing employment for those who need it most. The wealth created by the mine combined with the apprentice training scheme it has the potential to have very significant beneficial social impacts from the commencement of construction, through the 50 years of operation to decommissioning.
- S.24 The economic benefits which would flow from the investment and employment created by the development are considerable. These benefits are provided in an area containing pockets of significant deprivation. For these reasons the socio-economic impacts of the proposal are assessed as substantial.
- S.25 There are other additional benefits associated with the Proposed Development flowing from the likely significant reduction of the long-distance transportation of metallurgical coal from the USA to Europe, and the additional support that a local source of metallurgical coal would provide to the British steel industry.
- S.26 The environmental impacts have been assessed as moderate in terms of GHG emissions and moderate for other environmental effects. In contrast the socio-economic impacts of the Proposed Development are substantial. Overall, and on balance, it is considered that the considerable benefits of the proposal clearly outweigh its impacts.

Planning Statement

1. INTRODUCTION

1.1 PURPOSE

- 1.1.1 The purpose of this Planning Statement is to identify and apply the key considerations which will be used in the determination process for the application for planning permission for the new metallurgical coal mine at Whitehaven, Cumbria. These considerations comprise:
- The policies and provisions of the statutory Development Plan; and
 - Other material considerations.
- 1.1.2 This division of considerations reflects the approach required by planning law. The legislative context explained in section 1.3 below identifies the relevant legislative provisions, which in essence require that decision makers in determining planning applications must firstly look to the policies of the development plan and the extent to which the development complies with the tests of those policies before going on to consider other material considerations. The 'statutory development plan' comprises those plans which have been adopted by the relevant local authorities within whose area the proposal lies. 'Other material considerations' means all other matters which may be material to taking a decision on the application and includes national policy and guidance and emerging local policy.
- 1.1.3 This planning statement will seek to identify the relevant policy tests contained within the statutory development plan and other relevant material considerations. It will apply the policy tests and 'other material considerations' to the proposal on a topic-by-topic basis drawing on the findings of the Environmental Impact Assessment of the proposal. It will conclude with an examination of the extent to which the proposal meets the test for coal mining set out at Cumbria Minerals and Waste Local Plan Policy DC13 and Paragraph 211 of the National Planning Policy Framework [NPPF].

1.2 THE APPLICATION

- 1.2.1 The proposal is for the mining and processing of metallurgical coal. Metallurgical coal, otherwise known as coking coal, is a descriptive term for a range of coals which have a chemical composition which makes them suited to use in the process of steel manufacture. There are no metallurgical coal mines currently operating within the UK. All metallurgical coal currently used in British steel making is imported, principally from America. WCM have identified an opportunity to supply a proportion of British steel making with British metallurgical coal.
- 1.2.2 The applicants have undertaken a significant analytical exercise in reviewing historical data sources to establish the presence of coal with the requisite chemical composition and in sufficient volume to warrant the development of the mine. They have completed a two-year programme of on and off shore drilling to recover coal samples for analysis. All the drilling results to date substantiate the analysis of historical data that there are sufficient reserves of the right type of coal to justify progressing the development.
- 1.2.3 The main components of the development which is the subject of the planning application comprise:
- Underground winning and working of metallurgical coal in an onshore area of 302 hectares located between Whitehaven and the St Bees coast;
 - The construction of buildings and plant within the main mine site located on the site of the former chemical works known as the Marchon site. Including mine portals, a processing facility for coal, storage buildings, ventilation and power infrastructure, office space, car parking etc.;
 - The construction of an underground conveyor 2.3 kilometres long to transport the coal products to the Rail Loading Facility;
 - The construction of railway sidings alongside the Cumbria Coast Rail line and the construction of a Rail Loading Facility to load coal onto rail wagons for onward transportation to its markets.
- 1.2.4 The application boundary and the location of the components of the development are illustrated on drawing 869/AP/001. The layout of the main mine site is illustrated on drawing 869/AM/002, the line of the conveyor on drawing 869/AC/001, and the layout of the sidings and rail loading facility are illustrated on drawing 869/AR/002. Photomontages reproduced at Appendix 10.B of the Landscape and Visual Impact Assessment Chapter of the Environmental Statement illustrate the appearance of the Main Mine Site and Rail Loading Facility.

1.2.5 The entire proposal involves underground winning of working of metallurgical coal from both onshore and offshore areas. However, the jurisdiction of the Town and Country Planning system ends at the mean low water mark. Offshore areas are administered by the Marine Management Organisation. The application for planning permission cannot extend to the offshore component of mineral extraction. Consequently, the application for planning permission relates only to the onshore areas of the proposals.

1.2.6 The development is described in greater detail in section 2 below.

1.3 LEGISLATIVE CONTEXT

1.3.1 Section 1.1 above touched upon the legislative provisions concerning the role of development plans in the decision-making process for applications for planning permission. Section 70(2) of the Town and Country Planning Act 1990 [TCPA 1990] requires that:

'In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, ... and to any other material considerations.'

1.3.2 Similarly, Section 38(6) of the Planning and Compulsory Purchase Act 2004 [PCPA2004] requires that applications for planning permission should be determined:

'...in accordance with the provisions of the development plan unless material considerations indicate otherwise.'

1.3.3 These legislative provisions are reiterated within the National Planning Policy Framework [NPPF] which states at paragraph 2:

'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.'

1.3.4 The development site lies entirely within the administrative area of Copeland Borough Council, but the principal policy documents produced to guide minerals and waste developments are those produced by Cumbria County Council as Minerals and Waste Planning Authority. The development plan for the area of the development comprises:

- Cumbria Minerals and Waste Local Plan 2015-2030 [adopted September 2017]; and
- Copeland Local Plan 2013-2028 – Core Strategy and Development Management Policies [adopted December 2013].
- Copeland Local Plan 2013-2028 Proposals map and Copeland Local Plan 2001-2016 'saved' Policies

1.3.5 The National Planning Policy Framework [NPPF] and its associated Planning Practice Guidance [PPGs] are significant material considerations being expressions of the Government's expectations of the planning system.

1.4 THE APPLICANT

1.4.1 West Cumbria Mining [WCM] has been specifically created to develop the metallurgical coal reserves in West Cumbria. The company has 3 licences granted by the Coal Authority, including 2 large offshore licence areas and a smaller onshore licence area. WCM has an experienced management team in place to manage the operations of the company through a number of partners with many years' experience in the mining industry. WCM also calls on the experience of industry experts retained as consultants. The WCM Board primarily consists of people with a long history in mining that can provide expert guidance and advice to the project.

1.5 DOCUMENT STRUCTURE

1.5.1 The document is structured as follows:

- Section 1 provides the introduction to and context for the Development and Planning Statement;
- Section 2 provides a description of the Development and the Proposal Sites;
- Section 3 sets out the overall planning policy context of the Development;
- Section 4 demonstrates on a topic-by-topic basis the extent to which the Development complies with development plan policy and discusses, where relevant, other material considerations; and,
- Section 5 concludes with findings of the extent to which the proposal is compliant with the requirements of the provisions of the development plan and in particular the key policy tests contained within Policy DC13 and paragraph 211 of the NPPF.

2 THE SITES AND THE DEVELOPMENT

2.1 INTRODUCTION

2.1.1 The development comprises a number of components located on different sites. The winning and working of the coal would take place underground in an area of around 302 hectares near the St Bees coast. The 'Main Mine Site' would accommodate the greatest number of above ground developments for storage and processing the coal and servicing the underground mine. The Rail Loading Facility (RLF) and its associated sidings and infrastructure comprise the other principal above ground developments. The conveyor linking the Main Mine Site to the RLF would be underground, but its installation would involve surface operations. The target coal measures would be accessed via drifts which in part would utilise and improve the existing drifts to the redundant anhydrite mine.

2.2 UNDERGROUND WORKING

- 2.2.1 The purpose of the development is to win, work and process coal from the seams present around the St Bees coast and which form part of the wider Cumberland Coal Field from which coal has been worked for centuries. The coalfield is present both under land 'onshore' and under the seabed 'offshore'. The proposal as whole would look to work both onshore and offshore areas for a nominal period of 50 years. The planning application is, however, restricted to the landward side of the mean low water mark as this is the boundary of the Town and Country Planning regime.
- 2.2.2 The principal seams to be worked would be the Bannock Band and Main Band, which are at a depth of approximately 350 metres. Coal would be accessed via two drifts which would be accessed from the proposed main mine site. The drift tunnels will be developed from the existing portals of the abandoned Anhydrite mine.
- 2.2.3 Drifts will lead to the onshore and offshore underground coal seams, with 'pit bottom' areas developed for use as welfare areas, supplies storage, workshop, electrical substation etc.
- 2.2.4 Coal workings would utilise the 'run out and pocket' method. Excavation rates will build over a five year period to reach a maximum coal output of approximately 2.8 million tonnes per annum. The material initially excavated contains rock with the coal. All mined material will be sent to the coal storage and processing plant on the surface via a series of buried conveyors. The processing plant will separate rock from coal, passing rock to a paste plant adjacent to the coal processing plant. The paste plant adds cement and water to the rock and unsaleable coal, and mixes it to form a paste which is then pumped back underground for deposit in the void spaces created by mining. The saleable coal is then sent via underground conveyor to the rail loading facility in the Pow Beck valley, prior to being sent by train to onward destinations.

2.3 MAIN MINE SITE

- 2.3.1 The main mine site would be located on the southern part of the former chemical works site known locally as the 'Marchon' site. The former chemical works site extends over some 52 hectares. At its peak the chemical works was the largest single site producer of sulphuric acid in Europe, the largest single site producer of Sodium Tripolyphosphate (a component of many products, especially detergents) in the world, and employed around 2,500 people. The site closed in 2005 and was cleared over the following year. The former Marchon site is designated as an employment opportunity site on the Copeland Local Plan 2013-2028 Proposals Map, to which saved policy EMP 3 applies.
- 2.3.2 The mine proposal relates to an area of 23 hectares occupying the southern part of the site. All of the buildings and plant that existed on this part of the site have been cleared with the exception of the former gatehouse and boundary fences. Although there has been some natural regeneration of this area, the site retains the character of a derelict site with numerous concrete slabs remaining from its former use. One of the other key characteristics of the site is its variation in levels. The highest point on the site's eastern edge, i.e. where it abuts High Road, is close to its northern extent and is around 95 metres above ordnance datum (AOD). The site falls gently to the south so that by the site entrance the site is at around 91 metres AOD. Perhaps more marked is the change of levels from west to east. From High Road the site falls away from around 94 metres AOD on High Road to around 83 metres at the location of most of the development on the site.
- 2.3.3 The main mine site would comprise a number of different principal elements, namely:
- Coal Handling and Processing Plant (CHPP);
 - Clean Coal and Reject Material Building;
 - Office and Change Building;
 - Vent House;

- Water Storage Tank;
- Drift Canopy;
- Auxiliary Power Plants (1 gas and 1 diesel) and Substation;
- Conveyor Drive Building;
- Gatehouse;
- North Drift Access Building;
- Covered Walkways;
- Underground and Above Ground Conveyors;
- Access Roads and Car Parking Areas; and,
- Landscape mounds.

2.3.4 The layout of these elements is illustrated on Drawing 869/AM/002 Main Mine Site Proposed Plan.

2.3.5 The largest structure is the Coal Handling and Processing Plant (CHPP), which comprises a large dome from which two 'arms' extend. The dome will be 34 metres high and approximately 95 metres wide. The two arms have a curved roof and are both 27 metres at their highest point. The north west arm (clean coal store) is 124 metres long and the south western arm (raw coal store) 122 metres long, and both are 78.5 metres wide.

2.3.6 The raw coal would be delivered by buried conveyor into the south western arm from underground at a rate of up to 2,500 tonnes per hour. The raw coal store has capacity for storage of up to 37,500 tonnes of coal awaiting processing in the CHPP.

2.3.7 The function of the CHPP is to remove mineral matter, consisting of rock and clay, from the carbon-rich coal. That mineral matter generally comes from the rock immediately above and below the coal seam and is loaded with the coal as a normal consequence of mining. Most of the mineral matter can be separated from coal based on the differences in the density of the mineral matter and the coal. Mineral matter is nearly twice the density of coal, so the coal can be floated away from the mineral matter using a mixture of iron powder (magnetite) and water. This process divides the raw coal into clean coal and reject. Reject is mostly mineral (rock) matter, which has no market value.

2.3.8 Clean coal would be stored in the north western arm of the CHPP building and in part of the separate building to the west of the CHPP building. This building would be 125.5 metres at its longest, and 59 metres wide, and at its highest point the structure would be 20 metres above ground level. From here the clean coal is loaded on the underground conveyor to the Rail Loading Facility.

2.3.9 Reject material would also be stored in the Clean Coal and Reject Material Building to the west of the CHPP building. The reject material would be delivered by an above-ground enclosed conveyor from the CHPP to the reject store. The refuse stockpile capacity would be 3,800 tonnes. An underground reclaim conveyor would transport refuse from the reject store to the paste plant which would be located adjacent to the CHPP. This plant would process the refuse to create a paste before it is pumped underground for disposal.

2.3.10 The office/change building provides office accommodation for the management and administrative staff for the mine, and changing facilities for underground mining operatives. The building would be split level reflecting these different uses. The offices would be provided at the northern end of the building over three floors. This part of the building would be 36.8 metres wide and 35 metres long. This part of the building would have a curved roof with the highest part of the roof being 11.1 metres high. The change component of the building would be a single storey, adjoining the office building on its south west elevation. The building would have a footprint of 46.5 metres x 28.1 metres.

2.3.11 The Vent House accommodates the two large fans which provide the ventilation for the mine. The fans operate to extract air from within the mine via the north portal. The negative pressure this generates pulls in fresh air into the mine via the south portal.

2.3.12 The southern drift would provide the means for staff to access the mine and for the transportation of plant machinery and supplies to mining areas. The Drift Canopy Overbuilding would provide a sheltered area for staff entering and leaving the mine at shift change. A covered walkway is provided from the change building to the drift canopy overbuilding.

- 2.3.13 Power for the mine is drawn from the national grid via a substation but the mine would have back-up gas and diesel generators to ensure power provision in the event of a mains power failure.
- 2.3.14 The mine vehicular entrance would be via the existing access from High Road at the south end of the site. The existing access would be upgraded and marginally re-aligned providing a semi-circular entrance/exit. The existing gatehouse building located on the eastern side of the access road would be demolished and a new gatehouse constructed on its western side.
- 2.3.15 The proposal includes the creation of around 7.5 hectares of screening mounds to the north west, north east, east and south west of the main mine site. The landscape mounds provide some separation between the main mine site buildings and the nearest residential receptors. The mounding would provide some acoustic attenuation and provide a landscaped context to the mine site. The size and shape of the landscape mounds are illustrated on drawing 869/AM/042 Rev. C.
- 2.3.16 Adjacent to the CHPP building would be the underground conveyor drive building. This building would accommodate the plant required to drive the underground conveyor from the main mine site to the Rail Loading Facility.

2.4 UNDERGROUND CONVEYOR

- 2.4.1 The underground conveyor would be approximately 2.3 kilometres long and would deliver clean coal to the Rail Loading Facility. Drawing 869/AC/002. illustrates the line of the conveyor and drawing 869/AC/006. illustrates a typical cross section of the installation of the conveyor.
- 2.4.2 Once the underground conveyor is installed, there will be no above-ground visual references to the structure, other than a small access building near on the south side of the St Bees road.

2.5 RAIL LOADING FACILITY

- 2.5.1 The Rail Loading Facility is located in the Pow Beck valley and its purpose is to provide the means to load metallurgical coal onto trains for delivery to market. The facility comprises two new rail sidings, a building to house the coal loading plant and a small office and welfare facilities for workers.
- 2.5.2 The new rail sidings would provide the facility to take the freight train off the Cumbria Coast rail line to allow it to be loaded. The sidings design is illustrated on Drawing 869/AR/002. The length of the loading/departure line and the run-around loop have been driven by a requirement to deliver WCM predicted tonnages within Network Rail line utilisation constraints. The loading rate and loading facility were designed to allow 6 trains each day to arrive and depart. These elements result in a sidings design of 1,500 metres long and 20 metres wide.
- 2.5.3 A new building is proposed over the west track of the sidings. The building is required to accommodate the plant/equipment which would use a bunker batch loading system to load coal into waiting train wagons. This equipment would be housed within a single enclosed building. The building design is illustrated on Drawing 869/AR/009 Rev. A. Rail Loading Building Proposed Plans and Elevations. The building would have a footprint of 75.4 metres x 9.2 metres. The building would have a pitched roof which would have a maximum height of 15 metres.

2.6 PRODUCTION DURING THE OPERATIONAL PERIOD

- 2.6.1 The following table provides annual production from the mine

▼ Table 1 – Annual Production

Production	Year 1	Year 2	Year 3	Year 4	Year 5
Met Coal	480,000	900,000	1,600,000	2,360,000	2,780,000
Refuse	50,000	90,000	110,000	160,000	150,000

- 2.6.2 Capital investment for construction of the mine and all associated infrastructure is estimated at £165 million. When at full production it is anticipated that the mine will employ in excess of 500 people.
- 2.6.3 Planning permission is sought for a nominal 50-year period of operation. At the end of its operational life all the mine buildings would be decommissioned and removed and works undertaken on the site to create suitable conditions for ecological habitat creation recreational use [Main Mine Site] and agriculture [Rail Loading Facility].

3 PLANNING POLICY

3.1 INTRODUCTION

- 3.1.1 The National Planning Policy Framework (NPPF) at paragraph 2 states:
'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.'
- 3.1.2 The 'planning law' referred to is two legislative provisions; Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 (TCPA 1990):

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:
'If regard is to be had to the development plan for the purpose of any determination under the Planning Acts the determination shall be made in accordance with the plan unless material considerations indicate otherwise.'

Section 70(2) of the TCPA 1990 in relation to applications for planning permission states:
'In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.'
- 3.1.3 From the legislative provisions reproduced above the approach to decision making is made plain – decision makers shall firstly examine the extent to which the proposal complies with the policies of the statutory development plan and secondly consider all other consideration which are relevant to the decision. Decisions on applications for planning permission must be made in accordance with the development plan unless there are material considerations of sufficient weight to warrant a decision departing from the development plan.
- 3.1.4 In this case the statutory development plan comprises:
- Cumbria Minerals and Waste Local Plan 2015-2030 (adopted September 2017); and
 - Copeland Local Plan 2013-2028 – Core Strategy and Development Management Policies (adopted December 2013)
 - Copeland Local Plan 2013-2028 Proposals Map and Copeland Local Plan 2001-2016 'Saved' Policies
- 3.1.5 Other considerations which are relevant to the decision include the guidance provided in the NPPF and associated Planning Policy Guidance (PPG).
- 3.1.6 Sections 3.3 – 3.5 below identify the relevant policies from the statutory development plan and the full text of these policies is reproduced in Appendix 1. Sections 3.6 and 3.7 identify emerging development plan policies, the full text of which is reproduced in Appendix 2.

3.2 APPROACH TO COAL IN THE NPPF AND LOCAL PLAN POLICY

- 3.2.1 The NPPF sets out the Government's approach to coal extraction developments at paragraph 211, which states:
'Planning permission should not be granted for the extraction of coal unless:
a) *the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or*
b) *if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).'*

3.2.2 The 'test' established by this paragraph has two stages. The first is to decide whether or not the development is 'environmentally acceptable' or can be made so by planning conditions or obligations. If the development is environmentally acceptable [or can be made so by conditions/obligations] permission can be granted. If the development is not environmentally acceptable then the second level of consideration is to determine whether or not the benefits, be they national, local, or community, 'clearly outweigh' its likely impacts [taking all relevant matters into account, including any residual environmental impacts.]

3.2.3 Cumbria Minerals and Waste Local Plan Policy DC 13 which relates to coal, along with other energy minerals states:

Planning applications for coal extraction will only be granted where;

- *the proposal would not have any unacceptable social or environmental impacts; or, if not*
- *it can be made so by planning conditions or obligations; or, if not*
- *it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.*

For underground coal mining, potential impacts to be considered and mitigated for will include the effects of subsidence including: the potential hazard of old mine workings; the treatment and pumping of underground water; monitoring and preventative measures for potential gas emissions; and the disposal of colliery spoil. Provision of sustainable transport will be encouraged, as will Coal Mine Methane capture and utilisation.

3.2.4 This Planning Statement will examine the extent to which the proposed development can be considered to meet the tests set out in the NPPF and the CMWLP policy. The local plan policy differs in its wording from that within the NPPF. The first stage of MWLP Policy DC13 introduces consideration of social as well as environmental effects whereas the first stage of the NPPF requires only consideration of environmental acceptability. In this respect, Policy DC13 is not fully consistent with the NPPF. However, for the reasons set out in more detail below, this does not materially affect the determination of this application.

3.2.5 This statement will assess the extent to which the NPPF and local plan policies are complied with and in doing so will draw upon the findings of the Environmental Statement. If it is concluded that the proposal is not environmentally acceptable then the assessment will go on to consider whether the national, local and community benefits of the proposal clearly outweigh the likely impacts of the proposal.

3.3 CUMBRIA MINERAL AND WASTE LOCAL PLAN 2015-2030 (ADOPTED SEPTEMBER 2017)

3.3.1 The adopted Minerals and Waste Local Plan is divided into three sections

- Part 1 Strategic Policies;
- Part 2 Development Control Policies; and
- Part 3 Site Allocation Policies.

Part 1 – Strategic Policies

3.3.2 The Overall Strategy set out at the beginning of the local plan at paragraph 2.1 recognises that minerals are:

'...essential and indispensable to the county. Without them, other sectors of the economy could not function properly and the basic infrastructure of roads, buildings and other facilities could not be maintained or improved.'

3.3.3 Policy SP1 reiterates the presumption in favour of sustainable development as set out in the NPPF.

3.3.4 One of the key aims of the mineral strategy is to maintain an adequate supply of minerals within Cumbria and identify the need to release land when necessary to ensure that mineral reserves do not become exhausted. This approach is of considerable importance to the industries within Cumbria which rely upon the uninterrupted supply of minerals. However, this approach is of little relevance to the proposal which is unique not just to Cumbria but to the UK as a whole. Consequently, many of the strategic policies are not relevant, those which are relevant, are:

3.3.5 Policy SP 13 Climate change and adaptation.

Policy SP13 requires proposals for minerals and waste developments to demonstrate, inter alia, that *'proportionate to the scale and type of development, energy management, carbon reduction and resource efficiency have been determining design factors for the development'* and that their location minimises *'...as far as practicable, the minerals or waste road miles involved in supplying minerals ... unless other environmental/sustainability and, for minerals, geological considerations override this aim.'*

- 3.3.6 Policy SP14 Economic benefit, which requires that proposals for new minerals developments should demonstrate how they would realise their potential to provide economic benefit.
- 3.3.7 Policy SP15 Environmental assets is an exhaustive policy setting out the approach to the conservation and enhancement of environmental assets. It provides a series of points which minerals and waste developments should seek to achieve:
- protect, maintain and enhance people's overall quality of life and the natural, historic and other distinctive features that contribute to the environment of Cumbria and to the character of its landscapes and places;
 - conserve the settings of these environmental assets;
 - improve the linkages between these environmental assets and provide buffer zones around them, where this is appropriate;
 - realise the opportunities for expanding and increasing environmental resources, including adapting and mitigating for climate change;
 - help to secure movement from a net loss of biodiversity towards achievement of net gains in biodiversity resources by protecting, enhancing, expanding and linking areas for wildlife within and between the locations of highest biodiversity resources and encouraging the conservation and expansion of the ecological fabric elsewhere;
 - help to create new green infrastructure, and to conserve and manage where it is existing, and enhance its functionality, quality, connectivity and accessibility.

The policy provides guidance on landscape, geodiversity, marine ecological and heritage designations and sets out the approach to environmental assets which are not protected by national, European, or international legislation.

- 3.3.8 Policy SP16 Restoration and aftercare seeks to ensure that in restoration and aftercare schemes *'that best practicable measures have been taken to help deliver the sustainability objectives of this Plan.'*

Part 2 – Development Control Policies

- 3.3.9 The development control policies of the plan set out the considerations that will be applied to individual planning applications. The relevant policies are identified below these are the policies which are used in the Section 4 of this Planning Statement in assessing the proposal under specific topic areas:
- DC1 – Traffic and transport;
 - DC2 – General criteria;
 - DC3 – Noise
 - DC5 - Dust;
 - DC6 – Cumulative environmental impacts;
 - DC13 – Criteria for energy minerals;
 - DC16 - Biodiversity and geodiversity;
 - DC17 – Historic environment;
 - DC18 – Landscape and visual;
 - DC19 – Flood risk;
 - DC20 – The water environment;
 - DC21 – Protection of soil resources;
 - DC22 – Restoration and aftercare.

Part 3 – Site Allocation Policies

- 3.3.10 None of the Site Allocation policies are relevant to the proposals.

3.4 COPELAND LOCAL PLAN 2013-2028 – CORE STRATEGY AND DEVELOPMENT MANAGEMENT POLICIES (ADOPTED DECEMBER 2013)

- 3.4.1 The proposal is for a minerals development and so the policies of the Cumbria Minerals and Waste Local plan are of more relevance but the Copeland Local Plan forms part of the statutory development plan and includes some policies which are applicable to the proposals and which are identified below:

- Policy ST1 – Strategic Development Principles;
- Policy ST3 – Strategic Development Priorities;
- Policy ST4 – Providing Infrastructure;
- Policy ER11 – Developing Enterprise and Skills;
- Policy ENV1 – Flood Risk and Risk Management;
- Policy ENV2 – Coastal Management
- Policy ENV3 – Biodiversity and Geodiversity;
- Policy ENV4 – Heritage Assets;
- Policy ENV5 – Protecting and Enhancing the Borough's Landscapes;
- Policy ENV6 – Access to the Countryside;
- Policy DM3 – Safeguarding Employment Areas;
- Policy DM10 – Achieving Quality of Space;
- Policy DM11 – Sustainable Development Standards;
- Policy DM24 – Development Proposals and Flood Risk;
- Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species;
- Policy DM26 – Landscaping; and,
- Policy DM 27 – Built Heritage and Archaeology.

3.4.2 As the core strategy and development management policies is an adopted document, its policies and provisions are afforded significant weight in the decision making process.

3.4.3 In addition to the Core Strategy and Development Control Policies, are the Copeland Local Plan 2013-2028 Proposals Map and Copeland Local Plan 2001-2016 'Saved' Policies. The Proposals Map identifies the former Marchon site, the area of the Main Mine Site, as being an Employment Opportunity Site to which 'Saved' policy EMP3 applies. This policy indicates that the employment opportunities sites are in the process of *'being investigated as to their future development potential and contribution to the regeneration strategies within the Borough.'* It also indicates that these sites would be the subject of future planning documents.

3.5 COPELAND LOCAL PLAN 2017 - 2035

3.5.1 Copeland Borough Council is in the process of producing a new local plan to replace the current Copeland Local Plan 2013-2028. As a first step the Council has produced and consulted upon an Issues and Options document. The consultation period for the Issues and Options expired on 20th January 2020. The responses to consultation will inform the next stage of the Local Plan process, the Preferred Options document, which will set out the Council's preferred options for development.

3.6 WEST WHITEHAVEN – SUPPLEMENTARY PLANNING DOCUMENT (SPD). ISSUES AND OPTIONS CONSULTATION REPORT (NOVEMBER 2012)

3.6.1 The West Whitehaven SPD appears not to have progressed beyond an issues and options paper. It includes the Marchon site, the proposed location of the Main Mine Site.

3.6.2 The document contains no proposed policies but identifies a number of development options for the Marchon site. These include:

- Visitor Potential based on the sites' industrial heritage;
- Visitor Potential based upon wildlife and natural environment;
- Tourism and leisure development;
- Mixed use related to the British Energy Coast;
- Temporary worker accommodation to house construction workers for nuclear new build; and
- Renewable energy.

3.7 EMERGING POLICY WEIGHTING

3.7.1 The NPPF at paragraph 48 provides guidance on the amount of weight to be attached to policies contained within local plans which are in the process of being prepared. It indicates that decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

3.7.2 The Copeland Local Plan 2017-2035 is at an early stage, with consultation on initial issues and options having only just been completed, and so only very limited weight can be attached to it. As the West Whitehaven SPD has not progressed beyond issues and options since 2012 very little weight can be attached to its contents.

3.8 NATIONAL PLANNING POLICY FRAMEWORK (NPPF) AND PLANNING PRACTICE GUIDANCE (PPG)

3.8.1 The National Planning Policy Framework (NPPF) was first published in 2012. It has subsequently been updated in 2018 and 2019. At paragraph 1 the NPPF states that it sets out the Government's planning policies for England and how they should be applied.

3.8.2 At paragraph 7 the NPPF identifies the purpose of the planning system which, it says, is
'...to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.'

3.8.3 The 2012 NPPF introduced the presumption in favour of sustainable development which has been retained through subsequent updates. At paragraph 11 the NPPF provides for the expeditious approval of planning applications for development which accords with an up-to-date development plan. Paragraph 177 of the NPPF, disengages the presumption in favour of sustainable development for development likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

3.8.4 The NPPF includes a series of sections which provide guidance in respect of specific topics, including:

- Section 2 Achieving sustainable development;
- Section 6 Building a strong competitive economy;
- Section 9 Promoting sustainable transport;
- Section 11 Making effective use of land;
- Section 12 Achieving well-designed places;
- Section 14 Meeting the challenge of climate change, flooding and coastal change;
- Section 15 Conserving and enhancing the natural environment;
- Section 16 Conserving and enhancing the historic environment; and
- Section 17 Facilitating the sustainable use of minerals.

3.8.5 The NPPF is complemented by a series of Planning Practice Guidance (PPG) notes which provide topic specific online guidance on the interpretation of the NPPF. The PPG categories include:

- Air quality;
- Climate change;
- Historic environment;
- Flood risk and coastal change;
- Land affected by contamination;
- Minerals;
- Natural environment;
- Noise; and
- Travel plans, Transport Assessments and Statements.

3.8.6 The NPPF and its associated PPGs do not form part of the statutory development plan, they are however material considerations for the purposes of decision making. As the NPPF and its accompanying practice guides are expressions of government planning policy they are considerations to be afforded significant weight.

4 TOPIC ASSESSMENTS

4.1 INTRODUCTION

4.1.1 The following subsections have been arranged by topic area. Each subsection contains a summary of the policies in the statutory development plan and emerging policies and guidance contained within the NPPF and PPGs which are relevant to the consideration of the proposal under that topic. The extent to which the proposals accord with these policies and guidance will then be examined by reference to the relevant findings of the Environmental Statement.

4.1.2 The policy topics which have been identified are:

- Sustainability;
- Economic Benefits;
- Transport;
- Historic Environment;
- Landscape;
- Biodiversity and Geodiversity;
- Noise and Vibration;
- The Water Environment and Flood Risk;
- Climate Change;
- Air Quality/Dust; and,
- Cumulative Environmental Impacts.

4.2 SUSTAINABILITY

Adopted Policy

- 4.2.1 The Minerals and Waste Local Plan at policy SP13 requires that proposals demonstrate that the design has been influenced by energy management, carbon reduction and resource efficiency; and its location minimises minerals road miles.
- 4.2.2 Minerals and Waste Local Plan Development Control Policy DC1 includes a requirement to minimise operational minerals and waste miles.
- 4.2.3 Copeland Local Plan Policy ST1 – Strategic Development Principles includes a section on Environmental Sustainability which includes at Criterion B (i) encouraging development that minimises carbon emissions, maximises energy efficiency and helps adaptation to the effects of climate change. Additionally, Criterion B (iv) seeks to reuse previously developed land wherever possible, and Criterion B (v) seeks to ensure that new development minimises waste and maximises opportunities for recycling.
- 4.2.4 Copeland Local Plan Policy DM11 – Sustainable Development Standards, includes a number of criteria to promote high standards of sustainability including encouraging high efficiency buildings, the use of renewable energy and sourcing materials locally.

NPPF

- 4.2.5 The NPPF at paragraph 7 identifies the purpose of the planning system, as contributing to the achievement of sustainable development. It indicates that this means meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 4.2.6 At paragraph 8 it goes on to identify three overarching objectives for achieving sustainable development;
- An economic objective - to help build a strong, responsive and competitive economy
 - A social objective - to support strong, vibrant and healthy communities
 - An environmental objective - to contribute to protecting and enhancing our natural, built and historic environment.

Paragraph 148 of the NPPF requires that:

'The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'

- 4.2.7 There are no PPGs which specifically relate to the topic of sustainability, as the concept of sustainable development will underpin all topic specific guidance. There is PPG for Climate Change. The PPG provides guidance in relation to the preparation of development plans. It recognises that *'effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases.'*

Policy and Guidance Synopsis

- 4.2.8 The NPPF makes plain that the very purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies the objective of sustainable development as being one in which today's needs are met but that this is done so in such a manner that does not *'compromise the ability of future generations to meet their own needs'*. This objective is clear that the current needs of society need to be met, but that the ways in which this is achieved does not prevent meeting the needs of future generations.
- 4.2.9 'Sustainability' is an overarching conceptual aim which concerns every aspect of the planning process. The policies identified above set out a number of specific tests addressing the design and location of development. There is a more fundamental consideration about the very nature of the type of development being proposed and whether it can be considered to be 'sustainable'. One component of that consideration is the potential contribution of the proposal to climate change through its emission of greenhouse gases. The assessment of the proposal against these broader sustainability principles will be addressed below followed by an examination of the extent to which the proposal complies with the specific tests set out in the policies identified above.

Assessment

Climate Change and Greenhouse Gas Emissions

- 4.2.10 The revised proposal envisages peak production of 2.78 million tonnes of coal each year. The coal that would be produced has particular physical and chemical characteristics which make it suited to use in the production of steel (metallurgical coal). Metallurgical coal is less commonly found than other types of coal such as thermal coal. Its relative rarity combined with its value in its use in the production of steel means that metallurgical coal attracts a premium price. This is confirmed by the evidence of Dr Bristow provided at Appendix 1 of Chapter 19 of the ES on Greenhouse Gas Emissions.
- 4.2.11 The method that is used for up to 75% of the world's steel production involves a process using metallurgical coal and other ingredients. Currently, bulk steel production is dependent upon metallurgical coal. Emerging technologies are capable of producing steel without metallurgical coal. However these technologies are in their infancy and, as Dr Bristow explains, will not replace blast furnace steel production as the primary process for steel production for the foreseeable future, and indeed for the proposed life of the planning permission. Therefore, the production of steel in the quality and quantity that is likely to be required by society will require continued blast furnace production in Europe with the use metallurgical coal throughout the lifetime of the Proposed Development [See Appendix 1 to the Greenhouse Gas Emissions Chapter of the Environmental Statement – Chapter 19].
- 4.2.12 The production of steel is an essential part of meeting societal demand for products which rely upon steel in their manufacture. The needs of this generation could be compromised in the event that metallurgical coal production, and by extension steel production, is significantly curtailed. Indeed, much of the infrastructure required to facilitate the UK's transition to low carbon energy production and transport which will be crucial for future generations, will be dependent upon steel made using metallurgical coal. For example, steel is used in the construction of wind turbines, trains etc. A key economic driver of the proposal is the fact that there are no metallurgical coal mines in the UK, which means that demand from British and European steel manufacturing is currently largely met from coal exported from mines in America. The proposal is predicated on a business case where metallurgical coal from Whitehaven will replace supplies from the US and Australia. The competitive advantage for the coal from Whitehaven comes, at least in part, because of reduced transport distances and costs [see the Report by Dr Bristow in the Appendix 1 to the Greenhouse Gas Assessment chapter]. Steel producers in the UK and Europe, faced with the choice of a cheaper and better quality product produced in the UK with a more agile and readily available chain of supply, are expected to switch suppliers. This is evidenced by discussions which have already taken place with UK and European steel makers. Effectively, the new supply of coal from Whitehaven would substitute for coal produced abroad.
- 4.2.13 This substitution of imported coal, will result in significant carbon dioxide (CO₂) emissions savings from the shipping that is currently associated with long distance imports to the UK and rest of Europe.

- 4.2.14 Using the equivalent coal tonnage from the Proposed Development, the GHG emissions associated with the current shipments from the USA to the UK and EU was calculated as an estimated 107,430 tonnes CO₂ per annum, or 5,371,515 tonnes CO₂ over the 50-year lifespan of the Proposed Development [See AECOM report, Appendix 2 of the GHG emissions chapter].
- 4.2.15 By producing coal that is much more local to its intended end-use point, West Cumbria Mining can contribute to significant savings in emissions of gases linked with climate change ('greenhouse gases') as well as other emissions which arise from the use of shipping fuel. These include sulphur emissions, which are a cause of air and sea pollution.
- 4.2.16 It must be stressed that this is not presented as a definitive calculation of carbon dioxide savings. There are many variables which could affect this calculation. What this calculation does, is to provide a broad indication of the significant scale of carbon savings which are likely to occur.
- 4.2.17 The broad geographic location of the proposed mine accords with the principles of sustainable development embodied in the policy requirement of Minerals and Waste Local Plan policies SPI3 and DC1 to minimise minerals miles.
- 4.2.18 In the modelling undertaken by the applicant, there is a high degree of confidence that the coal from Woodhouse colliery would substitute for coal from abroad. However, in the highly improbable event that the economics are markedly different from those modelled so that this does not occur, it would be expected that coal production at Woodhouse colliery would reduce or stop completely. Financially, it would not be possible for the colliery to continue to operate given its expected operating costs, which would be significant, if those costs cannot be recouped through sales.
- 4.2.19 The Applicant's business case and the alternative scenario identified above suggest that either foreign coal is substituted for coal from Woodhouse colliery, with its attendant carbon savings, or that production at the colliery ceases if its product cannot effectively compete with imported coal. This latter option would see the return to the current position of supply and demand and a continuation of the status quo in terms of carbon emissions.
- 4.2.20 If, notwithstanding all of the above, and the additional information provided by Dr Bristow, it is considered that there is a possibility that the Proposed Development would result in an overall increase in the extraction of metallurgical coal, a further assessment of the likely GHG emissions caused by the development has been undertaken so that these can be taken into account as a very worst case scenario.

Greenhouse Gas Assessment

- 4.2.21 The additional Chapter to the Environmental Statement [Chapter 19] includes an assessment of greenhouse gas emissions from the Proposed Development undertaken by an independent assessor using internationally accepted methodologies. The method for determining the significance of the GHG emissions has been to consider the identified emissions in the context of the UK's carbon budgets. This method of determining the extent of significance is in accordance with the Institute of Environmental Management and Assessment (IEMA) guidance of 2017. If the emissions are less than 1% of the relevant carbon budget, the level of significance is considered to be minor adverse.

Summary of findings

- 4.2.22 The findings of the GHG Emissions calculation are that the GHG emissions associated for all stages of the Proposed Development, including 50 years of operation, would be 18,431,196 tCO₂e. These are the total emissions associated with additional activities [activities that will occur if the Proposed Development goes ahead]. It is important to recognise that, even in the event that substitution does not occur as anticipated, this figure represents a very much worst case scenario, since the assessment has been undertaken on a precautionary basis without taking into account the effect of proposed mitigation, such as the mine gas capture system that will be developed, and other likely significant reductions in emissions resulting from improvements in technology and the provision of greener electricity over the lifetime of the development.
- 4.2.23 Additional GHG emissions caused by the Proposed Development represent an environmental harm that should be taken into account. The weight that is given to this harm should be considered in the context of the requirement in the Climate Change Act 2008 to reduce carbon emissions so as to reach net-zero emissions by 2050, which is also reflected in the various policy requirements set out above that seek to reduce carbon emissions. Whilst compliance with the duty under the 2008 Act is a matter for the Secretary of State, the extent to which a development may cause significant additional GHG emissions and therefore affect the steps required to ensure compliance with this duty may still be a relevant material

consideration in the determination of a planning application by a local planning authority. Albeit, the weight given to such a consideration must necessarily reflect the level of uncertainty involved in such judgements and the limited control which the applicant and local planning authority can have on GHG reduction outside the scope of the proposal.

- 4.2.24 In order to assess the significance of GHG emissions associated with each stage of the Proposed Development, the predicted emissions were examined against UK Carbon Budgets. The percentage contribution of emissions from the Proposed Development to these known Carbon Budgets are 0.002%, 0.077% and 0.104%, respectively. The magnitude of impact of the Proposed Development is therefore considered of low and of minor adverse significance when evaluated against the current UK Carbon Budgets. As such, the operations of the Proposed Development are not expected to affect the UK in meeting its current Carbon Budgets. However, the AECOM report recognises that operations and decommissioning activities will intersect reducing future Carbon Budgets and the net zero emissions target of 2050. Emissions from this Proposed Development may therefore increase in significance after 2050 without an emissions reduction strategy. To secure the implementation of GHG emissions mitigation measures, the Applicant will enter into a legal agreement, the provisions of which would require the periodic [5 yearly] review and re-assessment of anticipated GHG emissions. The assessments would be evaluated against future carbon budgets or any other mechanisms which might be put in place to monitor the UK's progress to net zero in 2050 and beyond for the life of the development. Each assessment of GHG emissions would need to confirm that the continued operation of the mine, taking account of any carbon reduction mitigation including that provided offsite, would not compromise the ability of the UK Government to meet its carbon emissions reduction obligations. If the assessment indicates that the mine's emissions could significantly contribute towards targets being missed, the operator would be required to provide additional mitigation or cease/reduce operations.
- 4.2.25 The assessment of GHG Emissions carried out by AECOM did not include GHG emissions caused by the onward transportation of coal beyond the first point of distribution following rail transportation from the Rail Loading Facility, or the subsequent use of that coal in steel works, This is because these emissions were not considered to represent indirect effects of the development for the purposes of the EIA Directive and EIA Regulations. However, it is recognised that these matters may nevertheless be capable of representing a material consideration in the determination of the planning application.
- 4.2.26 As is set out above, any further emissions caused by onward transportation are likely to be significantly less than the emissions presently caused by importing coal from the USA to Europe. Therefore, the potential for significant reductions in GHG emissions from international shipping is considered to be a significant benefit that weighs in favour of the Proposed Development.
- 4.2.27 It is considered that the GHG emissions caused by the subsequent use of coal produced by the Proposed Development should be given limited or no weight in the determination of this application. There are two principal reasons for this. First, the Proposed Development is not likely to result in the additional extraction of coal or use of any more coal so as to give rise to additional GHG emissions. Second, the subsequent use of coal produced by the Proposed Development is completely outside of the control of the Applicant and the local planning authority. Any GHG emissions from its use will occur at steel works in the UK and Europe that are subject to separate regulatory controls, which include environmental permitting and the EU Emissions Trading Scheme. Since there will continue to be a need for steel production using metallurgical coal from these facilities for a considerable period of time, as Dr Bristow explains, and since the production of this steel forms an important part of the transition towards a low carbon future, any reduction in GHG emissions caused as a result of blast furnace production can only be brought about through additional regulatory control and mitigation [e.g. carbon capture and storage] at the steel works themselves. In this respect, there is clearly an environmental benefit in supporting existing European steel works, which are some of the most heavily regulated and greenest steel works in the world, with locally produced metallurgical coal.

Policy Specific Tests

- 4.2.28 Central Government's approach to planning for minerals is set out in the National Planning Policy Framework at paragraph 203:
- 'It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.'*

- 4.2.29 At a site-specific level, the proposed location for the main mine site is the former chemical works at Marchon. This is previously developed land and so is in compliance with the requirements of the Copeland Local Plan Policy ST1 Criterion B (iv) which seeks to reuse previously developed land wherever possible. The location of the rail loading facility was arrived at as it provided the closest point of connection to the Cumbrian Coast Rail line with the space required to construct the rail loading facility building. There was little scope for alternative alignments for the conveyor given that both end locations were fixed and the operational necessity of keeping the alignment as straight as possible.
- 4.2.30 At the earliest conceptual design stages WCM were very much aware that, because of the volumes of coal anticipated to be generated, transportation of the mineral by rail would be required. The environmental impacts and economic costs prohibited road transport. Consequently, it is proposed to transport coal by rail with delivery to the loading facility by underground conveyor. The conveyor would transport the Metallurgical coal to the rail loading facility where it would be loaded on to trains for transportation to market. The waste materials from the processing plant would be returned to voids underground as a paste. Consequently, no products from the site, or any mining or process waste, are transported by road, which accords with the location requirements of MWLP Policies SP13 and DC1 and Copeland Local Plan Policy ST1, part B(v).
- 4.2.31 WCM are committed to using recycled material wherever possible in building construction. This commitment is set out in the Design Statement which states that *'the primary construction materials would be concrete and steel, both of which would be specified to include high recycled contents.'* Additionally, the design seeks to maximise the use of natural light in office buildings and grey water recycling systems would be employed. Water used in the coal processing plant would be around 98% recycled and all surface water would be recovered for uses on site. In this respect the proposal endeavours to be resource/energy efficient and minimises waste production. In this regard the proposal complies with the requirements for this contained within Copeland Local Plan Policy ST1 parts B (i) and B (v) and policy DM11 parts B, E, F and G; and MWLP policy SP13.
- 4.2.32 The planning system's very purpose is the pursuit of sustainable development. The planning system can contribute to combatting climate change by ensuring that the right types of development come forward in the right places. Reducing distances travelled between the locations at which raw materials are obtained and locations which use those materials contributes to the achievement of sustainable patterns of development. There is alignment of the economic opportunity which has driven this proposal and the imperative for creating sustainable patterns of development.
- 4.2.33 Therefore, whilst the Proposed Development might result in an increase in GHG emissions adopting a worst case scenario, in respect of the specific tests identified above, the proposal accords with the policy objectives of the statutory development plan, the emerging local plan and national guidance.

4.3 ECONOMIC BENEFITS

Adopted Policy

- 4.3.1 MWLP Policy SP14 requires that:
'Proposals for new minerals and waste developments... should demonstrate how they would realise their potential to provide economic benefit.' This may include such matters as the number of jobs directly or indirectly created or safeguarded and the support that proposals give to other industries and developments. Relevant adverse economic impacts on other industries, or on regeneration and development initiatives, will be weighed against the overall economic benefits of the proposal.'
- 4.3.2 Part A of Copeland Local Plan Policy ST1 relates to Economic and Social Sustainability and supports *'...diversity in jobs, and investment in education and training, especially that which creates and attracts business.'*
- 4.3.3 Copeland Local Plan Policy ST3 refers to the pursuit of economic regeneration and growth to fulfill strategic objectives for Copeland and West Cumbria and identifies regeneration sites in south and central Whitehaven as one of its priorities.
- 4.3.4 Copeland Local Plan policy ER11 – Developing Enterprise and Skills indicates that it will 'work with its partners to promote and develop the skills and employment opportunities of local people by:
A. *Enhancing inward investment and promoting the diversification of the Borough's economy; and*
B. *Supporting the development of education and training facilities, to encourage people to develop the qualifications and skills'*

4.3.5 Copeland Local Plan Policy DM3 seeks to secure the use of land allocated for employment areas for their allocated use.

NPPF

4.3.6 The NPPF at paragraph 8 identifies three overarching objectives for achieving sustainable development. The first of these is: *'an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.'*

4.3.7 Section 6 of the NPPF provides guidance on building a strong, competitive economy. At paragraph 80 it states: *'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.'*

4.3.8 Paragraph 203 of the NPPF recognises that *'it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings energy and goods the country needs.'*

Planning Practice Guidance: Minerals

4.3.9 The PPG re-iterates the importance of minerals at paragraph 1, which states: *'They [minerals] make an essential contribution to the country's prosperity and quality of life.'*

Policy and Guidance Synopsis

4.3.10 Economic growth remains significantly important at all levels, from central Government to County and District policy documents. The economy of the UK is fragile. The uncertainties of the shape and impacts of coronavirus and of the departure of the UK from the EU are likely to reduce investor confidence and inhibit future investment for a number of years. Additionally, Toshiba has recently announced its withdrawal from UK nuclear development and has decided to wind up Nugen. Within this context, the support for economic growth in this part of West Cumbria is particularly pertinent.

Assessment

4.3.11 Chapter 7 of the Environmental Statement reports the findings of the Socio Economic impacts of the proposals. The assessment refers to commitments from WCM to seek to award construction contracts locally wherever possible, and to source 80% of the workforce locally when the mine is operational.

4.3.12 That assessment concluded that:

'Both the construction of the mine, and throughout its period of operation, there would be significant beneficial effects to the local economy. The benefits result from the initial investment in local products and services during construction and from the ongoing wages expenditure and purchase of local products and services. Over 500 jobs would be created when the mine is operational with further employment anticipated to be up to 1,000 created indirectly. Additionally up to 50 apprenticeships would be offered.'

4.3.13 The assessment also concluded that any potential negative economic impacts would not be significant. Overall, the proposal would have a significant positive economic impact locally. Additionally, the assessment found that there *'...is a correlation between economic prosperity and the social wellbeing of communities.'*

4.3.14 The proposal is fully in accordance with the requirements of Cumbria MWLP SP 14. These policies call for proposals to realise their potential to provide economic benefit. The socio-economic assessment clearly indicates that the proposals would result in a significant number of jobs being created directly and indirectly.

4.3.15 The inward investment that would be generated by the development and operation of the mine, the variety of jobs and apprenticeships that would be created and the social impacts of the increase in wealth across most if not all sections of the local community demonstrates compliance with Copeland Local Plan Policies ST1 (Part A) DM3.

- 4.3.16 The Proposed Development I would provide a very useful contribution to the local West Cumbrian economy at a time when the expected significant investment associated with the construction of Moorside and its associated electricity connections seems unlikely, at least in the short term. As such it provides a useful contribution to the Government's aim to secure economic growth to create jobs and prosperity.
- 4.3.17 In conclusion the proposal is in accordance with the adopted and emerging policy aims and the national drive for economic growth.

4.4 TRANSPORT

Adopted Policy

- 4.4.1 MWLP Policy DC1 – Traffic and Transport states:

'Proposals for minerals and waste developments should be located where they:

- a. *are well related to the strategic route network as defined in the Cumbria Local Transport Plan; and/or*
- b. *have potential for rail or waterborne transport and sustainable travel to work; and*
- c. *to minimise operational "minerals and waste road miles where practicable.'*

Mineral developments that are not located as above may be permitted:

- if they do not have unacceptable impacts on highway safety and fabric, the convenience of other road users and on community amenity;
- where an appropriate standard of access and traffic routing can be provided.'

- 4.4.2 Copeland Local Plan policy ST1 at Part B vi] seeks to ensure developments:

'Minimise the need to travel, support the provision of sustainable transport infrastructure and measures that encourage its use.'

NPPF

- 4.4.3 Section 9 of the NPPF seeks to promote sustainable transport. At paragraph 102 it is indicated that:

Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- a. *the potential impacts of development on transport networks can be addressed;*
- b. *opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
- c. *opportunities to promote walking, cycling and public transport use are identified and pursued;*
- d. *the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
- e. *patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.'*

- 4.4.4 Paragraph 108 and 109 set out the traffic and transport considerations for individual proposals which require that:

- a. *'appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b. *safe and suitable access to the site can be achieved for all users; and*
- c. *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

Paragraph 109 indicates that:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

4.4.5 Paragraph 111 states that:

'All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.'

Policy and Guidance Synopsis

4.4.6 The twin concepts of sustainability and safety run through the policy and guidance objectives for traffic and transport. Adopted MWLP Policy DC1 encourages locations which can utilise rail and sea transport and minimise the road miles travelled by minerals and waste. Encouraging sustainable patterns of development to minimise travel is repeated in Copeland Local Plan policy ST1 at Part B vi) and NPPF paragraph 108.

Assessment

- 4.4.7 The proposal provides for the product from the mine to be transported by underground conveyor to a facility to load all products onto trains for transportation to market. All waste from the processing plant is returned underground without leaving the mine. No product or processing waste would be transported by road when the site is operational.
- 4.4.8 For the period of construction, Chapter 8 of the Environmental Statement found that at its peak of traffic generation all junctions are forecast to operate within their capacity apart from junction 2, [A595North / B5295 / Homewood Rd / Egremont Road Roundabout]. This junction is predicted to operate over its capacity at the 2019 'Do-Nothing' traffic forecast. Therefore, the exceedance would occur irrespective of the CMCP traffic.
- 4.4.9 The same conclusions apply when the site would be fully operational and at its greatest levels of production – all junctions operate within capacity with the exception of junction 2 which is predicted to perform overcapacity even without any traffic generated by the mine.
- 4.4.10 The chapter provides a framework for the preparation of travel plans for construction and operational periods, which would consider employees' travel, deliveries and HGV routing, and on-going monitoring and management. The Travel Plans would be key to securing more sustainable travel to work travel modes.
- 4.4.11 The proposal utilises sustainable transport options for the delivery of product. Road traffic during construction can be accommodated by the local road network, and travel plans would encourage sustainable travel to work transport options.
- 4.4.12 Critical to the transport assessment is the feasibility of using the Cumbria Coast Rail line as a means of transportation for products. Chapter 9 of the Environmental Statement provides an assessment of this feasibility. WCM has undertaken several exercises to demonstrate the impacts of proposed coal rail movements on the rail network from Whitehaven to the port of Redcar. At peak production, WCM propose to run six coal trains per day on the Cumbria Coast Rail line and beyond to coal customers and export destinations. Currently there is sufficient capacity for up to four trains per day. WCM is working with Network Rail and its chosen rail freight provider, Freightliner, to model capacity and develop ways to achieve six train paths per day for WCM trains. This could involve improved allocations of train paths to WCM and/or infrastructure interventions, notably a possible signalling upgrade to a long block section north of Whitehaven. The construction programme for the mine is two years with a further three years of operation during which production would be increased before an additional train path is needed. It is anticipated that the allocation of additional paths and/or the intervention to facilitate the extra train paths would be completed within this period.
- 4.4.13 The proposal to use the rail network is in compliance with policies which require the use of sustainable transport options.

4.5 HISTORIC ENVIRONMENT

Legislation

4.5.1 Section 66 of the Planning [Listed Buildings and Conservation Areas] Act 1990 places a specific duty on local planning authorities. It states:

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Adopted Policy

- 4.5.2 MWLP Policy SP 15 requires that minerals and waste management developments should aim to, inter alia *'protect, maintain and enhance overall quality of life and the natural, historic and other distinctive features that contribute to the environment of Cumbria and to the character of its landscapes and place.'*
- 4.5.3 The policy includes a section on heritage designations. It indicates that where proposals would substantially harm or totally destroy the Outstanding Universal Value of a World Heritage Site, or the significance of a designated heritage asset or their settings permission will only be granted where they are necessary to achieve substantial public benefits that outweigh the harm or loss.
- 4.5.4 Where development proposals cause less than substantial harm to the Outstanding Universal value of a World Heritage Site or the significance of a designated heritage asset, or their settings, the harm will be weighed against the public benefits of the proposals.
- 4.5.5 MWLP Policy DC117 Historic environment seeks to 'preserve and where necessary enhance Cumbria's heritage assets and their settings.' It reiterates the tests in relation to World Heritage Sites and designated heritage assets. It also provides guidance in relation to non-designated heritage assets and their settings which indicate that proposals will be judged on the significance of the heritage asset, the scale of harm and public benefits of the proposal.
- 4.5.6 The policy includes the approach to proposals which affect archaeological sites with a preference for in-situ preservation or, if that is not possible, excavation and recording.
- 4.5.7 Finally, the policy requires that all development proposals that will have an impact on any heritage asset should be accompanied by an assessment of how the significance of a heritage asset would be affected by the proposal.
- 4.5.8 Copeland Local Plan Policy ST1 at part C seeks to protect the Borough's valued assets which includes at C ii) *'Protect and enhance the Borough's cultural and historic features and their settings.'*
- 4.5.9 Copeland Local Plan Policy ENV4 relates to Heritage Assets and states:
'The Council's policy is to maximise the value of the Borough's heritage assets by ... protecting listed buildings, conservation areas and other townscape and rural features considered to be of historic, archaeological or cultural value.'
- 4.5.10 Copeland Local Plan Policy DM27 states:
'Development proposals which protect, conserve and where possible enhance the historic, cultural and architectural character of the Borough's historic sites and their settings will be supported.'

NPPF

- 4.5.11 Section 16 of the NPPF is dedicated to conserving and enhancing the historic environment. It recognises at paragraph 184 that heritage assets *'are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.'*
- 4.5.12 Paragraphs 193 to 196 set out the approach for considering the potential impacts of development on heritage assets which includes the following:
- When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be);
 - Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification;
 - Substantial harm to or loss of: grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
 - Substantial harm to or loss of assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional;

- Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

4.5.13 At paragraph 173 the NPPF sets out the approach to be adopted for developments affecting a defined heritage coast. Within such areas *'planning... decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.'* An assessment of the Proposed Development's impact on the Heritage Coast is provided in the following section dealing with Landscape and Visual impacts.

Planning Practice Guidance: Conserving and enhancing the historic environment

4.5.14 The PPG recognises that *'heritage assets are an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits.'*

4.5.15 In respect of decision taking it indicates that:

'What matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting.'

Policy and Guidance Synopsis

4.5.16 The conservation of heritage assets is a core policy objective of government, as is set out within the NPPF. The key component of the assessment of proposals is whether or not it would result in substantial harm to the significance of the heritage asset.

4.5.17 In determining the threshold at which harm becomes 'substantial', the PPG advises that this is for the decision taker to decide but *'in general terms it is a high test, so it may not arise in many cases'*. It also indicates that harm may arise from works to the asset or from development within its setting.

4.5.18 Where harm is substantial the requirement is that the application be refused unless it is *'demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.'* NPPF paragraph 195. Where harm is less than substantial then this harm should be weighed against the public benefits of the proposal.

Assessment

4.5.19 The Historic Environment chapter of the Environmental Statement at paragraph 16.5.8 reports that within the 5 kilometre study area there are 62 designated heritage assets and two conservation areas.

4.5.20 The conclusions of the Environmental Statement are that there would be a moderate adverse effect on the listed building Scalegill Hall and adjoining Barn.

4.5.21 Scalegill Hall and adjoining Barn are Grade II listed buildings dating from the 17th Century. They are located approximately 3.1 km from the Main Mine Site and approximately 1.3 km from the Rail Loading Facility. The predicted impact is one of affecting the setting of the listed buildings. This impact is moderated by the distances between the proposal's components and the buildings, and the separation of the proposal from the buildings by the A595 and its high hedgerows limiting visibility.

4.5.22 The assessment also finds that there would be a moderate adverse effect relating to the heritage sensitivity of the St Bees Heritage Coast. All other assets would be subject to a lesser impact.

4.5.23 The above ground components of the proposals do not encroach into the Heritage Coast or the area of the proposed extension to the Heritage Coast which extends northwards from its current boundary, but is very much restricted to areas close to the coast. At its closest point the Main Mine Site is 700 metres from the boundary of the Heritage Coast.

- 4.5.24 The advice in the PPG is that the threshold is quite high when considering whether impacts on the significance of heritage assets can be considered as 'substantial'. The limited scale of the impacts identified in the Environmental Statement suggests these impacts do not meet or exceed the threshold of 'substantial'.
- 4.5.25 The NPPF advice is that where harm to a designated heritage asset is less than substantial the approach to determining an application is to weigh the harm to the heritage asset against the public benefits of the proposal. However, in carrying out this exercise, any harm to the designated asset must nonetheless be given considerable importance and weight.
- 4.5.26 The MWLP policy DC17 takes a different stance to the NPPF. It makes no distinction between whether the impact on the significance of a heritage asset would be substantial or not and requires that '*... proposals that would result in harm to... the significance of a designated heritage asset or its setting or on an undesignated asset of national significance or its setting or the Outstanding Universal Value of a World Heritage Site will only be permitted where it can be clearly demonstrated that public benefits outweigh the harm and that the harm is necessary to achieve those benefits.*'
- 4.5.27 The Copeland Local Plan Policies take a different approach again, and policies are positively worded indicating that proposals which protect, conserve, and where possible enhance the Borough's historic sites and their settings, will be supported.
- 4.5.28 The greatest impacts on cultural heritage assets are assessed as being to a moderate level. Given that the test of 'substantial' impacts has a high bar, the conclusion is that the impacts are less than substantial. In this case, the impacts on heritage assets are to be balanced against the public benefits of the proposal. Given the limited harm to the identified heritage assets, it is considered that the impacts are outweighed by the substantial socio-economic benefits of the proposals and that those benefits can only accrue from the harm to the assets.

4.6 LANDSCAPE AND VISUAL IMPACT

Adopted Policy

- 4.6.1 MWLP Policy SP15 Environmental Assets requires minerals and waste developments to, in part:
- protect, maintain and enhance people's overall quality of life and the natural, historic and other distinctive features that contribute to the environment of Cumbria and to the character of its landscapes and places;

the policy identifies a series of designations which includes landscape designations and for these it states:

'Major developments that adversely affect the designated areas or the settings of National Parks, Areas of Outstanding Natural Beauty and Heritage Coasts, will only be granted planning permission in exceptional circumstances and where it can be demonstrated that they are in the public interest.'

- 4.6.2 This policy differs to that within the NPPF in relation to Heritage Coasts. The NPPF at paragraph 172 indicates that great weight should be given to '*conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues... Planning permission should be refused for major development other than in exceptional circumstances.*' Paragraph 173 of the NPPF advises that '*Within areas defined as Heritage Coast, planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.*' In respect of its approach to Heritage Coasts Policy SP15 conflicts with and exceeds the requirements of the NPPF. The Cumbria Minerals and Waste Local Plan was adopted in 2017. Since that time the NPPF has been updated twice and now contains different wording in relation to Heritage Coasts. Accordingly the conflict with Policy SP 15 is attributed only limited weight. Notwithstanding this for the sake of prudence the test in Policy SP15 has been carried out in the Assessment section of this statement at paragraphs 4.6.21 and 4.6.32. The above ground components of the development are all outside the Heritage Coast and impacts are restricted to long distance views from it of the Proposed Development.

The policy sets out the approach to the protection of environmental assets including landscape impacts –

Permission will not be granted for development that would have an unacceptable impact on the environmental assets, on its own or in combination with other developments, unless it is demonstrated that:-

- *there is an overriding need for the development, and*

- it cannot reasonably be located on any alternative site that would result in less or no harm, and then,
- the effects can be adequately mitigated, or if not,
- the effects can be adequately and realistically compensated for through offsetting actions.

4.6.3 Policy SP16 Restoration and aftercare indicates that restoration schemes should demonstrate that best practicable measures have been taken to help deliver the sustainability objectives of this Plan.

4.6.4 Cumbria Minerals and Waste Local Plan policy DC2 - General Criteria:

'Minerals and Waste proposals must, where appropriate, demonstrate that:

- assessments have been carried out, the relevant scope of which have been agreed in advance with the planning authority, and proposals have been designed to address, where relevant, impacts on the natural and historic environment or human health ...'*

4.6.5 Policy DC18 Landscape and visual impact indicates that *'proposals for development should be compatible with the distinctive characteristics and features of Cumbria's landscapes...'*

To achieve this, proposals should –

- *avoid significant adverse impacts on the natural and historic landscape*
- *use Landscape Character Assessment to assess the capacity of landscapes to inform the appropriate scale and character of development;*
- *use the Guidelines for Landscape and Visual Impact Assessment to assess and integrate these issues into the development process*
- *ensure that development proposals avoid significant adverse visual impacts*
- *direct minerals and waste developments to less sensitive locations, and ensure that sensitive siting and high quality design prevent significant adverse impacts on the principal local characteristics of the landscape*

4.6.6 Cumbria Minerals and Waste Local Plan Policy DC22 – Restoration and Aftercare:

'... All proposals must demonstrate that ...the restoration is appropriate for the landscape character and wildlife interest of the area, and measures to protect, restore and enhance biodiversity and geodiversity conservation features are practical, of a high quality appropriate to the area and secure their long-term safeguarding and maintenance;'

4.6.7 Copeland Local Plan Policy ENV 2 relates to coastal management and states that:

'To reinforce the Coastal Zone's assets and opportunities the Council will ...[inter alia]

- Protect the intrinsic qualities of the St Bees Head Heritage Coast in terms of development proposals within or affecting views from the designation. At the same time encourage schemes which assist appropriate access to and interpretation of the Heritage Coast area'*

4.6.8 Copeland Local Plan Policy ENV5 Protecting and Enhancing the Borough's Landscapes seek to protect and enhance the Borough's landscapes.

4.6.9 Copeland Local Plan Policy DM10 seeks the achievement of high quality spaces including the requirement to respond positively to the character of the site and immediate and wider setting and enhance local distinctiveness.

4.6.10 Copeland Local Plan Policy DM 26 Landscaping also advises developers to refer to the Cumbria Landscape Character Assessment and design their development to be congruent with that character. It advises that:

'Proposals will be assessed according to whether the proposed structures and associated landscaping relate well in terms of visual impact, scale, character, amenity value and local distinctiveness and the cumulative impact of developments will be taken into account as part of this assessment.'

4.6.11 Cumbria Minerals and Waste Local Plan Policy DC22 – Restoration and Aftercare:

'... All proposals must demonstrate that ...the restoration is appropriate for the landscape character and wildlife interest of the area, and measures to protect, restore and enhance biodiversity and geodiversity conservation features are practical, of a high quality appropriate to the area and secure their long-term safeguarding and maintenance;'

NPPF

- 4.6.12 Section 15 of the NPPF provides for conserving and enhancing the natural environment. At paragraph 170 it is stated that planning decisions should contribute to and enhance the natural local environment by:
- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils;*
 - recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
 - maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
 - minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
 - preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
 - remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

- 4.6.13 Paragraph 173 of the NPPF indicates that:

'Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 172), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.'

PPG Landscape

- 4.6.14 The first paragraph of the PPG recognises that:

'Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place. It can help to inform, plan and manage change...'

- 4.6.15 In relation to heritage coasts the PPG indicates that:

'Local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast.'

PPG: Minerals

- 4.6.16 Paragraph 13 of the PPG identifies the environmental issues of mineral working to be addressed by local planning authorities which include:

- 'Visual Impact on the local and wider landscape;*
- Landscape character;*
- Impacts on nationally protected landscapes (national parks and Areas of Outstanding Natural Beauty); and*
- Site restoration and aftercare.'*

PPG: Design

- 4.6.17 The PPG at paragraph 1 states that good design is an integral part of sustainable development. This paragraph also sets out what good design involves:

'Good design responds in a practical and creative way to both the function and identity of a place.'

- 4.6.18 At paragraph 4 the PPG advises:

'Local planning authorities should give great weight to outstanding or innovative designs which help to raise the standard of design more generally in the area. This could include the use of innovative construction materials and techniques.'

- 4.6.19 Paragraph 7 also indicates that:

'The successful integration of all forms of new development with their surrounding context is an important design objective, irrespective of whether a site lies on the urban fringe or at the heart of a town centre.'

Policy and Guidance Synopsis

- 4.6.20 Landscape policy flows from the premise that the countryside is a resource to be protected. Within the countryside there are landscapes which are of special quality, which are designated as such and which enjoy particular protection. For the other remaining landscapes the NPPF promotes the protection and enhancement of 'valued landscapes' [paragraph 170]. It follows that landscapes which are neither designated nor fall to be considered as 'valued' enjoy the least level of protection.
- 4.6.21 The approach to assessing landscape impacts includes the use of landscape character assessment which can inform 'the capacity of landscapes to accept development.' [MWLP policy DC18], which also requires that proposals for development should be compatible with the distinctive characters and features of Cumbria's landscapes. MWLP Policy SP15 prevents major developments that affect Heritage Coasts other than in exceptional circumstances. Copeland Local Plan Policy ENV 2 seeks to protect the intrinsic qualities of St Bees Head Heritage Coast. ENV5 aims to protect the Boroughs landscapes from inappropriate change and Policy DM26 advises developers to refer to the Cumbria Landscape Character Assessment and to use this to inform their design.
- 4.6.22 Policies on restoration seek to ensure that they deliver sustainability objectives, enhance biodiversity and the environment and ensure that it is appropriate for the landscape character of the area.
- 4.6.23 Cumbria Minerals and Waste Local Plan Policy DC18 introduces the aim of avoiding significant adverse landscape and visual impacts.

Assessment

- 4.6.24 None of the elements of the proposed development which would be constructed above ground fall within any areas designated for their landscape quality or within the boundary of the Heritage Coast
- 4.6.25 The Landscape and Visual Impact Assessment reported that the design of all elements of the proposed development 'avoids and minimises as far as possible the potential for adverse landscape or visual effects.'
- 4.6.26 In line with design guidance, the design objectives adopted for the main mine site 'are to create a high-quality landscape setting for the development which integrates it with the surrounding townscape to the north and east and surrounding rural areas to the south and west. Screening mounds are included to provide visual screening and also frame key views into the site from certain locations.'
- 4.6.27 The findings of the landscape impacts of the main mine site were that it 'would result in beneficial effects upon the landscape fabric due to the extensive landscaping proposals.'
- 4.6.28 In terms of landscape character, the assessment concluded that 'large scale built development is an expected landscape change within the Urban Fringe LCT [5d] and is not in its own right considered to be an adverse change.'
- 4.6.29 It was found that the RLF would result in 'moderate adverse effects within LCT 4 Coastal Sandstone which would not be significant. No long term landscape or visual effects would arise as a result of the underground conveyor.'
- 4.6.30 In terms of visual effects these could be significant when viewed from and limited to 'the closest dwellings along High Road, to the north of Sandwith and the few isolated dwellings near the RLF in the Pow Beck valley. Beyond those, no significant effects would occur from dwellings.' No significant effects would occur from roads within the study area.
- 4.6.31 Overall, the assessment found that because of the extensive and high quality design based mitigation, 'the effects of this development have been minimised as far as possible. Significant landscape and visual effects are highly localised and extremely limited as a direct result.'
- 4.6.32 MWLP Policy SP15 prevents major development which affect the designated area of the settings of Heritage Coasts indicating that they will only be granted in exceptional circumstances and in the public interest. It refers to the considerations set out in paragraph 116 of the 2012 NPPF in establishing these exceptions. Paragraph 116 indicates that these considerations should include an assessment of:

- *'the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- *'the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *'any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

None of the above ground components of the development are within the Heritage Coast designation. The Proposed Development, however, would be visible in views from parts of the St Bees Heritage Coast towards Whitehaven. Views will be predominantly long distance and those views would be set against the urban development of Whitehaven. The socio-economic benefits of the proposal are set out in section 4.3 above and are substantial. These represent exceptional reasons in the public interest for approving the Proposed Development and so there is no conflict with policy MWLP SP15. There remains some conflict with Copeland Local Plan Policy ENV2 which aims to protect the *'intrinsic qualities of the St Bees Head Heritage Coast in terms of development proposals within or affecting views from the designation.'* This policy provides no qualification of its application by way of economic or other benefit. The significance of effect of the proposals on the heritage sensitivity of St Bees Heritage Coast is therefore considered to be no more than moderate adverse.

4.6.33 In terms of policy compliance, both assessment and design has been informed by, and responded to, the wider landscape character and the individual site context. The designs have been subject to assessment and re-assessment to minimise landscape and visual impacts whilst meeting operational imperatives. Similarly, the restoration proposals provide for an appropriate final landscape and are compliant with policy. However, it is inevitable that a development of this size and nature will always have significant, albeit localised, visual and landscape impacts. Consequently, this leads to some conflict with the following policies:

- MWLP SP15 which aims to protect, maintain and enhance the distinctive features that contribute to the environment of Cumbria and to the character of its landscapes;
- MWLP DC18 which seeks to avoid adverse impacts on natural and historic landscapes
- CLP Policy ENV2 in that the proposal would have a moderate adverse visual impact in views from the Heritage Coast.

4.7 BIODIVERSITY

Adopted Policy

4.7.1 Minerals and Waste Local Plan policy SP15 Environmental Assets includes aims to:

- protect maintain and enhance, inter alia, the natural features that contribute to the environment of Cumbria; and
- help secure movement from a net loss of biodiversity towards achievement of net gains in biodiversity resources by protecting expanding and linking areas for wildlife

The policy identifies specific designations relating to environmental assets and the approach to be adopted in assessing proposals which may affect those assets:

Marine designations:

The local authority will seek to exercise its functions in a manner that furthers the achievement of the conservation objectives of the MCZ, or least hinders the achievement of those objectives. Therefore, any major developments that adversely affect any MCZ, will only be granted planning permission in exceptional circumstances and where it can be demonstrated that they are in the public interest.

Ramsar and European Wildlife Sites:

The precautionary principle will be applied to any development proposals affecting these sites and planning permission will be granted only if Habitats Regulations Assessment can determine that a proposal will not have an adverse effect on the integrity of the Site. The only exception is where there are no alternative solutions that would have no (or a lesser) effect and that the development must be carried out because there are imperative reasons of overriding public interest..

...this policy also applies to potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites where the Government has initiated the relevant public consultation...

Sites of Special Scientific Interest (SSSI)

Planning permission will not normally be granted for development within or outside an SSSI, which is likely to have an adverse effect on it, individually or in combination with other development. Exceptions will only be made where the benefits of the development, at the proposed site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.

Environmental assets not protected by national, European or international legislation

Where not otherwise protected by national, European or international legislation, great weight will be given to conserving habitats and species of principal importance and irreplaceable habitats ...planning permission will be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.'

The policy also indicates that:

Permission will not be granted for development that would have an unacceptable impact on the environmental assets, on its own or in combination with other developments, unless it is demonstrated that:-

- there is an overriding need for the development, and
- it cannot reasonably be located on any alternative site that would result in less or no harm, and then,
- the effects can be adequately mitigated, or if not,
- the effects can be adequately and realistically compensated for through offsetting actions.

4.7.2 MWLP Policy DC 16 specifically addresses Biodiversity and Geodiversity. It requires that proposals identify any potential impacts on important biodiversity and geological assets, and on functional ecological and green infrastructure networks, potential for enhancing these and the possible contribution to national and local biodiversity and geodiversity objectives.

Where proposals are within or affect these features they are required to demonstrate:

- a. *'The need for, and benefits of, the development and the reasons for locating the development in its proposed location and that alternatives have been considered.*
- b. *Appropriate measures to mitigate any adverse effects (direct, indirect and cumulative) have been identified and secured, and advantage has been taken of opportunities to incorporate beneficial biodiversity and geological conservation features, or*
- c. *where adverse impacts cannot be avoided or mitigated for, that appropriate compensatory measures have been identified and secured, and*
- d. *that all mitigation, enhancement or compensatory measures are compatible with the characteristics of, and features within, Cumbria.'*

4.7.3 MWLP Policy DC22 requires that restoration schemes are appropriate for the wildlife interest of the area.

4.7.4 Copeland Local Plan Policy ST1 at part part C i) seeks to *'Protect and enhance areas, sites, species and features of biodiversity value.'*

4.7.5 Copeland Local Plan ENV3 indicates that the Council will contribute to the implementation of the UK and Cumbria Biodiversity action plan through a series of actions including: *'Ensure that development incorporates measures to protect and enhance any biodiversity interest.'*

4.7.6 Policy DM25 provides protection to nature conservation sites, habitats and species and requires:

- A *All development proposals should:*
 - i) *Protect the biodiversity value of land and buildings*
 - ii) *Minimise fragmentation of habitats*
 - iii) *Maximise opportunities for conservation, restoration, enhancement and connection of natural habitats and creation of habitats for species listed in UK and Cumbria Biodiversity Action Plans...*
- B *Development proposals that would cause a direct or indirect adverse effect on locally recognised sites of biodiversity and geodiversity importance, including County Wildlife Sites, Local Nature Reserves and Regionally Important Geological/Geomorphological Sites or protected species will not be permitted unless:*
 - i) *The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and,*
 - ii) *Prevention, mitigation and/or compensation measures are provided'.*

NPPF

- 4.7.7 Section 15 of the NPPF relates to the conservation and enhancement of the natural environment. It indicates at paragraph 170 that planning decisions should contribute to and enhance the natural and local environment by, inter alia, 'minimising impacts on and providing net gains for biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures.'
- 4.7.8 Paragraph 175 sets out the principles Local Planning Authorities should apply in determining planning applications which are:
- a. *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
 - b. *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
 - c. *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
 - d. *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*

Footnote 58 in relation to the loss of irreplaceable habitats provides some guidance on what is meant by the term 'wholly exceptional'. It provides an example of this which is '*infrastructure projects ... where the public benefit would clearly outweigh the loss or deterioration of habitat.*'

PPG: Natural Environment

- 4.7.9 The PPG, under its subsection Biodiversity and ecosystems, refers to Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard to the purpose of conserving biodiversity. At paragraph 16 it also advises that information on biodiversity impacts should inform all stages of development.

Policy and Guidance Synopsis

- 4.7.10 The Natural Environment and Rural Communities Act 2006 establishes a statutory duty for local authorities to '*have regard to conserving biodiversity*' in the exercise of their functions. We can look at planning policy to understand how this requirement is exercised by local planning authorities in determining planning applications.
- 4.7.11 Adopted policy recognises the value of biodiversity and seeks to avoid unacceptable impacts on it, where impacts cannot be voided it seeks the use of mitigation, and if that is not adequate, compensation measures are required.

Assessment

- 4.7.12 The findings of the ecology chapter of the Environment Statement were recorded by type of asset.
- 4.7.13 In relation to statutory sites it was concluded that the embedded mitigation which includes underground mine design and above ground acoustic screening on the plant building sufficiently mitigate any potential effects on statutory sites.
- 4.7.14 For the potential extension to the Solway Firth Special Protection Area it was concluded that there would be no significant residual adverse effects are likely as a result of the proposed development.
- 4.7.15 In terms of non-statutory sites, there are four non-statutory Local Wildlife Sites within 2 km of the Site: Roska Park LWS, Bellhouse Gill Woods LWS, Stanley Pond LWS and Woodhouse Quarry LWS. The installation of the conveyor linking the Main Mine Site to the RLF will require the excavation of a trench. The route of the trench will pass directly through two non-statutory Local Wildlife Sites (Roska Park LWS and Bellhouse Gill LWS). To facilitate this, an area of approximately 0.04

Ha of deciduous woodland will be felled within Roska Park LWS and 0.02 Ha of ancient replanted semi-natural woodland will need to be felled within Bellhouse Gill wood LWS; the total size of this LWS is 2.3 Ha). The creation of the trench will also lead to disruption of ground flora communities within the woodlands, which currently supports a range of ancient woodland indicator species.

- 4.7.16 For the River Derwent and Bassenthwaite Lake and River Ehen Special Areas of Conservation it was concluded that no significant residual adverse effects are likely as a result of the proposed development.
- 4.7.17 Within the main mine site, the landscaping measures are likely to result in a beneficial effect that is significant at the Local level.
- 4.7.18 Along the line of the conveyor and for the RLF it was concluded that effects would be neutral for all habitats except grassland at the RLF, where there will be an adverse effect that is significant at the Site level. The reinstatement work would result in a continuation of those habitats currently found within the affected areas, and residual effects are considered to be neutral.
- 4.7.19 The proposed habitat creation works would lead to minor beneficial effects for birds, amphibians and invertebrates.
- 4.7.20 The Marine Ecology Chapter found that:
'Based on the evidence gathered and the information provided, including the extensive management plans and measures, it is expected that there will be no significant impacts on the marine environment, nor on marine protected sites or species, as a result of the proposed development.'
- 4.7.21 In the absence of any significant adverse impacts on important biodiversity resources or on the marine conservation zone the proposal is compliant with adopted local plan policies SPI5 and DC16.

4.8 NOISE AND VIBRATION

Adopted Policy

- 4.8.1 CMWLP Development Control Policy DC2 requires that proposals demonstrate that they have been designed to *'address, where relevant, impacts on the natural and historic environment or human health.'* Consideration of noise impact would be influenced by the proximity of receptors and *'the extent to which adverse effects can be controlled through sensitive siting and design ... or acoustic screening.'*
- 4.8.2 CMWLP Development Control Policy DC3 provides specific noise limits:
'Noise attributable to minerals and waste developments shall not exceed background noise levels, LAeq 1 hour (free field) by more than 10dB(A) at noise sensitive properties, subject to:
- weekday daytime (0700 to 1900 hours) maximum of 55dB(A) LAeq 1 hour (free field)
 - Saturday daytime (0700 to 1300) maximum of 55dB(A) LAeq 1 hour (free field);
 - evening (1900 to 2200 hours) maximum of 55dB(A) LAeq 1 hour (free field); and
 - night time (2200 to 0700 hours) maximum of 42dB(A) LAeq 1 hour (free field).
- Sunday, Public/Bank holiday and night time working near to noise sensitive properties or receptors should be avoided where practicable. Developments that are required to operate at these times shall provide extensive noise mitigation measures and, when operational, shall proactively seek to minimise noise throughout the life of the development, based on the findings of comprehensive environmental noise monitoring. A limit of 42dB (A) LAeq 1 hour (free field) shall apply.*
- It is recognised that some temporary activities ... often bring longer-term environmental benefits. For such activities, increased temporary weekday daytime noise level limits should not exceed 70dB(A) LAeq 1 hour (free field) for periods of up to eight weeks in a year at specified noise sensitive properties.'*
- 4.8.3 Copeland Local Plan Policy ST1 at Part D ii) seeks to ensure that development *'provides or safeguards good levels of residential amenity'*.

NPPF

- 4.8.4 At paragraph 170 the NPPF indicates that planning decisions should, inter alia, *'prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of ... noise pollution.'*
- 4.8.5 Paragraph 180 advises that planning decisions should *'ensure that new development is appropriate to its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment...'* In doing so they should *'mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.'*
- 4.8.6 In relation to minerals development, one of the considerations identified at paragraph 205 is that Local Planning Authorities should *'ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties'*
- 4.8.7 In establishing noise limits, paragraph 204 g) indicates that it is appropriate to *'recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction.'*

PPG: Minerals

- 4.8.8 At paragraph 20 it is indicated that:
'Mineral planning authorities should take account of the prevailing acoustic environment and in doing so consider whether or not noise from the proposed operations would:
- give rise to a significant adverse effect;
 - give rise to an adverse effect; and
 - enable a good standard of amenity to be achieved.

In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure would be above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.'

- 4.8.9 At paragraph 21 it goes on to provide noise limits, which are the same as those in CMWLP Development Control Policy DC3.

Noise Policy Statement for England (March 2010) [NPSE]

- 4.8.10 The statement sets out the long term vision of the government's noise policy, which is to *'promote good health and a good quality of life through the effective management of noise within the context of policy on sustainable development'*.
- 4.8.11 The long term policy vision and aims are designed to enable decisions to be made regarding what is an acceptable noise burden to place on society.
- 4.8.12 The 'Explanatory Note' within the NPSE provides further guidance on defining 'significant adverse effects' and 'adverse effects' using the concepts:
- No Observed Effect Level (NOEL) - the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established;
 - Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected; and
 - Significant Observed Adverse Effect Level (SOAEL) - the level above which significant adverse effects on health and quality of life occur.'
- 4.8.13 The approach in NPSE is:
- The first aim is to avoid noise levels above the SOAEL;
 - The second aim where noise levels are between the LOAEL and SOAEL requires all reasonable steps should be taken to mitigate and minimise the effects. However this does not mean that such adverse effects cannot occur; and
 - The third aim where noise levels are between the LOAEL and NOEL requires where possible, reductions in noise levels to be sought through the pro-active management of noise.

Policy and Guidance Synopsis

- 4.8.14 The aim of noise policy and guidance is to strike a balance between allowing those activities which contribute to societal needs whilst offering protection to receptors and the occupiers of residential properties in particular. Guidance and policy provide noise limits for mineral developments and the noise policy statement sets aims on minimising noise effects.
- 4.8.15 The only policies which relate to vibration are those which refer to quarry blasting. As no use of explosives is proposed for the mine, none of the policies are applicable.

Assessment

- 4.8.16 The noise assessment within the Environmental Statement examined the potential noise generation from both the construction activities for the mine and its operation.
- 4.8.17 The predicted noise levels for daytime construction activities fall well below the relevant threshold criteria for all residential receptors; the significance of the effect is ranked as Negligible.
- 4.8.18 For night-time drift works, the magnitude of impact is assessed as Negligible at all except for the receptor at Cabbage Hall, where the significance of effect is Moderate. However, with additional mitigation, in the form of temporary barriers close to the surface plant and possibly additional attenuation to the noise sources the residual effect should reduce to Minor.
- 4.8.19 Construction vibration is unlikely to be perceptible at the nearest sensitive receptor.
- 4.8.20 The significance of noise increases resulting from construction traffic on public roads was assessed as Negligible /Slight.
- 4.8.21 For the mine processing site the significance of effect of operational noise levels was assessed as slight. Operational noise levels including that generated by the operation of five gas generators or the operation of two diesel generators are predicted to be above the noise limits at all receptors during both the daytime at ground floor level and night-time at first floor level. Mitigation in the form of full enclosure and exhaust silencing would provide noise levels which meet the noise limits and result in a significance of effect of Slight for these infrequent events.
- 4.8.22 Operational noise levels are predicted to be within the agreed noise limits at the closest receptors to the rail loading facility. Operational noise levels resulting from additional train movements on the main line are predicted to increase by 5dB at the closest sensitive receptor and are assessed as Slight/Moderate.
- 4.8.23 Overall, the significance of noise increases resulting from the proposals' operational traffic on public roads is assessed as Negligible/Slight.
- 4.8.24 With the proposed additional mitigation the overall noise impacts are all within acceptable limits with effects of only minor significance being predicted. As such the proposal is compliant with all noise policies and guidance. There are no applicable vibration policies but impacts are assessed as slight.

4.9 AIR QUALITY/DUST

Adopted Policy

- 4.9.1 MWLP Policy DC 5 indicates that:
'Applications for new minerals and waste development, and for the expansion of existing operations, will only be permitted where the applicant can provide evidence that the proposed development will not have a demonstrable impact on amenity, human health, air quality and the natural and historic environment, with regard to dust emissions. This will include a dust assessment study.'
- 4.9.2 Copeland Local Plan Policy ST1 at part C v) seeks to ensure development minimises air, ground and water pollution.

NPPF

- 4.9.3 At paragraph 170 the NPPF indicates that the planning system should contribute to and enhance the natural and local environment by:
'...preventing new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of soil, air, water or noise pollution.'

PPG: Minerals

4.9.4 At paragraph 23 the PPG indicates that where dust emissions are likely mineral operators are expected to prepare a dust assessment study. It goes on to identify the 5 key stages to a dust assessment as:

- 'establish baseline conditions of the existing dust climate around the site of the proposed operations;
- identify site activities that could lead to dust emission without mitigation;
- identify site parameters which may increase potential impacts from dust;
- recommend mitigation measures, including modification of site design;
- make proposals to monitor and report dust emissions to ensure compliance with appropriate environmental standards and to enable an effective response to complaints.'

PPG: Air Quality

4.9.5 At its first paragraph the PPG recognises that *'action to manage and improve air quality is largely driven by EU legislation.'* It subsequently indicates that *'the 2008 Ambient Air Quality Directive sets legally binding limits for concentrations in outdoor air of major air pollutants that impact public health.'*

4.9.6 The PPG refers to the local air quality management regime which requires that all district councils regularly review and assess air quality in their area. It also recognises that *'odour and dust can also be a planning concern, for example, because of the effect on local amenity'*.

Policy and Guidance Synopsis

4.9.7 The provisions of both policy and guidance provide a consistent requirement that air quality should not be significantly adversely affected and recognises within the minerals guidance that minerals developments can give rise to dust issues in particular.

Assessment

4.9.8 The Environmental Statement includes a chapter which reports the findings of the air quality assessment. That assessment examined potential impact of the proposals on air quality both during construction and when operational and looked at the impact on air quality of additional traffic movements generated by the proposals.

4.9.9 The assessments identified the level of dust mitigation measures required to control emissions to the extent that dust and PM₁₀ impacts from the construction and operation of the Proposed Development do not constitute a significant effect.

4.9.10 The quantification of the contribution from controlled site emissions was undertaken conservatively, by assuming the highly intermittent operation of the emergency backup power supply could occur at any time of the year and, therefore, coincide with the worst meteorological conditions at each receptor. Even with this conservative assumption, impacts were negligible at the majority of human health and ecological receptors. A marginal exceedance of the EA's significance criteria was identified at the nearest residential properties to the site, on High Road and Wilson Pit Road for 1 hour NO₂ concentrations, and the nearest point of St Bees Head SSSI for 24 hour NO_x concentrations. However, due to the marginality of the exceedance of the guidance criteria, the conservative assumptions modelled and the highly intermittent operation of the emergency backup power supply, it is considered that the impacts associated with the proposed development, during both construction and operational phases, will not have a significant effect on local air quality.

4.9.11 High Road and Wilson Pit Road for 1 hour NO₂ concentrations, and the nearest point of St Bees Head SSSI for 24 hour NO_x concentrations. However, due to the marginality of the exceedance of the guidance criteria, the conservative assumptions modelled and the highly intermittent operation of the emergency backup power supply, it is considered that the impacts associated with the Proposed Development, during both construction and operational phases, will not have a significant effect on local air quality.

4.9.12 The overall conclusions of the air quality assessment are that the construction and operation of the mine would not have a significant effect on local air quality, nor contravene local or national planning policy.

4.10 THE WATER ENVIRONMENT AND CONTAMINATED LAND**Adopted Policy**

4.10.1 MWLP policy DC19 requires that proposals should be *'located, wherever possible, in areas with the lowest probability of flooding [Zone 1]'*. The policy also includes a requirement for proposals greater in size than 1 hectare to be accompanied

by a flood risk assessment.

4.10.2 MWLP policy DC20 states:

'Proposals for developments should demonstrate that they would have no unacceptable quantitative or qualitative adverse effects on the water environment, both within the application site and its surroundings... Proposals that minimise water use and include sustainable water management will be favoured.'

4.10.3 Copeland Local Plan Policy ST1 at part B ii) seeks to focus development on sites that are at least risk of flooding. Also, at Part D iv) it seeks to *'ensure that new development addresses land contamination with appropriate remediation measures.'*

4.10.4 Copeland Local Plan policy ENV1 indicates states that *'the Council will ensure that development in the Borough is not prejudiced by flood risk'*. The policy identifies a series of actions to fulfil this aim including:
'Permitting new build development only on sites located outside areas at risk of flooding, with the exception of some key sites in Whitehaven...

Ensuring that new development does not contribute to increased surface water run-off through measures such as Sustainable Drainage Systems.'

4.10.5 Copeland Local Plan Policy DM24 relates to proposals which may be at risk of flooding or have the potential to increase flooding elsewhere. In such cases it requires that a flood risk assessment accompanies the planning application.

4.10.6 The policy also indicates that:

'Development will not be permitted where it is found that:

- A. There is an unacceptable risk of flooding; or*
- B. The development would increase the risk of flooding elsewhere; or*
- C. The development would cause interference with or loss of access to a watercourse and the benefits of the development do not outweigh the risks of flooding.'*

NPPF

4.10.7 Section 14 of the NPPF is concerned with climate change, flooding and coastal change. At paragraph 155 it advises that:
'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future), but where development is necessary, making it safe for its lifetime without increasing flood risk elsewhere.'

4.10.8 Paragraph 163 advises local planning authorities when determining planning applications that they *'should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.'*

4.10.9 Paragraph 165 also advises that major developments should use sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits*

PPG: Flood Risk and Coastal Change

4.10.10 At paragraph 29 the PPG advises:

'Developers and applicants need to consider flood risk to and from the development site... as early as possible... The broad approach of assessing, avoiding, managing and mitigating flood risk should be followed.'

4.10.11 In relation to flood risk assessments, it indicates that where these are necessary they should accompany an application for planning permission and that:

'The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the

development's lifetime, taking climate change into account, and with regard to the vulnerability of its users...

The objectives of a site-specific flood risk assessment are to establish:

- whether a proposed development is likely to be affected by current or future flooding from any source;
- whether it will increase flood risk elsewhere;
- whether the measures proposed to deal with these effects and risks are appropriate;
- the evidence for the local planning authority to apply (if necessary) the Sequential Test; and
- whether the development will be safe and pass the Exception Test, if applicable.'

PPG: Land affected by contamination

4.10.12 At paragraph 7 the PPG advises

'If there is a reason to believe contamination could be an issue, developers should provide proportionate but sufficient site investigation information (a risk assessment) to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the 'receptors') so that these risks can be assessed and satisfactorily reduced to an acceptable level....'

The risk assessment should also identify the potential sources, pathways and receptors ('pollutant linkages') and evaluate the risks.'

4.10.13 At paragraph 9 the PPG indicates that:

'Local planning authorities should work with developers to find acceptable ways forward if there are concerns about land contamination. For example, planning permission can be granted subject to conditions and/or planning obligations can be sought in the light of the information currently available about contamination on the site and the proposed remediation measures and standards.'

Policy Synopsis

4.10.14 The approach to flood risk is clear: all policies and guidance seek to prevent development which is itself at risk of flooding or that development would increase the risk of flooding in other areas. Consequently, policies seek to encourage development onto locations within Flood Risk Zone 1, which are those areas least at risk of flooding.

4.10.15 In respect of the wider water environment policies seek to ensure that development does not lead to unacceptable quantitative or qualitative changes.

4.10.16 For contaminated land sites, guidance suggests an approach to determine levels of risk and thereafter a collaborative approach is advocated for authorities and developers to work together to find solutions.

Assessment

4.10.17 Chapter 12 of the Environmental Statement addresses issues of hydrology and hydrogeology and includes at 12b a flood risk assessment. That assessment found that the proposals are within flood zone 1 and so in an area at lowest risk of flooding.

4.10.18 In all other respects the assessment concludes that *'other impacts considered from the Proposal relating to hydrology and hydrogeology are not considered significant so no mitigation measures have been proposed.'*

4.10.19 Chapter 13 of the Environmental Statement has assessed ground conditions and contamination. The assessment concludes that the construction and operational activities of the proposals *'have the potential to generate a number of land contamination related adverse impacts on identified receptors.'* However, with the adoption of the mitigating measures identified within the chapter, and the implementation of any further mitigation measures identified following completion of the detailed design, *'the significance of residual effects related to potential geological and contamination related impacts associated with the Proposal during the construction and operation phases are likely to be minor or moderate adverse, and therefore not significant.'*

4.10.20 As all of the components are located within flood zone 1, the proposal accords with the locational imperatives of policy and guidance for avoiding development within areas most at risk of flooding. The proposal also includes a drainage strategy which would be developed into specific site drainage proposals to ensure that drainage flows are adequately managed and do not represent a risk of increased flooding elsewhere.

4.10.21 Overall, it is concluded that the proposal accords with all policy and guidance concerned with the water environment and contaminated land.

4.11 CUMULATIVE ENVIRONMENTAL IMPACTS

Adopted Policy

4.11.1 MWLP policy DC6 states:

'Cumulative impacts of minerals and waste development proposals will be assessed in the light of other land-uses in the area. Where appropriate, considerations will include:

- a. *all environmental aspects including habitats and species, visual impact, landscape character, cultural heritage, noise, air quality, ground and surface water resources and quality, agricultural resources and flood risk;*
- b. *the impact of processing and other plant;*
- c. *the type, size and numbers of vehicles generated, from site preparation to final restoration and their potential impacts on the transport network, safety and the environment;*
- d. *impacts on the wider economy and regeneration;*
- e. *impacts on local amenity, community health and areas for formal and informal recreation.'*

4.11.2 Copeland Local Plan Policy DM26 in respect of landscape indicates at its third a paragraph the considerations used for assessing the landscape impact of proposal and makes plain that *'the cumulative impact of developments will be taken into account as part of this assessment'*.

NPPF

4.11.3 Paragraph 205 of the NPPF advises local planning authorities in dealing with applications for minerals development to; *'ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality'*

Policy and Guidance Synopsis

4.11.4 There is a consistent message in the policy and guidance concerning cumulative impacts; throughout it is acknowledged that whilst a proposed development may itself have a number of impacts that would be acceptable on their own, these could exceed the threshold of that which is acceptable when combined with adverse impacts caused by other developments. It is vital therefore that the combination of effects is assessed.

Assessment

4.11.5 In undertaking an environmental impact assessment the existing levels of surrounding development form the baseline. The change from that baseline is what is assessed. Cumulative effects assessments examine the potential impacts of the proposal in combination with other known proposals coming forward. The starting point for cumulative assessment is establishing the zone of influence which identifies the area over which a proposal could have an impact and then examine the likely impacts from other developments.

4.11.6 The following table summarises the cumulative impact findings for each topic.

Topic	Cumulative Impact
Economic Benefits	There is potential for positive cumulative economic impacts in combination with the large infrastructure projects planned or being developed within the Zone Of Influence of the proposals.
Road Transport	There is potential for one junction to perform over capacity by 2029 with the cumulative increases in traffic. The junction would be over capacity without the mine traffic.
Rail Transport	The WCM project requires 6 train paths per day as it approaches full production. The current availability of 4 train paths would cater for the first three years of production and work to secure these is ongoing. The likely volume of the train traffic generated by the development of Moorside has the potential to significantly add to the demand for train paths on this line. However the recent announcement that the Moorside development will be the subject of review and not be subject to a development consent order in the short term relieves some of that demand. WCM continues to work with Network Rail and rail freight operators to ensure that the requirement for 6 train paths per day will be met.
Historic Environment	The development of the houses to the east of High Road in combination with the mine would extend the urban character of Whitehaven and so have a minor impact on historic landscape character. The resultant cumulative significance of effect would be minor adverse on historic landscape character and the heritage value of the St Bees Heritage Coast. The residential development may add to physical impacts and so adverse physical effects on: Wilson Pit, Wilson Pit Wagon way and Fox Pit dependent on the extent and survival of such. The level of additional impact and value of these heritage assets means that the cumulative effect would be no greater than that from the individual developments.
Landscape	There is an expectation that the south-western edge of Whitehaven will be developed, which is reflected in the policy designation of the Marchon site for employment and the consent (and current construction) of the Story Homes Phase 2 development. The proposed mine buildings sit within this pattern and would contribute to this southerly urban expansion of Whitehaven. It is likely that the potential for any significant cumulative effects to occur between the mine proposal and the housing proposals on the northern part of the Marchon site would be very limited.
Biodiversity	None predicted.
Noise	The cumulative component of the assessment examined the potential increases in noise from traffic and predicted this to be negligible/slight.
Air quality	The assessment indicates that there is potential for cumulative dust impacts with the operation of the composting facility to the south of the Marchon Site and during the construction of the houses on High Road and Wilson Pit Road. However, it is assumed that adequate dust control measures will be implemented at the other sites to control emissions, as they will be at the Proposed Development site, which is standard practice on all well maintained sites and facilities across the UK. It is considered that the cumulative impact will not contribute to dust deposition rates beyond the threshold where complaints are likely or to exceedances of the annual or daily mean objective value for PM ₁₀ .
Water Environment	No significant cumulative effects predicted.
Marine Environment	No significant cumulative effects predicted.
Greenhouse Gas Emissions	The production of additional Greenhouse Gas Emissions has the potential to contribute to climate change in combination with all other emitters of GHG's globally. The impacts of the contribution initially have been assessed as being of minor adverse significance. The proposed monitoring and mitigation scheme will also help ensure that the contribution of the GHG emissions from the mine do not prejudice the ability of the UK Government to meet its carbon reduction obligations.

4.11.7 The cumulative impact assessments reveal that there are few effects from the proposal which would combine to exacerbate the impacts of other developments. The proposal accords with the policy and guidance concerning cumulative impacts.

5 CONCLUSIONS AND PLANNING BALANCE

5.1 APPROACH TO DECISION MAKING

5.1.1 All Local Planning Authorities in taking decisions on applications for planning permission are bound by the legislative requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990. The requirements of these provisions are captured by paragraph 2 of the National Planning Policy Framework which states:

'Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.'

These provisions require decision makers to conclude on the extent to which the proposal accords with the whole development plan, albeit that the aims of different policies may pull in different directions. This requirement is not displaced or modified by government policy in the NPPF. Paragraph 2 of the NPPF makes plain its status as one of a material consideration to be weighed in the balance.

5.2 KEY POLICY AND GUIDANCE TESTS

5.2.1 Section 3 above identifies the statutory development plan for the area within which the proposal is located and all relevant policies contained within it. The Cumbria Minerals and Waste Local Plan [CMWLP] provides planning policy and guidance for minerals and waste developments within Cumbria [outside the National Parks]. In determining whether a proposal accords with the policies and provisions of a local plan a key step is to examine the proposal against any policies which are specific to the type of development being proposed. In the case of the CMWLP, there is a policy which is specific to energy minerals and with a specific section which relates to coal. The relevant section of the policy states:

Coal

Planning applications for coal extraction will only be granted where;

- *the proposal would not have any unacceptable social or environmental impacts; or, if not*
- *it can be made so by planning conditions or obligations; or, if not*
- *it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.*

For underground coal mining, potential impacts to be considered and mitigated for will include the effects of subsidence including: the potential hazard of old mine workings; the treatment and pumping of underground water; monitoring and preventative measures for potential gas emissions; and the disposal of colliery spoil. Provision of sustainable transport will be encouraged, as will Coal Mine Methane capture and utilisation.

5.2.2 Paragraph 15.14 of CMWLP which precedes the policy and provides the justification for it explains where the wording for the policy came from:

'The NPPF requires that permission should not be given for the extraction of coal unless the proposal is environmentally acceptable, or can be made so by planning conditions or obligations, or, if not, provides national, local or community benefits that clearly outweigh the likely impacts, in order to justify the grant of planning permission. This guidance is followed explicitly in policy DC13, and is considered to apply equally to thermal and coking coal.'

5.2.3 Although the NPPF has been updated a couple of times since the CMWLP was prepared, the tests for the extraction of coal remain unchanged, save for a format change to make plain that it involves an approach with two limbs, and to incorporate some additional text to assist in interpretation. The tests for coal are found at paragraph 211 of the current version of the NPPF [as updated in February 2019] which states:

'Planning permission should not be granted for the extraction of coal unless:

- a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or*
- b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts [taking all relevant matters into account, including any residual environmental impacts].'*

5.2.4 Despite the assertion within paragraph 15.14 of the MWLP that the guidance within the NPPF was followed 'explicitly', Policy DC13 does contain some differences to the wording of the NPPF. Paragraph 211 of the NPPF creates a two-stage test. In Policy DC13, the first stage has been split into two separate stages, so that mitigation is dealt with separately. However, the practical effect is the same. A further difference in respect of Policy DC13 relates to the addition of social acceptability into the first 'limb' of the policy test. In doing so it requires that consideration be given to whether there are any unacceptable 'social' impacts at the first stage, whereas the NPPF restricts its examination to whether or not the proposal is or can be made 'environmentally acceptable'.

5.2.5 The following assessment of the proposal against the tests of both CMWLP policy DC13 and NPPF paragraph necessarily draws upon conclusions on the environmental effects of the development and the extent to which it complies with other policies of the statutory development plan which are engaged and other guidance.

5.3 ASSESSMENT AGAINST CMWLP POLICY DC13 AND NPPF PARAGRAPH 211

Resolution of differences between Policy DC13 and Paragraph 211

5.3.1 Both the adopted policy [DC13] and NPPF [at Paragraph 211] apply, what is in effect, a two-stage test. The first stage for Policy DC13 is whether or not there are any unacceptable social or environmental impacts. For paragraph 211 the first stage

of the test is a determination as to whether or not the development is 'environmentally acceptable'. In both cases the test does not need to proceed to the second stage if effects can be made acceptable by planning condition or obligation, albeit that Policy DC13 deals with this under a separate bullet point.

- 5.3.2 As explained above Policy DC13 also includes an additional requirement of social acceptability, within the first stage. However, this does not alter the approach in this case because it is uncontroversial that the development does not give rise to any unacceptable social impacts. Indeed, it gives rise to considerable social benefits that have already been set out above. Therefore this additional consideration does not, in practice, alter the approach that should be taken under the first stage
- 5.3.3 Setting aside the inclusion of 'social' acceptability at the first stage, the term '*unacceptable ... environmental impacts*' in Policy DC13 is effectively the same as the Paragraph 211 requirement for the development to be '*environmentally acceptable*'. By definition, a development will only be 'environmentally acceptable' if it has no unacceptable environmental impacts, and these terms are used interchangeably below.
- 5.3.4 The key consideration under the first stage of both policy tests is whether the development is environmentally acceptable. If the development passes the first stage of the test then planning permission can be granted unless there are any other policy conflicts which would cause a conflict with the development plan as a whole, or any other material considerations that suggest that the application should be determined otherwise than in accordance with the development plan.
- 5.3.5 If the development is not environmentally acceptable then the second stage is to determine whether or not the benefits, be they national, local, or community, '*clearly outweigh*' all likely impacts of the development, including any environmental impacts already considered under the first stage. Both the CMWLP Policy DC 13 and Paragraph 211 of the NPPF are clear that, where the second stage is engaged, in order to grant permission the benefits must be of sufficient magnitude as to 'clearly outweigh' the proposal impacts - i.e. in weighing up benefits and impacts, those benefits need to go beyond simply just exceeding the impacts.

Stage 1

- 5.3.6 The determination as to whether an impact is 'unacceptable' inevitably involves a degree of judgement on the part of the decision maker. In coming to conclusions on this judgement it is the applicant's view that it is the extent to which the proposals accord with environmental policy and guidance provides the appropriate test under which it can be determined whether an environmental effect is acceptable or not and whether the development as a whole is environmentally acceptable.
- 5.3.7 The following table summarises the findings from the Environmental Statement on a topic-by-topic basis for environmental considerations. For each topic it concludes as to the proposals compliance with local and national policy and guidance.

Environmental Topic	Policies and Guidance	Assessment Compliance
Sustainability	MWLP: SPI3, DC1 CLP: ST1 and DM11 NPPF Paragraphs 7 and 8	Copeland Local Plan Policy ST1 seeks to 'encourage development that minimises carbon emissions.' The NPPF at paragraph 148 requires that 'The planning system should support the transition to a low carbon future in a changing climate.' The greenhouse assessment provides a worst case figure for emissions of around 18.4 million tonnes CO ₂ equivalent. This figure has the potential to fall over the life of the site for a number of reasons but perhaps the greatest of these being from the decarbonisation of the electricity grid. The emissions have been assessed as being of minor adverse significance in the context of UK carbon budgets. The proposed monitoring and mitigation measures will also help ensure that emissions remain at a level which would not compromise the ability of the UK Government to meet its carbon reduction obligations under the Climate Change Act 2008 Some conflict with policy aims assuming worst case
Transport	MWLP: DC1 CLP: ST1, ER11 NPPF: Section 9	Compliance with environmental aspects of transport policy and guidance
Historic Environment	MWLP: SPI4, DC17 CLP: ST1, ENV2, ENV4, DM27 NPPF: Section 16 PPG Historic Environment: Paragraphs 3 and 17	There are moderate impacts on listed buildings and Heritage Coast so there is some conflict with Policy.
Landscape and Visual	MWLP: SPI5, SPI6 DC2 and DC18 CLP: ST1, ENV2, ENV4, DM27 NPPF Section 15 PPG Natural Environment: Paragraph 36, 37 and 43	The scale of the development is such that there is inevitable conflict with MWLP policies SPI5 and DC18. There is also some conflict with CLP policy ENV 2 with moderate adverse impacts on views from the Heritage Coast.
Biodiversity	MWLP: SPI5, DC2, DC18 CLP: ST1, ENV3, DM25 NPPF: Section 15 PPG Natural Environment: Biodiversity, geodiversity and ecosystems section	The effects on ecology are largely identified as neutral. However there is an adverse effect that is significant at the local level (loss of a small area of Ancient Replanted Woodland). There would also be an adverse effect on grassland at the Rail Loading Facility. There is then some limited conflict with the components of Policies SPI5 and DC 16 which provide protection to ecological assets.
Noise and vibration	MWLP: DC2, DC3 CLP: ST1 NPPF: Section 15 PPG Noise Noise Policy Statement	There is compliance with these policies and guidance
Air Quality/Dust	MWLP DC5 CLP: ST1 NPPF: Section 15 PPG Minerals: Paragraph 23 PPG Air Quality	There is compliance with these policies and guidance
Water Environment	MWLP: DC19, DC20 CLP: ST1, ENV1 and DM24 NPPF: Section 14 PPG Flood Risk and Coastal Change PPG Land affected by Contamination	There is compliance with these policies and guidance
Cumulative Effects	MWLP: DC5 CLP DM26 NPPF Section 15	There is compliance with these policies and guidance

- 5.3.8 It is evident from the table above that broadly there is compliance with local and national policy and guidance. However, there are a number of topics where some conflict with policy has been identified. There is some limited conflict with ecology, landscape/visual and historic environment policies. Conflict with these policies is perhaps inevitable given the scale of the proposal. Additionally, the proposal would lead to the generation of some greenhouse gases. These emissions have the potential to cause some environmental harm and conflict with the aims of policies in the development plan and national guidance.
- 5.3.9 The policy and guidance set out above is the yardstick against which the proposal is assessed to conclude whether or not it leads to 'unacceptable environmental effects'. Since there is some limited conflict with environmental policies the second stage of the test referred to in paragraph 5.3.5 above is engaged.

Stage 2

- 5.3.10 The test that needs to be satisfied under the second stage of Policy DC13 and para. 11 of the NPPF is whether or not the proposal's adverse impacts are *clearly outweighed* by any national, local or community benefits that would result from the development.

The benefits

- 5.3.11 The socio-economic chapter of the Environmental Statement sets out the key benefits of the proposal. Through the construction of the mine, and throughout its period of operation, there would be significant beneficial effects on the local economy. WCM has committed to maximising the local economic and social benefits of the proposals through awarding contracts locally wherever possible, employing 80% of the workforce from the local area and the development of apprenticeship schemes. The benefits result from the initial investment in local products and services during construction and from the ongoing wages expenditure and purchase of local products and services. Over 500 jobs would be created when the mine is operational with further employment anticipated to be up to 1,000 created indirectly. Additionally, up to 50 apprenticeships would be available. The mine has an anticipated life of 50 operational years. The potential employment and investment benefits the mine would provide would be substantial over the medium to long term.
- 5.3.12 There is a correlation between economic prosperity and the social wellbeing of communities. The socio-economic profiling undertaken for the Socio-Economic Chapter of the ES revealed that the Borough of Copeland generally enjoys significantly higher rates of earning than all other comparator areas. The presence of the nuclear sector within the Borough brings with it well-paid long-term employment. However, the district wide figures mask pockets of significant deprivation. For example, Sandwith, which is located just to the south of the Marchon site, is ranked as being in the bottom three wards of deprivation in England. The employment offer which would be available at the mine would be available to a broad spectrum of candidates. Many of the roles and jobs at the mine would not require direct previous experience. Additionally, the apprenticeship scheme would provide significant opportunities for those living in the area to earn and train for a nationally recognised qualification at the same time. The employment offer at the mine would complement that of the nuclear industry providing employment for those who need it most. The wealth created by the mine combined with the apprentice training scheme it has the potential to have very significant beneficial social impacts from the commencement of construction, through the 50 years of operation to decommissioning.
- 5.3.13 Metallurgical coal is classed as a critical raw material by the EU [European Commission]¹. The NPPF within its glossary identifies Minerals resources of local and national importance, which are necessary to meet society's needs. The list includes deep-mined coal. A mine located at Whitehaven would provide a local source of this critical raw material for the European steel industry (including the UK). This is a benefit that weighs in favour of the proposal and carries significant weight.
- 5.3.14 The proximity of the coal produced at the Proposed Development to its target markets, has the potential to result in significant reductions in shipping distances. Whilst outside the scope of the environmental effects that are required to be assessed by the EIA Directive for this proposed development they are nonetheless capable of being material considerations in terms of consideration of the planning application. These reduced distances have clear environmental benefits with the elimination/significant reduction of the GHG gas emissions which would result from long distance transportation. Additionally, there are operational benefits with a local mine being able to respond more quickly to demand changes ensuring maintenance of supply and avoiding the degradation of the coal product which occurs over time.

¹ https://ec.europa.eu/growth/sectors/raw-materials/specific-interest/critical_en and also see <https://rmis.jrc.ec.europa.eu/?page=crm-list-2017-09abb4>

Likely adverse impacts

5.3.15 Most of the environmental impacts of the proposal have been minimised. Early consultation with the local community provided invaluable assistance in selecting the Marchon site as the location for the main mine site. The early adoption of a set of ambitious design values has driven the development of striking designs for the mine buildings combined with substantial visual screening and landscaping. The Environmental Impact Assessment process has provided a robust evidence base to develop effective mitigation to eliminate, reduce or offset a number of potential impacts. There are some impacts which lead to some conflict with policy in relation to ecology, landscape/visual and historic environment impacts. The conflict with these policies is however moderate having been minimised by the measures set out above. Therefore, these impacts are afforded moderate weight.

GHG emissions

Impacts

- 5.3.16 Another potential environmental impact relates to the proposal's greenhouse gas emissions. An independent consultancy, AECOM, has undertaken a greenhouse gas assessment. This is reported in and appended to Chapter 19 of the revised Environmental Statement.
- 5.3.17 The methodology employed takes into account the British Standard ISO 14064, principles of the GHG Protocol and Defra reporting guidance 2019 as well as the Institute of Environmental Management and Assessment (IEMA) advice on good practice using UK Carbon budgets to contextualise the levels of significance of emissions.
- 5.3.18 The assessment estimates worst case GHG emissions in the event that the Proposed Development goes ahead. These were calculated for the differing phases of the site – construction, operational, and decommissioning. The emissions are expressed as tonnes of carbon dioxide equivalent (tCO₂e) and are summarised in the following table.

Lifecycle stage	Total Stage GHG emissions (tCO ₂ e)	Emissions per annum (tCO ₂ e)
Construction	85,105	42,553
Operation	18,328,183	366,564
Decommissioning	17,907	17,907
Total Emissions	18,431,196	

- 5.3.19 In order to assist in putting these emissions into some perspective, the emissions at each stage were examined against the context of the UK Carbon Budgets. Where GHG emissions from the Proposed Development are equal to or more than 1% of the relevant annual UK Carbon Budgets, guidance from the Department of Energy and Climate Change [2013] and the PAS Specification (British Institution, 2011) suggests the impact on the climate is considered of high significance.
- 5.3.20 The percentage contribution of emissions from the Proposed Development to the respective Carbon Budgets are 0.002%, 0.077% and 0.104%, respectively. The AECOM report concluded that the magnitude of impact of the Proposed Development was considered 'low' against the current UK Carbon Budgets and of minor adverse significance. The operations of the Proposed Development are not expected to affect the UK in meeting its current Carbon Budgets. However, the report recognised that the operations and decommissioning activities will intersect steeply reducing future Carbon Budgets and the net zero emissions target of 2050. Emissions from this Proposed Development are therefore likely to become significant after 2050 without an emissions reduction strategy.
- 5.3.21 Implementation of GHG emissions mitigation measures will be secured by a legal agreement; the provisions will include a periodic (5 yearly) review and re-assessment of anticipated GHG emissions. In the unlikely event that the assessment indicates that the mine's emissions could significantly contribute to targets being missed the planning authority would have the power to require further mitigation to prevent this or a reduction or cessation of operations.
- 5.3.22 The GHG emissions associated with the Proposed Development are attributed moderate weight against the proposal for the purposes of the assessment against MWLP Policy DC 13 and Paragraph 211 of the NPPF.

Overall Balance

- 5.3.23 If the requirements of MWLP Policy DC 13 and Paragraph 211 of the NPPF are to be discharged to allow permission to be granted the benefits of the Proposed Development need to clearly outweigh its impacts. The impacts have been assessed as moderate in terms of GHG emissions and for other environmental effects. In contrast, the socio-economic impacts of the Proposed Development are substantial with the potential for significant socio-economic benefits for the local area including those most in need in the medium to long term. There are other additional benefits associated with the Proposed Development flowing from the elimination of long-distance transportation of coal and support to the British steel industry. Overall, and on balance the considerable benefits of the proposal do clearly outweigh any negative impacts.
- 5.3.24 The emissions from the use of the coal extracted at the Proposed Development for the production of steel are capable of being a material consideration for the purposes of determining planning applications for developments of this nature. However, such a material consideration attracts very little weight in the decision-making process because those steel making operation would still take place whether supplied by coal from the Proposed Development or elsewhere and those emissions can only be reduced within those facilities which utilise the coal. .
- 5.3.25 Accordingly, notwithstanding the limited policy conflicts identified above, the Proposed Development meets the key relevant policy test of the Development Plan and is so considered to be overall in general accordance with the Development Plan as a whole. The proposed development also meets the similar test of paragraph 211 of the NPPF and since there are no other material considerations that would justify a departure from the Development Plan, planning permission should be granted.

6. CONDITIONS

- 6.1 The following are suggested changes to the set of conditions previously formed part of the reports to the Development Control and Regulation Committee:

Condition / Reference	Change required	Reason for change
1 - 869/AM/002 Rev D - Main Mine site-Proposed Plan	1 - 869/AM/002 Rev E - Main Mine site-Proposed Plan	Middlings Store renamed to Clean Coal and Reject Material Building. Middlings Conveyor renamed Clean Coal Conveyor. Middlings Transfer Conveyor renamed Clean Coal and Reject Conveyor. Removal of returns conveyor. Drawing revision updated and re-dated.
1 - 869/AM/006 Rev B – Main Mine site-Site cross sections	1 - 869/AM/006 Rev C – Main Mine site-Site cross sections	Middlings Store renamed Clean Coal and Reject Material Building on the plan view and cross section E-E. Drawing revision updated and re-dated.
1 - 869/AM/008 Rev A - Main Mine Site-Finished Level Cut and Fill Representation	1 - 869/AM/008 Rev B - Main Mine Site-Finished Level Cut and Fill Representation	Middlings Store renamed Clean Coal and Reject Material Building. Drawing revision updated and re-dated.
1 - 869/AM/027 Rev C – Main Mine site- Clean/raw coal & CHPP building, Proposed Plan	1 - 869/AM/027 Rev D – Main Mine site- Clean/raw coal & CHPP building, Proposed Plan	Middlings Store renamed Clean Coal and Reject Material Building. Drawing revision updated and re-dated.
1 - 869/AM/028 Rev A – Main Mine site- Clean/raw coal & CHPP building, Proposed elevations sheet 1 of 2	1 - 869/AM/028 Rev B – Main Mine site- Clean/raw coal & CHPP building, Proposed elevations sheet 1 of 2	Middlings Store renamed Clean Coal and Reject Material Building. Drawing revision updated and re-dated.
1 - 869/AM/029 Rev B – Main Mine site- Clean/raw coal & CHPP building, Proposed elevations sheet 2 of 2	1 - 869/AM/029 Rev C – Main Mine site- Clean/raw coal & CHPP building, Proposed elevations sheet 2 of 2	Middlings Store renamed Clean Coal and Reject Material Building. Drawing revision updated and re-dated.
1 - 869/AM/030 Rev A – Main Mine site- CHPP Access & Welfare building, Proposed Plan & elevations	1 - 869/AM/030 Rev B – Main Mine site- CHPP Access & Welfare building, Proposed Plan & elevations	Changes to titles of reference drawings. Drawing revision updated and re-dated.
1 - 869/AM/031 Rev A – Main Mine site-Middlings store, Proposed plan	869/AM/031 Rev B Main Mine site – Clean Coal and Reject Material Building, Proposed plan	Middlings Store renamed Clean Coal and Reject Material Building. Drawing title and revision updated and re-dated.

Condition / Reference	Change required	Reason for change
1 - 869/AM/032 Rev A – Main Mine site-Middlings store, Proposed elevations	869/AM/032 Rev B Main Mine site – Clean Coal and Reject Material Building, Proposed elevations	Middlings Store renamed Clean Coal and Reject Material Building. Drawing title and revision updated and re-dated.
1 - 869/AM/040 Rev A – Main Mine site- External Lighting Layout	1 - 869/AM/040 Rev B – Main Mine site- External Lighting Layout	Middlings Store renamed Clean Coal and Reject Material Building. Drawing revision updated and re-dated.
1-869/AR Rev G – Rail Loading Facility – Post decommissioning	1-869/AR Rev H – Rail Loading Facility – Post decommissioning	Cycleway removed
3 - The permission hereby granted authorises the Winning and Working of Metallurgical Coal for use in steel manufacture only. Reason: This permission authorises the development for the extraction of Metallurgical Coal. For the avoidance of doubt, Middlings Coal is also produced as a by-product during the processing of Metallurgical Coal.	Reason: This permission authorises the development for the extraction of Metallurgical Coal.	The reason needs to be amended because middlings coal will no longer be produced.
75 - No more than 2,430,000 tonnes of processed coal shall be exported from the site in any calendar year. A record of the tonnage of coal exported from the site in each calendar month (split by Metallurgical Coal and Middlings Coal) of the preceding year shall be maintained and submitted to the Mineral Planning Authority before the 31 January annually whilst the mine is operational. Written records shall be filed on a monthly basis and shall be available for inspection on request by the Mineral Planning Authority.	75 - No more than 2,780,000 tonnes of metallurgical coal shall be exported from the site in any calendar year. A record of the tonnage of coal exported from the site in each calendar month of the preceding year shall be maintained and submitted to the Mineral Planning Authority before the 31 January annually whilst the mine is operational. Written records shall be filed on a monthly basis and shall be available for inspection on request by the Mineral Planning Authority.	There will only be one type of coal exported, so reference to middlings coal can be removed. The original condition was incorrect as the figure of 2,430,000 tonnes only refers to the metallurgical coal in the original application and should have included the 350,000 tonnes of middlings coal from the application
76 - Middlings Coal shall constitute no more than 15% of the total tonnage of coal exported from the site in any calendar year and in any event, no more than 91,125 tonnes in any calendar quarter. No other wastes or other mineral products shall be exported from the mine.	Remove this condition	Metallurgical Coal will be the only type of coal exported (see condition 3)
Operational Phase (definition) The stage of the development comprising the Winning and Working of Metallurgical Coal from underground mining areas, the processing of coal to separate Metallurgical (coking) Coal, middling coal and waste. The dispatch from site of coal products and the return underground and placement of wastes. This Operational Phase follows the Construction Phase and precedes the Restoration Phase.	Operational Phase (definition) The stage of the development comprising the Winning and Working of Metallurgical Coal from underground mining areas, the processing of coal to separate Metallurgical (coking) Coal and waste. The dispatch from site of coal products and the return underground and placement of wastes. This Operational Phase follows the Construction Phase and precedes the Restoration Phase.	There will only one type of coal exported, so reference to middlings coal can be removed.
Metallurgical Coal (definition) Coal with particular physical and chemical characteristics that makes it suitable for use in the production of steel and separated from industrial/ Middlings Coal and reject material during processing at the Coal Handling and Processing Plant. For the avoidance of doubt 'Metallurgical Coal' shall be defined as having a maximum ash content of 8% and a maximum sulphur content of 1.25%.	Metallurgical Coal (definition) Coal with particular physical and chemical characteristics that makes it suitable for use in the production of steel and separated from reject material during processing at the Coal Handling and Processing Plant. For the avoidance of doubt 'Metallurgical Coal' shall be defined as having a maximum ash content of 9% a maximum sulphur content of 2%.	The original maxima as stated do not reflect the product which will be produced by Woodhouse Colliery
Middlings Coal (definition) Coal which does not have the specific physical and chemical characteristics that makes it suitable for use in the production of steel. Separated from Metallurgical Coal and reject material during processing at the Coal Handling and Processing Plant.	Remove this definition	Metallurgical Coal will be the only type of coal exported (see condition 3)

Appendix 1 - Relevant Policies of the Statutory Development Plan

Appendix 1

Relevant Policies of the Statutory Development Plan

Introduction

The current Development Plan for the area comprises:

- Cumbria Minerals and Waste Local Plan (adopted September 2017);
- Copeland Local Plan 2013-2028 – Core Strategy and Development Management Policies (adopted December 2013); and
- Copeland Local Plan 2013-2028 - Proposals Map and Copeland Local Plan 'Saved Policies Document produced in June 2015.

The relevant policies from each of these documents are identified and reproduced below.

Cumbria Minerals and Waste Local Plan

POLICY SP1 Presumption in favour of sustainable development

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants to find solutions that mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- specific policies in that Framework indicate that development should be restricted.

POLICY SP13 Climate change mitigation and adaptation

Proposals for minerals and waste management developments should demonstrate that:

- proportionate to the scale and type of development, energy management, carbon reduction and resource efficiency have been determining design factors for the development; and
- water use and the requirement for wastewater treatment have been minimised; and
- their location will minimise, as far as is practicable, the "minerals or waste road miles" involved in supplying the minerals or managing the wastes, unless other environmental/sustainability and, for minerals, geological considerations override this aim; and
- where the development affects or is adjacent to peat bog, that carbon emissions would not be significantly increased and the condition of remaining peat bog would not be adversely affected; and

- where appropriate, restoration and afteruse proposals fulfil a role in helping to mitigate for or adapt to climate change.

Proposals for low carbon renewable energy will be supported where they conform to other relevant policies in this Plan and either:

- a. use residual waste as part of the feedstock; or
- b. are located within a proposed or existing mineral or waste site and do not have unacceptable impacts on the operations, restoration or aftercare of the site.

POLICY SP14 Economic benefit

Proposals for new and time or physically extended minerals and waste developments should demonstrate how they would realise their potential to provide economic benefit. This may include such matters as the number of jobs directly or indirectly created or safeguarded and the support that proposals give to other industries and developments.

Relevant adverse economic impacts on other industries, or on regeneration and development initiatives, will be weighed against the overall economic benefits of the proposal.

POLICY SP15 Environmental assets

Minerals and waste management developments, including restoration and afteruse, should:

- protect, maintain and enhance people's overall quality of life and the natural, historic and other distinctive features that contribute to the environment of Cumbria and to the character of its landscapes and places;
- conserve the settings of these environmental assets;
- improve the linkages between these environmental assets and provide buffer zones around them, where this is appropriate;
- realise the opportunities for expanding and increasing environmental resources, including adapting and mitigating for climate change;
- help to secure movement from a net loss of biodiversity towards achievement of net gains in biodiversity resources by protecting, enhancing, expanding and linking areas for wildlife within and between the locations of highest biodiversity resources and encouraging the conservation and expansion of the ecological fabric elsewhere;
- help to create new green infrastructure, and to conserve and manage where it is existing, and enhance its functionality, quality, connectivity and accessibility.

All proposals should also be expected to demonstrate that they include reasonable measures to secure the opportunities that they present for enhancing Cumbria's environmental assets.

Information on environmental assets and guidance on implementing parts of this policy are provided by the Cumbria Landscape Character Guidance and Toolkit, the Guide to using the Cumbria Historic Landscape Character database, the Cumbria Biodiversity Evidence Base and the Cumbria Historic Environment Record.

There are national policies for areas and features that are identified to be of international, European or national importance, as set out below.

Landscape designations

Major developments that adversely affect the designated areas or the settings of National Parks, Areas of Outstanding Natural Beauty and Heritage Coasts, will only be granted planning permission in

exceptional circumstances and where it can be demonstrated that they are in the public interest, in accordance with paragraph 116 of the National Planning Policy Framework.

Geodiversity designations

Major developments that adversely affect the designated areas of Geoparks, will only be granted planning permission in exceptional circumstances and where it can be demonstrated that they are in the public interest, in accordance with paragraph 116 of the National Planning Policy Framework. They shall also incorporate any relevant features of geological interest into an appropriate restoration scheme.

Marine designations

The local planning authority will exercise its functions in relation to Marine Conservation Zones (MCZ) in accordance with the duties placed upon it by the Marine and Coastal Access Act 2009 (paras 125-127). The local authority will seek to exercise its functions in a manner that furthers the achievement of the conservation objectives of the MCZ, or least hinders the achievement of those objectives. Therefore, any major developments that adversely affect any MCZ, will only be granted planning permission in exceptional circumstances and where it can be demonstrated that they are in the public interest, in accordance with paragraph 118 of the National Planning Policy Framework.

Ramsar and European Wildlife Sites

The precautionary principle will be applied to any development proposals affecting these sites and planning permission will be granted only if Habitats Regulations Assessment can determine that a proposal will not have an adverse effect on the integrity of the Site. The only exception is where there are no alternative solutions that would have no (or a lesser) effect and that the development must be carried out because there are imperative reasons of overriding public interest, in accordance with paragraphs 25 to 32 of ODPM Circular 06/2005 (Defra Circular 01/2005).

In accordance with NPPF paragraph 118, this policy also applies to potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites where the Government has initiated the relevant public consultation, and for sites identified, or required, as compensatory measures for adverse effects on European or Ramsar Sites, including the potential, possible or proposed ones.

Sites of Special Scientific Interest (SSSI)

In accordance with paragraphs 56 to 83 of ODPM Circular 06/2005, and the general and overarching duty placed on local planning authorities, to take reasonable steps to further the conservation and enhancement of the features for which sites are of special interest:-

- Planning permission will not normally be granted for development within or outside an SSSI, which is likely to have an adverse effect on it, individually or in combination with other development.
- Exceptions will only be made where the benefits of the development, at the proposed site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.

Heritage designations

In general, development proposals that substantially harm or totally destroy the Outstanding Universal Value of a World Heritage Site, or the significance of a designated heritage asset, or their settings, will only be granted planning permission where it can be demonstrated that they are necessary to achieve substantial public benefits that outweigh the harm or loss (in accordance with NPPF paragraph 133).

Where development proposals cause less than substantial harm to the Outstanding Universal Value of a World Heritage Site or the significance of a designated heritage asset, or their settings, the harm will be weighed against the public benefits of the proposals (in accordance with NPPF paragraph 134).

Environmental assets not protected by national, European or international legislation

Where not otherwise protected by national, European or international legislation, great weight will be given to conserving habitats and species of principal importance and irreplaceable habitats. In accordance with NPPF paragraph 118, planning permission will be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Permission will not be granted for development that would have an unacceptable impact on the environmental assets, on its own or in combination with other developments, unless it is demonstrated that:-

- there is an overriding need for the development, and
- it cannot reasonably be located on any alternative site that would result in less or no harm, and then,
- the effects can be adequately mitigated, or if not,
- the effects can be adequately and realistically compensated for through offsetting actions.

Where not otherwise protected by national, European or international legislation, the effect of a development proposal on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect, directly or non-directly, non-designated heritage assets, a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset. Non-designated heritage assets of national importance are treated as designated assets.

POLICY SP16 Restoration and aftercare

Restoration, afteruse and aftercare schemes for mineral working and waste management sites should demonstrate that best practicable measures have been taken to help deliver the sustainability objectives of this Plan. Where appropriate, this should include consideration of the potential for biodiversity, geodiversity and landscape enhancement, flood risk mitigation and water quality, maintaining agricultural land quality, ameliorating contaminated land and securing land stability.

POLICY SP17 Section 106 planning obligations

Where it is not possible to achieve the necessary control or outcome through the use of planning conditions, the County Council will require appropriate mitigation to be secured through Section 106 planning obligations that ensure that development proposals:-

1. secure long term management of relevant environmental assets.
2. only where one of the following exceptional circumstances applies, provide financial guarantees, including with parent companies, where appropriate for restoration works, except where a national industry guarantee fund will remain in place:
 - very long-term new projects, where progressive reclamation is not practicable, such as an extremely large limestone quarry; or
 - where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development; or
 - where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission.

3. provide necessary infrastructure such as highway and transport improvements, flood and surface water management schemes and green infrastructure.

POLICY DC1 Traffic and transport

Proposals for minerals and waste developments should be located where they:

- a. are well related to the strategic route network as defined in the Cumbria Local Transport Plan, and/or
- b. have potential for rail or waterborne transport and sustainable travel to work, and c. minimise operational "minerals and waste road miles" where practicable.

Mineral developments that are not located as above may be permitted:

- if they do not have unacceptable impacts on highway safety and fabric, the convenience of other road users, and on community amenity;
- where an appropriate standard of access and traffic routing is provided.

POLICY DC2 General criteria

Minerals and waste proposals must, where appropriate, demonstrate that:

- a. assessments have been carried out, the relevant scope of which have been agreed in advance with the planning authority, and proposals have been designed to address, where relevant, impacts on the natural and historic environment or human health;
- b. the proposal would not give rise to significant adverse impacts upon local air quality, particularly within an Air Quality Management Area (AQMA) designated by the district authority;
- c. public rights of way or concessionary paths are not adversely affected, or if this is not possible, either temporary or permanent alternative provision is made;
- d. the overall carbon footprint of the development has been minimised;
- e. issues of ground stability have been addressed including tip and quarry slope stability, mining subsidence and differential settlement of backfill.

Considerations will include:

- the proximity of sensitive receptors, including impacts on surrounding land uses, and protected habitats, species and landscapes;
- how residual and/or mineral wastes will be managed;
- the extent to which adverse effects can be controlled through sensitive siting and design, or visual or acoustic screening;
- the use of appropriate and well maintained and managed equipment;
- phasing and duration of working;
- progressive restoration;
- hours of operations;
- appropriate routes and volumes of traffic; and
- other mitigation measures.

POLICY DC3 Noise

Noise attributable to minerals and waste developments shall not exceed background noise levels, LAeq 1 hour (free field) by more than 10dB(A) at noise sensitive properties, subject to:

- weekday daytime (0700 to 1900 hours) maximum of 55dB(A) LAeq 1 hour (free field)
- Saturday daytime (0700 to 1300) maximum of 55dB(A) LAeq 1 hour (free field)
- evening (1900 to 2200 hours) maximum of 55dB(A) LAeq 1 hour (free field)

- night time (2200 to 0700 hours) maximum of 42dB(A) LAeq 1 hour (free field)

Sunday, public/Bank holiday and night time working near to noise sensitive properties or receptors should be avoided where practicable. Developments that are required to operate at these times shall provide extensive noise mitigation measures and, when operational, shall proactively seek to minimise noise throughout the life of the development, based on the findings of comprehensive environmental noise monitoring. A limit of 42dB (A) LAeq 1 hour (free field) shall apply.

It is recognised that some temporary activities, including soil stripping, construction and removal of soil storage and baffle mounds, aspects of road construction and maintenance, often bring longer-term environmental benefits. For such activities, increased temporary weekday daytime noise level limits should not exceed 70dB(A) LAeq 1 hour (free field) for periods of up to eight weeks in a year at specified noise sensitive properties. Operators will be expected to make every effort to deliver temporary works at a lower level of noise impact.

Where tonal noise and/or peak and impulsive noise would contribute significantly to total site noise, separate limits will be required independent of the background noise levels and may include Lmax in specific octave or third octave bands, and will not be allowed to occur regularly at night.

POLICY DC5 Dust

Applications for new minerals and waste development, and for the expansion of existing operations, will only be permitted where the applicant can provide evidence that the proposed development will not have a demonstrable impact on amenity, human health, air quality and the natural and historic environment, with regard to dust emissions. This will include a dust assessment study.

POLICY DC6 Cumulative environmental impacts Cumulative impacts of minerals and waste development proposals will be assessed in the light of other land-uses in the area. Where appropriate, considerations will include:

- a. all environmental aspects including habitats and species, visual impact, landscape character, cultural heritage, noise, air quality, ground and surface water resources and quality, agricultural resources and flood risk;
- b. the impact of processing and other plant;
- c. the type, size and numbers of vehicles generated, from site preparation to final restoration and their potential impacts on the transport network, safety and the environment;
- d. impacts on the wider economy and regeneration;
- e. impacts on local amenity, community health and areas for formal and informal recreation.

POLICY DC13 Criteria for energy minerals

Proposals for energy minerals developments that conform to the Strategic and other Policies of this Local Plan will be supported subject to the following criteria:

Exploration and appraisal of hydrocarbons

Planning permission will be granted for proposals for exploration and appraisal of oil and gas resources provided that:

- a. the site and equipment is sited at a location where it can be demonstrated that it will not have any unacceptable social and environmental impacts; and
- b. the proposal provides for appropriate baseline monitoring prior to commencement of development; and

- c. the impacts of the development have been considered in relation to impact on climate change; and
- d. the timely restoration and subsequent aftercare of the site, whether or not oil or gas is found.

Commercial exploitation of hydrocarbons

Planning permission will be granted for proposals for commercial exploitation of oil and gas, provided that:

- a. a full appraisal programme for the oil or gas field has been completed;
- b. the proposed location is the most suitable, taking into account social, environmental, geological and technical factors;
- c. the cumulative impacts of the development of the gas field and essential associated infrastructure have been assessed;
- d. appropriate provision is made for mitigation or compensation for significantly adverse environmental and social impacts; and
- e. the impact of the development has been considered in terms of contributing to the mitigation of climate change.

Combined planning applications for more than one phase will only be considered if all relevant information, including environmental information, to support the full extent of the application is provided.

Underground Coal Gasification

The criteria set out above in this policy, for exploration and appraisal and commercial exploitation, will also apply to proposals for onshore surface works or ancillary development to support offshore Underground Coal Gasification (UCG). Where a UCG proposal follows a planning permission for coal extraction only, a separate planning application will be required for development related to UCG.

Coal

Planning applications for coal extraction will only be granted where;

- the proposal would not have any unacceptable social or environmental impacts; or, if not
- it can be made so by planning conditions or obligations; or, if not
- it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission.

For underground coal mining, potential impacts to be considered and mitigated for will include the effects of subsidence including: the potential hazard of old mine workings; the treatment and pumping of underground water; monitoring and preventative measures for potential gas emissions; and the disposal of colliery spoil. Provision of sustainable transport will be encouraged, as will Coal Mine Methane capture and utilisation.

POLICY DC16 Biodiversity and geodiversity

Proposals for minerals and waste developments, including ones for ROMP applications and time extensions, will be required to identify, where appropriate:-

- any potential impacts on important biodiversity and geological conservation assets, as defined in the Strategic Policies, and on any functional ecological and green infrastructure networks; and
- their potential to enhance, restore or add to these resources; and
- to contribute to national and local biodiversity and geodiversity objectives and targets.

Proposals for developments within, or affecting the features or settings of such resources, should demonstrate that:

- a. the need for, and benefits of, the development and the reasons for locating the development in its proposed location and alternatives, have been considered;
- b. appropriate measures to mitigate any adverse effects (direct, indirect and cumulative) have been identified and secured, and advantage has been taken of opportunities to incorporate beneficial biodiversity and geological conservation features; or
- c. where adverse impacts cannot be avoided or mitigated for, that appropriate compensatory measures have been identified and secured; and
- d. that all mitigation, enhancement or compensatory measures are compatible with the characteristics of, and features within, Cumbria.

POLICY DC17 Historic environment

Minerals and waste management developments, including restoration and afteruse, will, where necessary, preserve and, where appropriate, enhance Cumbria's heritage assets and their settings. Any such proposals that would result in harm to, or total loss of, the significance of a designated heritage asset, or its setting, (or a non-designated heritage asset of national significance, or its setting), or the Outstanding Universal Value of a World Heritage Site, will only be permitted where it can be clearly demonstrated that public benefits outweigh the harm and that the harm is necessary to achieve those benefits.

Any proposals that affect a non-designated heritage asset or its setting will be judged on the significance of the heritage asset, the scale of the harm and the public benefits of the proposal.

Where a development proposal affecting archaeological sites is acceptable in principle, the preservation of the remains in situ will be the preferred solution. Where in situ preservation is not possible or justified, the development will be required to make adequate provision for excavation and recording before or during development.

All development proposals that will have an impact on any heritage asset or its setting (including where there is potential for unknown archaeological assets), whether designated or not, should be accompanied by an assessment of the significance of the heritage asset and its setting, and how that significance will be affected by the proposed development. The level of information required will be proportionate to the significance of the asset and to the scale of impact of the proposal, and may require, where necessary, an archaeological desk based assessment and field investigation. The recording of the loss of, or harm to, any heritage assets (where justified), and any supporting information, will need to be made publically accessible in the County's Historic Environment Record.

POLICY DC18 Landscape and visual impact

Proposals for development should be compatible with the distinctive characteristics and features of Cumbria's landscapes and should:

- a. avoid significant adverse impacts on the natural and historic landscape;
- b. use Landscape Character Assessment to assess the capacity of landscapes to accept development, to inform the appropriate scale and character of such development, and guide restoration where development is permitted;
- c. in appropriate cases, use the Guidelines for Landscape and Visual Impact Assessment to assess and integrate these issues into the development process;
- d. ensure that development proposals avoid significant adverse visual impacts and consider the effects on: locally distinctive natural or built features; scale in relation to landscape features;

public access and community value of the landscape; historic patterns and attributes; and openness and remoteness;

- e. ensure high quality design of modern waste facilities to minimise their impact on the landscape, or views from sensitive areas, and to contribute to the built environment;
- f. direct minerals and waste developments to less sensitive locations, wherever this is possible, and ensure that sensitive siting and high quality design prevent significant adverse impacts on the principal local characteristics of the landscape including views to or from, and the setting of, Areas of Outstanding Natural Beauty, the Heritage Coast, National Parks or World Heritage Sites.

POLICY DC19 Flood risk

All proposed minerals and waste management developments should be located, wherever possible, in areas with the lowest probability of flooding (Zone 1).

Development proposals will not be considered without a site-specific Flood Risk Assessment, appropriate to the scale, nature and location of the development, for:

- 1 hectare or greater in Flood Zone 1; or
- new development (including minor development and change of use) in Flood Zones 2 and 3, or in an area within Flood Zone 1 that has critical drainage problems (as notified to the Local Planning Authority by the Environment Agency); or
- where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding.

The Flood Risk Assessment should assess potential effects from current and future flooding from all sources, whether it would increase flood risk elsewhere and measures to deal with these effects and risks.

Considerations will include the hierarchy of drainage options, reduction and/or attenuation of surface water run-off and the minimising of discharge to public sewers, except where a need for pollution control indicates otherwise.

Minerals and waste development on sites where national policy and guidance require the Exception Test to be applied, will only be permitted if it has been demonstrated that:-

- a. the development provides wider sustainability benefits to the community that outweigh the flood risk; and
- b. the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

Minerals and waste developments that reduce flood risk downstream of the proposal would be supported.

Minerals and waste development proposals should incorporate sustainable drainage systems unless they are demonstrated to be inappropriate.

POLICY DC20 The water environment

Proposals for developments should demonstrate that they would have no unacceptable quantitative or qualitative adverse effects on the water environment, both within the application site and its surroundings, including surface waters, coastal waters, private water supplies and groundwater

resources. Proposals that minimise water use and include sustainable water management will be favoured.

POLICY DC21 Protection of soil resources

Proposals for minerals and waste development will be required to demonstrate that:

- a. the long-term potential of Best and Most Versatile agricultural land will be safeguarded;
- b. soil resources are conserved and maintained in viable condition to be used in restoration of the site; or
- c. where developments are permanent and restoration is not envisaged, that soil resources are used effectively on undeveloped areas of the site, or used appropriately on other suitable sites.

POLICY DC22 Restoration and aftercare

Proposals for minerals extraction, or for temporary waste facilities such as landfill, shall be accompanied by restoration and aftercare proposals with sufficient detail to clearly demonstrate that the overall objectives of the scheme are practically achievable, including a vision for overall restoration of the site, and to include proposals for appropriate afteruse and the means to achieve it. The level of detail required will depend on the circumstances of each specific site including the expected duration of operations on the site. In all cases, restoration schemes must demonstrate that the land is stable and that the risk of future collapse of any mine workings has been minimised.

After-uses that enhance biodiversity, geodiversity and the environment, conserve soil resources, conserve and enhance the historic environment, increase public access, 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, green infrastructure and woodland.

Where sites accord with other policies in the Plan, an alternative or mixed afteruse that would support long term management, farm diversification, renewable energy schemes, tourism or employment land, may be acceptable.

All proposals must demonstrate that:

- a. for agricultural, forestry, nature conservation and amenity afteruses, there is an aftercare management programme of at least 5 years, but longer where required to ensure that the restoration scheme is established;
- b. the restoration is appropriate for the landscape character and wildlife interest of the area, and measures to protect, restore and enhance biodiversity and geodiversity conservation features are practical, of a high quality appropriate to the area and secure their long-term safeguarding and maintenance;
- c. the restoration scheme is compatible with neighbouring land uses;
- d. restoration will be completed within a reasonable timescale and is progressive as far as practicable;
- e. provision for the likely financial and material budgets for the agreed restoration, aftercare and afteruse will be made during the operational life of the site;
- f. restoration and aftercare (or reclamation) will be undertaken using industry best practice.

Once peat workings have become non-operational, they should be restored to peat regeneration wherever feasible, using best practicable measures. Where such re-generation is not demonstrably feasible, the detailed restoration scheme should minimise carbon loss and maximise both habitat re-creation and carbon sequestration capacity across the site.

Copeland Local Plan 2013-2028 - Core Strategy and Development Management Policies*Policy ST1 – Strategic Development Principles*

The Strategic Development Principles that inform and underpin the Borough's planning policies are:

A Economic and Social Sustainability

Support the development of energy infrastructure, related economic clusters, rural diversification and tourism in appropriate locations

- i) Support diversity in jobs, and investment in education and training, especially that which creates and attracts business
- ii) Ensure development creates a residential offer which meets the needs and aspirations of the Borough's housing markets
- iii) Support development that provides or contributes to the Borough's social and community infrastructure enabling everyone to have good access to jobs, shops, services and recreational and sports facilities

B Environmental Sustainability

- i) Encourage development that minimises carbon emissions, maximises energy efficiency and helps us to adapt to the effects of climate change.
- ii) Focus development on sites that are at least risk from flooding and where development in areas of flood risk is unavoidable, ensure that the risk is minimised or mitigated through appropriate design.
- iii) Protect, enhance and encourage the creation of new areas of green infrastructure, recognising the important role that the natural environment and healthy ecosystems have to play in the future social and economic, as well as environmental sustainability of Copeland.
- iv) Reuse existing buildings and previously developed land wherever possible, directing development away from greenfield sites, where this is consistent with wider sustainability objectives
- v) Ensure that new development minimises waste and maximises opportunities for recycling
- vi) Minimise the need to travel, support the provision of sustainable transport infrastructure and measures that encourage its use
- vii) Prioritise development in the main towns where there is previously developed land and infrastructure capacity

C Protect, enhance and restore the Borough's valued assets

- i) Protect and enhance areas, sites, species and features of biodiversity value, landscapes and the undeveloped coast
- ii) Protect and enhance the Borough's cultural and historic features and their settings
- iii) Provide and enhance recreational opportunities for the Borough's residents and its visitors, protecting existing provision and ensuring that future development meets appropriate standards in terms of quantity and quality.
- iv) Manage development pressures to protect the Borough's agricultural assets
- v) Support the reclamation and redevelopment or restoration of the Borough's vacant or derelict sites, whilst taking account of landscape, biodiversity and historic environment objectives
- vi) Ensure development minimises air, ground and water pollution

- D Ensure the creation and retention of quality places
- i) Apply rigorous design standards that retain and enhance locally distinctive places, improve build quality and achieve efficient use of land
 - ii) Ensure development provides or safeguards good levels of residential amenity and security
 - iii) Accommodate traffic and access arrangements in ways that make it safe and convenient for pedestrians and cyclists to move around
 - iv) Ensure new development addresses land contamination with appropriate remediation measures

Planning applications that accord with these principles and relevant Development Management policies, and do not undermine the Spatial Development Strategy, will be approved without unnecessary delay, unless material considerations indicate otherwise.

Policy ST2 – Spatial Development Strategy

Development in the Borough should be distributed in accordance with the following principles:

- A. Growth: providing for and facilitating growth in the local economy, particularly in the energy sector, accompanied by net growth in jobs and an associated increase in demand for housing and services
- B. Concentration: development will be located in the Borough's settlements at an appropriate scale, within defined settlement boundaries, in accordance with the Borough's settlement hierarchy as set out in Figure 3.2:
 - i) Focussing the largest scale development and regeneration on Whitehaven and the important development opportunities there
 - ii) Supporting moderate levels of development reflecting the respective scale and functions of the smaller towns (Cleator Moor, Egremont and Millom), and contributing to the regeneration of the town centres
 - iii) Permitting appropriately scaled development in defined Local Centres which helps to sustain services and facilities for local communities
- C. Restricting development outside the defined settlement boundaries to that which has a proven requirement for such a location, including:
 - i) Energy - nuclear: support for the development of new nuclear generating capacity at Moorside, and a willingness to discuss a potential Geological Disposal Facility for higher level radioactive waste in the Borough
 - ii) Energy - renewable: support for renewable energy generating proposals which best maximise renewable resources and which minimise environmental and amenity impacts
 - iii) Essential infrastructure to support energy development and other infrastructure that requires locating outside settlement limits
 - iv) Existing major employment locations, especially Westlakes Science and Technology Park, and the completion of defined allocated or safeguarded employment sites
 - v) Land uses characteristically located outside settlements, such as agriculture or forestry, farm diversification schemes or tourism activities requiring location in the countryside, or prisons
 - vi) Housing that meets proven specific and local needs including provision for agricultural workers, replacement dwellings, replacement of residential caravans, affordable housing and the conversion of rural buildings to residential use
- D. Proportions: the four towns are expected to accommodate approximately 80% of all (non-nuclear) development over the plan period

- E. Safety: the potential impact of proposals within Safeguarding Zones for hazardous installations should be properly considered

Policy ST3 – Strategic Development Priorities

In pursuit of economic regeneration and growth to fulfil strategic objectives for Copeland and West Cumbria, the following locations are priorities for development:

- A. The site at Moorside selected in National Policy Statement 1-EN6 as the location for a nuclear power station
- B. Regeneration sites in south and central Whitehaven – the town centre and harbourside, Pow Beck Valley, Coastal Fringe and the South Whitehaven Housing Market Renewal Area
- C. Town centre renewal in Cleator Moor, Egremont and Millom
- D. The sites prioritised for development in the Energy Coast Master Plan (see Chapter 8: Localities for details)

Other sites that may emerge, which reflect the above priorities and/or other Core Strategy or agreed sub-regional growth objectives, will be similarly supported.

Policy ST4 – Providing Infrastructure

- A. Development that generates a demand for physical, social or environmental infrastructure will be permitted if the relevant infrastructure is either already in place and has the capacity to meet the additional demand, or there is a reliable mechanism in place to ensure that it will be provided when and where required
- B. In the specific case of major development, particularly in the energy sector, where the Council is not the determining authority, we will work with developers, Government and the National Infrastructure Directorate to agree packages of measures which ensure that such development makes an optimal contribution to the Borough's needs
- C. The Council will, until a Community Infrastructure Levy is adopted, apply the following principles in securing developer contributions:
 - i) Development proposals should provide, or contribute to the provision of facilities, infrastructure, services, and other environmental and social requirements either on or off site, as is reasonable and necessary to support and mitigate the impact of the development
 - ii) The nature and scale of any planning requirements sought for this purpose should be related to the type of development, its potential impact upon the surrounding area and, in the case of residential proposals, the need for developer contributions for the provision of affordable housing (see Policy SS3). The Council will not seek contributions which would prejudice the viability of a development, beyond those which would be necessary to make it acceptable.
 - iii) Contributions for the initial running costs of services and facilities to secure their medium and long-term viability will be agreed through appropriate conditions or obligations, where such costs cannot be sustained in the short term
- D. The Council will expect utility and other infrastructure providers to rectify as soon as possible any network shortcomings which risk preventing or delaying development
- E. A Supplementary Planning Document on Developer Contributions for Infrastructure will set out the appropriate range and level of contributions, and matters for which they will be sought. This, supported by data from the Infrastructure Plan, may form the basis for a future Community Infrastructure Levy.

Policy ER11 – Developing Enterprise and Skills

The Council will work with its partners to promote and develop the skills and employment opportunities of local people by:

- A. Enhancing inward investment and promoting the diversification of the Borough's economy, working with partners to support new and expanding employment sectors, particularly energy-related and environmental and innovative energy technologies, such as tidal, off shore wind and micro-generation
- B. Supporting the development of education and training facilities, to encourage people to develop the qualifications and skills that will be attractive to new business and vital for new enterprise
- C. Supporting the development of commercial units which meet the needs of businesses, encourage start-ups and promote further expansion in order to retain enterprise, jobs and skills within the Borough
- D. Encouraging the further development of Research and Development and education and training facilities at the Westlakes Science and Technology Park, along with Further and Higher Education Partners
- E. Supporting new spin-off business development that capitalises on the existing or emerging Intellectual Property that exists at Sellafield
- F. Focussing employment training and initiatives in Whitehaven, the 3 Key Service Centres, the Westlakes Science and Technology Park and the Sellafield site where there is good access to the strategic road network and where the use of public transport can be maximised
- G. Ensuring that the benefits of regeneration provide a catalyst for change in the communities living nearby, by improving connectivity, including transport links and securing training and employment agreements

Policy ENV1 – Flood Risk and Risk Management

The Council will ensure that development in the Borough is not prejudiced by flood risk through:

- A. Permitting new build development only on sites located outside areas at risk of flooding, with the exception of some key sites in Whitehaven
- B. Ensuring that developments on important regeneration sites in Whitehaven Town Centre and Harbourside and Pow Beck Valley are designed to address the existing levels of flood risk without increasing flood risk elsewhere
- C. Ensuring that new development does not contribute to increased surface water run-off through measures such as Sustainable Drainage Systems, where these are practical. Where they are not this should be achieved by improvements to drainage capacity
- D. Supporting measures to address the constraints of existing drainage infrastructure capacity and avoiding development in areas where the existing drainage infrastructure is inadequate
- E. Support for new flood defence measures to protect against both tidal and fluvial flooding in the Borough, including appropriate land management as part of a catchment wide approach

Individual development proposals will be assessed with regard to Development and Flood Risk under Policy DM24.

Policy ENV2 – Coastal Management

To reinforce the Coastal Zone's assets and opportunities the Council will:

- A. Promote the developed coast as a destination for leisure, culture and tourism, with strong links to Whitehaven Harbour / town centre in the north and to Millom in the south
- B. Maximise opportunities along the undeveloped coast for tourism and outdoor recreation through support for the North West Coastal Trail and Colourful Coast projects

- C. Support the management of more of the undeveloped coast for biodiversity
- D. Support energy generating developments that require a coastal location along the undeveloped coast, provided that the potential impacts on biodiversity, landscape and heritage assets are carefully assessed against the benefits. Where negative impacts are likely these must be mitigated against and compensated for
- E. Protect the intrinsic qualities of the St Bees Head Heritage Coast in terms of development proposals within or affecting views from the designation. At the same time encourage schemes which assist appropriate access to and interpretation of the Heritage Coast area

Work with partners to manage the risks associated with coastal erosion and flooding and ensure that all new development is located outside areas identified as being at risk either now or in future phases of the Shoreline Management Plan.

Policy ENV3 – Biodiversity and Geodiversity

The Council will contribute to the implementation of the UK and Cumbria Biodiversity Action Plan within the plan area by seeking to:

- A. Improve the condition of internationally, nationally and locally designated sites
- B. Ensure that development incorporates measures to protect and enhance any biodiversity interest
- C. Enhance, extend and restore priority habitats and look for opportunities to create new habitat
- D. Protect and strengthen populations of priority or other protected species
- E. Boost the biodiversity value of existing wildlife corridors and create new corridors, and stepping stones that connect them, to develop a functional Ecological Network
- F. Restrict access and usage where appropriate and necessary in order to conserve an area's biodiversity value

Policy DM25 supports this policy, setting out the detailed approach towards managing development proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

Policy ENV4- Heritage Assets

The Council's policy is to maximise the value of the Borough's heritage assets by:

- A. Protecting listed buildings, conservation areas and other townscape and rural features considered to be of historic, archaeological or cultural value
- B. Supporting proposals for heritage led regeneration, ensuring that any listed buildings or other heritage assets are put to an appropriate, viable and sustainable use
- C. Strengthening the distinctive character of the Borough's settlements, through the application of high quality urban design and architecture that respects this character and enhances the settings of listed buildings

Policy DM27 supports this policy, setting out the Council's approach to development which affects built heritage and archaeology.

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

The Borough's landscapes will be protected and enhanced by:

- A. Protecting all landscapes from inappropriate change by ensuring that development does not threaten or detract from the distinctive characteristics of that particular area

- B. Where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site
- C. Supporting proposals which enhance the value of the Borough's landscapes

ENV6 – Access to the Countryside

The Council's policy is to ensure access to the countryside for residents and visitors by:

- A. Identifying opportunities to provide or improve access on routes and gateways from settlements and to secure the implementation of improvement measures with key partners and developers
- B. Investigating opportunities for reclaiming contaminated and derelict land for recreation purposes
- C. Identifying potential for the development of a community forest, long distance walks or outdoor adventure activity centre

DM3 – Safeguarding Employment Areas

Proposals for non-employment uses on land allocated for employment or on sites in proposed safeguarded employment areas will be permitted where it is demonstrated that:

- A. The site is no longer viable for employment use and would not make a significant contribution to the Borough's employment land requirements over the plan period; and
- B. Applicants have considered the 5-year supply of sites and premises in the Borough and provide robust evidence that there are no suitable alternatives for the proposal; or
- C. In exceptional circumstances the proposal provides benefits that significantly outweigh the loss of land for employment use. Alternatives which comprise a mix of uses which provide employment opportunities will be preferred to single-use residential development

DM10 – Achieving Quality of Space

The Council will expect a high standard of design and the fostering of 'quality places'.

Development proposals will be required to:

- A. Incorporate a complementary mix of uses, especially within or near town centres or at sites adjacent to public transport routes
- B. Respond positively to the character of the site and the immediate and wider setting and enhance local distinctiveness through:
 - i) An appropriate size and arrangement of development plots
 - ii) The appropriate provision, orientation, proportion, scale and massing of buildings
 - iii) Careful attention to the design of spaces between buildings, including provision for efficient and unobtrusive recycling and waste storage
 - iv) Careful selection and use of building materials which reflects local character and vernacular
- C. Incorporate existing features of interest including landscape, topography, local vernacular styles and building materials; and in doing so, have regard to the maintenance of biodiversity
- D. Address vulnerability to and fear of crime and anti-social behaviour by ensuring that the design, location and layout of all new development creates:
 - i) Clear distinctions between public and private spaces
 - ii) Overlooked routes and spaces within and on the edges of development
- E. Create and maintain reasonable standards of general amenity
- F. Incorporate new works of art as part of development schemes where appropriate

DM11 - Sustainable Development Standards

The Council will ensure that development proposals reach high standards of sustainability by:

- A. Requiring housing to be of an appropriate density – generally at least 30 dwellings per hectare. However, a lower density may be acceptable where it reflects the form and character of development in the surrounding area
- B. Encouraging developers to achieve high energy efficiency standards in relation to the Code for Sustainable Homes and BREEAM
- C. Requiring renewable energy generating technology on site in developments of 10 or more dwellings or 1,000m² non-residential development
- D. Orientating and designing buildings to maximise solar gain, so far as practicable without compromising wider design and quality of place objectives
- E. Encouraging construction materials to be sourced, where possible, from local and sustainable sources of production
- F. Requiring water saving technology, including grey water recycling to be incorporated in all developments
- G. Ensuring surface water is managed appropriately, with the inclusion of Sustainable Drainage Systems where possible

Support will also be given to proposals for improvements or alterations to existing buildings that include measures to increase energy efficiency and incorporate renewable energy generation with regard to the standards in this policy.

Development should not result in the unnecessary sterilisation of surface mineral resources, and wherever appropriate should incorporate remediation measures to ensure that the development is not at risk from ground instability arising from mining legacy or other former uses.

DM22 – Accessible Developments

The Council will require development proposals to be accessible to all users and accord with the following principles:

- A. The layout of the development responds positively to existing movement patterns in the area by providing or contributing towards:
 - i) Permeable and legible layouts which are convenient for access into and through the site for pedestrians, cyclists and disabled people
 - ii) Access for public transport
 - iii) Access for emergency and service vehicles

Incorporate innovative approaches to managing vehicular access and parking with:

- i) Standards incorporated into the design of the development which manage traffic access and speeds without excessive engineering measures
- ii) Incorporate car parking, through a variety of on street and off street arrangements which avoid vehicles dominating the street scene, whilst meeting adopted car parking standards which reflect the needs of the Borough in its rural context

Where necessary the potential transport implications of development will be required to be supported by a Transport Assessment and a Travel Plan to manage any significant transport implications

DM24 – Development Proposals and Flood Risk

Where a proposed development is likely to be at risk from flooding or increases risk of flooding elsewhere, a Flood Risk Assessment (FRA) will be required to be submitted as part of the planning application.

Development will not be permitted where it is found that:

- A. There is an unacceptable risk of flooding; or
- B. The development would increase the risk of flooding elsewhere; or
- C. The development would cause interference with or loss of access to a watercourse

and the benefits of the development do not outweigh the risks of flooding.

Where a development requires the provision of additional flood defence and mitigation works, any costs, including maintenance, should be met by the developer.

DM25 – Protecting Nature Conservation Sites, Habitats and Species

- A. All development proposals should:
 - i) Protect the biodiversity value of land and buildings
 - ii) Minimise fragmentation of habitats
 - iii) Maximise opportunities for conservation, restoration, enhancement and connection of natural habitats and creation of habitats for species listed in UK and Cumbria Biodiversity Action Plans. Special consideration should also be given to those European habitats that lie outside the boundaries of European designated sites
- B. Development proposals that would cause a direct or indirect adverse effect on locally recognised sites of biodiversity and geodiversity importance, including County Wildlife Sites, Local Nature Reserves and Regionally Important Geological/Geomorphological Sites or protected species will not be permitted unless:
 - i) The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats, and;
 - ii) Prevention, mitigation and/or compensation measures are provided. An appropriate long-term management plan will be sought and arrangements to provide adequate funding will be made in accordance with a formal planning agreement or obligation
- C. Where compensatory habitat is created, it should be of equal or greater size than the area lost as a result of the development
- D. Development proposals where the principal objective is to conserve or enhance biodiversity or geodiversity interests will be supported in principle
- E. Where there is evidence to suspect the presence of protected species any planning application should be accompanied by a survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for, their needs
- F. All development proposals must take into account any likely significant effects on the internationally important sites both within the Borough and within a 20km radius of the Borough boundary as well as those that are hydrologically linked to the development plan area

DM26 – Landscaping

All development proposals will be assessed in terms of their potential impact on the landscape. Developers should refer to the Cumbria Landscape Character Assessment and Cumbria Historic

Landscape Characterisation documents for their particular character area and design their development to be congruent with that character.

The Council will continue to protect the areas designated as Landscapes of County Importance on the Proposals Map from inappropriate change until a more detailed Landscape Character Assessment can be completed for the Copeland plan area.

Proposals will be assessed according to whether the proposed structures and associated landscaping relate well in terms of visual impact, scale, character, amenity value and local distinctiveness and the cumulative impact of developments will be taken into account as part of this assessment.

Development proposals, where necessary, will be required to include landscaping schemes that retain existing landscape features, reinforce local landscape character and mitigate against any adverse visual impact. Care should be taken that landscaping schemes do not include invasive non-native species.

The Council will require landscaping schemes to be maintained for a minimum of five years

DM27 - Built Heritage and Archaeology

- A. Development proposals which protect, conserve and where possible enhance the historic, cultural and architectural character of the Borough's historic sites and their settings will be supported. This will be particularly relevant in the case of:
 - i) Scheduled Ancient Monuments
 - ii) Conservation Areas
 - iii) Listed Buildings and structures
 - iv) Non-listed buildings and structures or landscape features of local heritage and archaeological value
 - v) Surface and below ground archaeological deposits
- B. Development proposals which have a significant adverse effect on a Scheduled Ancient Monument or its wider site or setting will not be permitted
- C. Development within Conservation Areas will only be permitted where it preserves or enhances the character or appearance of the area and, where appropriate, views in and out of the area. The Council will pay particular attention to:
 - i) How new development respects the character of existing architecture and any historical associations, landscape features, open spaces, trees, walls and quality of townscape
 - ii) The impact of any proposed works to trees with regard to policy DM28
 - iii) The design of any proposals for new or altered shopfronts and / or signage, which should be an integral part of the design and avoid the use of internally illuminated signage
- D. Development which affects Listed Buildings or their setting will only be permitted where it:
 - i) Respects the architectural and historic character of the building
 - ii) Avoids any substantial or total demolition, or any demolition that is not related to proposed development affecting the building
 - iii) Does not have a significant adverse effect on the setting or important views of the building
 - iv) Involves a change of use to all or part of the listed building which contributes to the conservation and overall economic viability of the building, and where the use can be implemented without any adverse alterations to the building
- E. Any development proposal which is considered to affect an existing or potential site of archaeological importance will be required to be accompanied by an archaeological assessment. Where archaeological deposits are evident, below ground or on the surface,

evidence should be recorded and where possible preserved in-situ. Proposals for development where archaeological interest has been established will not be approved until evidence has been provided that the risk of archaeological disturbance has been adequately investigated and has been minimised. Planning permission will not be granted if the impact on potential archaeology is unacceptable.

Copeland Local Plan 2013-2028 - Proposals Map and Copeland Local Plan 'Saved Policies Document produced in June 2015

POLICY EMP 3: Employment Opportunity Sites

Areas of land at Whitehaven, Cleator Moor and Egremont have been delineated on the Proposals Map as Employment Opportunity Sites. These areas are being investigated as to their future development potential and contribution they can make to the regeneration strategies in the Borough. Detailed implications and locational issues associated with these sites will be the subject of future planning policy documents as soon as practicably possible.

Relevant Policies of Emerging Policy Documents

Appendix 2

Emerging Policy Documents

Copeland Borough Council – Issues and Options

Copeland Borough Council has recognised that there have been several changes to both the local and national policy context since the adoption of their current local plan was adopted in 2013. It identifies these as:

- Updates to the National Planning Policy Framework (NPPF) (2019)
- The Council's new Housing Strategy (2018-2023)
- Production of the new Copeland Growth Strategy: Copeland Vision
- The Council's Corporate Plan
- Cumbria Local Industrial Strategy
- The pause of the Moorside project
- Changes to Sellafield's 'missions' and the opportunities that this can provide
- Availability of Government funding
- Changes to shopping patterns and the role and function of our town centres

(Copeland Local Plan 2017-2035 – Issues and Options Draft 2019)



In the light of these changes the Council is seeking to replace the current local plan with a new Local Plan. They have prepared an Issues and Options consultation document as the first stage of this process. The Issues and Options document identifies the key issues currently facing the Borough and sets out various options for addressing them. The Issues and Options Document has been the subject of a consultation period which expired in January 2020.

The document includes no development plan policies but asks questions seeking views on the volume and distribution of future development in the Borough over the plan period.

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Talk To Us

WCM welcomes any further comments and feedback that you may have by email, post or telephone.