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Date: 28 November 2018

Dear Sirs

RE: Review of the Joint Lancashire Minerals and Waste Local Plan Publication Consultation Version (Regulation 19).

Thank you for the opportunity to comment on the Review of the Joint Lancashire Minerals and Waste Local Plan (the Plan).

The Spatial Vision

Fylde Council generally welcomes 'The Spatial Vision', however it is considered that the Vision should make clearer reference to the environment and the requirement to balance the economic benefits of mineral extraction with the protection of the environment. Whilst it does mention avoiding sensitive or unsuitable locations, it does not say that when minerals and or waste development takes place (in any location) there should be protection and enhancement of the environment.

Onshore Oil and Gas Developments

Clearly onshore oil and gas exploration and exploitation has significant relevance in Fylde. The Council welcomes the fact that the review of the Plan has provided an opportunity to incorporate the proposed Supplementary Planning Document relating to Onshore Oil and Gas into the plan itself. However, Fylde Council would wish to see greater emphasis placed on a number of key issues relating to this particular matter.

Whilst it is appreciated that, in accordance with transitional arrangements, the plan has been prepared having regard to the National Planning Policy Framework 2012, there are a number of elements of the 2018 Framework that could be incorporated into the plan in order to 'future proof' its policies.

The Glossary to the Plan includes reference to 'Mineral' but does not reflect the definition of

'Minerals of National Importance' as set out in the National Planning Policy Framework (2012 or 2018). Whilst the glossary makes reference to 'Rock or other material' this potentially has implications for the application of many of the minerals policies if this is interpreted as not including oil and gas. Whilst the glossary of the 2012 Framework referred to Oil and Gas, which it is assumed includes both conventional and unconventional oil and gas, the definition used in the NPPF18 includes specific reference to unconventional oil and gas. To avoid any future confusion, Fylde Council would wish to see confirmation that conventional and unconventional oil and gas are included within the definition.

If the Framework definition is utilised, this would confirm that many of the more general minerals policies would also apply to On Shore Oil and Gas e.g. MW1, MW2 and MW4. It should be made clear within the plan whether it is intended that these policies apply to On Shore Oil and Gas, as they are in some respects less restrictive than the more detailed Onshore Oil and Gas policy. This can be achieved by changing the definition and by cross referencing to Policy MW17, in all of the Minerals policies.

It is noted that Policy MW1 is used as mitigation in relation to the Habitats Regulations Assessment, and this matter is addressed in further detail in the HRA section of this response.

Clearly onshore oil and gas exploration and winning has significant relevance in Fylde. The Council welcomes the fact that the review of the Plan has provided an opportunity to incorporate the proposed Supplementary Planning Document relating to Onshore Oil and Gas into the plan itself. However, Fylde Council would wish to see greater emphasis placed on a number of key issues relating to this particular matter.

MW17 Onshore Oil and Gas Developments

Unlike Policy MW11 this policy does not set out the local, regional and national needs for shale gas, to allow an evaluation against the Policy Aim in Appendix 1. Therefore, it is not possible to use the plan to determine the weight that should be attached to the "need for shale gas" when determining a planning application. It is considered that the text that is included in the sustainability appraisal relating to the national need for shale gas should be included as justification for this policy.

Fylde Council considers that the wording of Policy MW 17 should be amended to read will not be permitted unless all of the following criteria are met:

In regard to Criteria 1, this should be more specific about how the word 'sensitive' will be interpreted, it is considered that this should refer to the impact on residents, businesses, biodiversity, heritage, landscape and water resources as a minimum. Whilst such reference is included in the justification, it would strengthen the policy if it specifically referred to the separate issues that will be considered.

In order to provide clarity, Criteria 2 should define what 'close proximity' to the primary route network means, either in terms of distance, ease of access or both. The primary route network is defined but excludes the motorway network and other A roads such as the A6. It is considered that the policy should include reference to all roads above the Primary Route Network in the road network hierarchy. Those areas in close proximity to the Primary Route Network should be defined on the Policies map for clarity. Areas in close proximity to motorway junctions should also be defined and included on the Policies map.

The policy includes reference to cumulative impacts which should be assessed by a sustainability appraisal (SA). Comments on the SA are included in this response. The policy should include the

parameters for assessing the combined impacts of multiple wells and should provide a way of assessing clusters of wells. This is mentioned in Appendix A (see comments below), however, as drafted, the policy does not address this issue to the satisfaction of Fylde Council.

Appendix A Implementation, Monitoring and Policy Evaluation

The Policy Aim 'Extract sufficient minerals to meet our contribution to local, regional and national needs', includes an implementation issue 'should the industry develop to the extent that there are 10 wells per 100km² this may indicate a review of the plan should be considered'.

For Fylde this would mean 17 wells, and for the whole of Lancashire 300 wells. As drafted, this policy takes no account of the effects of clustering, so the policy would allow for 10 wells to be located in a single square kilometre. This text also refers to onshore gas as a mineral, which is why it is considered that the definition needs to be amended alongside other policies in the Plan.

It is considered that Policy MW17 should be amended to include a ninth criteria which could read as follows:

No more than 10 well heads should be developed per 100km². Where an area being developed by an operator comprises a PEDL or licence block area of less, or more than 100km², the density will be applied pro-rata to prevent the clustering of well heads

It should be noted that the approach suggested in the second part of the criteria set out above is proposed as a modification to the North Yorkshire Minerals and Waste Local Plan. It is important that throughout the Plan the text refers to well heads as it is the well pad that creates the impact, and a well head can accommodate a number of wells without significant additional impacts.

The Policy refers to 'fugitive emissions' and it is considered that this term should be defined in the glossary.

The policy should be strengthened by adding: At the appraisal stage, it is required that:

And also at the production stage, it is required that:

Paragraph 4.4.7 refers to the requirement for an Environmental Impact Assessment (EIA), but should also refer to the need for project level Habitat Regulations Assessment (HRA) where for example proposed developments are located on the Fylde Coast and land is likely to be functionally linked land (with respect to the Ribble and Morecambe Estuaries).

The policy does not make any requirements for the exploration phase, if as described at paragraph 4.4.12 exploration and appraisal take place as a single process. It is considered that the Policy should be amended to include the word Exploration.

The terms 'progressively installed' and 'dewatering' should be defined in the glossary.

Paragraph 4.4.17 states that subject to the effects on the environment (no mention of the health and well being of people etc) being appropriately addressed and mitigated, and a satisfactory restoration and aftercare plan prepared, applications for exploration may be favourably considered. Given that exploration is not mentioned in the policy this could be interpreted as meaning that most applications for exploration should be approved. Fylde Council objects to the drafting of this policy and considers that exploration should come under the same level of control as Appraisal and Production and , therefore, should be covered by Policy MW17.

Other Policies in Plan Order

Policy MW1 Management of Waste and Extraction of Minerals

It is assumed that this policy includes onshore oil and gas extraction, in line with the definition of minerals in the Framework. It is a protective policy, but it is considered that, as drafted, the policy contains insufficient detail to deal with the potential impacts of on shore oil and gas. It is considered that the policy should cross reference Policy MW17 Onshore Oil and Gas. This opening section of the plan mentions issues associated with minerals extraction e.g. vibration but does not mention earth tremors, quakes or seismic events associated with hydraulic fracturing. It is considered that a section on this issue should be included.

MW2 Minerals Exploration

Likewise, it is considered that Policy MW2 Minerals should be amended. Policy MW2 states that proposals for exploration will normally be approved provided they do not give rise to significant adverse impacts. This Policy should also cross reference Policy MW17 Onshore Oil and Gas.

Policy MW3 Planning Obligations. Fylde has no comments to make in regard to this policy.

Policy MW4 Development in the Countryside. This Policy should cross refer to MW17 Onshore Oil and Gas.

Policy MW5 Decommissioning, Restoration and Aftercare. Fylde Council considers that the sixth bullet should be strengthened by removing the “wherever possible” and including the words “net gain” in Biodiversity.

Policy MW6 Protection of the Surface of the Former Salt Field from Development. Fylde Council has no comment on this policy.

Policy MW7 Safeguarding Minerals.

In the 2nd paragraph, the policy should read planning permission for built development. It is noted from the Policies Map that this designation includes the Lytham St Annes Sand Dunes which are a Site of Special Scientific Interest. The sand dunes are being actively managed by the Council to facilitate their accretion seawards in order to provide an effective soft sea defence for Lytham St Annes. Policy MW7 also covers extensive areas of the Ribble Estuary, which is designated as a RAMSAR site and SPA. The Ribble Marshes are also designated as a National Nature Reserve. It is considered that the minerals in these areas should be excluded from the safeguarding areas highlighted by Policy MW7. These areas do not require safeguarding as they are protected by environmental designations which mean they should not be exploited.

Policy MW8 Ensuring the Best and Most Efficient Use of Resources. Fylde Council has no comment on this policy.

Policy MW9 Sustainable Construction. Fylde Council has no comment on this policy.

Policy MW10 Designing in Waste Management. It is considered that the word ‘accessible’ should be inserted after the word ‘secure’. If a bin storage area is not easily accessible, there is a risk it won’t be used. It is also considered that the word ‘be’ should be inserted before ‘visually’.

Policy MW11 Aggregate Provision. Fylde Council has no comment on this policy.

Policy MW12 Limestone for Aggregate Purposes. Fylde Council has no comment on this policy.

Policy MW13 Gritstone for Aggregate Purposes. Fylde Council has no comment on this policy.

Policy MW14 Sand Gravel. Fylde Council has no comment on this policy.

Policy MW15 Building Stone. Fylde Council has no comment on this policy.

Policy MW16 Industrial Minerals. Fylde Council has no comment on this policy.

Policy MW 18 Waste Management Provision. Fylde Council has no comment on this policy.

Policy MW 19 Recycling, Treatment and Recovery of Waste. Fylde Council has no comment on this policy.

Policy MW20 Construction, Demolition and Excavation Waste Recycling. Fylde Council has no comment on this policy.

Policy MW21 Energy From Waste. Fylde Council has no comment on this policy.

Policy MW22 Landfilling of Waste. Fylde Council has no comment on this policy.

Policy MW23 Landfilling of Low Level Radioactive Waste. Within paragraph 4.6.2.4 'cartilage' should be replaced by 'curtilage'.

Policy MW24 Construction, Demolition and Excavation Waste Deposits to Land. Fylde Council has no comment on this policy.

Policy MW25 Safeguarding Minerals Infrastructure. Fylde Council has no comment on this policy.

The 'agent of change' principle should be defined in the glossary.

The NPPF

Chapter 17 of the NPPF Facilitating the Sustainable Use of Minerals paragraph 204 criterion f) mentions human health. Human Health is only mentioned in Appendix L General Duties and the Relevant Objectives, human health should be mentioned in the plan itself, in the Vision, Objectives and in the policies. Paragraph 205 criterion b also mentions aviation safety, aviation safety is not mentioned in the Plan. Aviation safety is a significant issue in Fylde as there are two airfields, Blackpool Airport and Warton Aerodrome. Both the Ministry of Defence and the Civil Aviation Authority have to be consulted on planning applications which could impact on the safe operation of these sites. The restrictions are very significant and should be acknowledged in the Plan.

Interim Sustainability Appraisal (SA)– Minerals and Waste Local Plan Review August 2018.

It is noted that this document has been produced in house, however the guidance recommends that it should be produced independently of the Plan, by staff who are not working on the Plan or by an independent consultant. It is not clear whether this the case. The SA should be an unbiased independent sustainability appraisal of the Plan.

It is noted that the social objectives do not include safeguarding human health and the social/economic objectives do not include aviation safety. It is considered that the objectives should be amended to reflect the NPPF.

It is noted that this document takes a different approach to the Local Plan in that under options the SA covers the emerging onshore and gas industry first and then goes on to describe mineral resources, as though onshore and gas are not actually a mineral which is at odds with the definition in the NPPF. This should be resolved by the amendments to the Plan although the Sustainability Appraisal should follow the same approach as the Plan, at present there are inconsistencies.

The SA makes it clear that the plan does not have a role in identifying need for onshore and gas, as this is established at the national level. However, this does not appear to be made clear in the Plan. It is considered that this text should be included in the Plan so that it is clear that oil and gas production in Lancashire is meeting part of the national need rather than a need identified for Lancashire (see earlier comments).

At paragraph 3.5 Lancashire's Mineral Industry, once again minerals in the traditional sense are referred to with no reference to On Shore Oil and Gas.

At 3.6.1 the NPPF 2018 should be referenced.

At 3.6.5 the section on Biodiversity neglects to mention the areas of International significance for biodiversity which are immediately adjacent to the Local Plan area boundary e.g. the Ribble Estuary. These areas are very significant because they rely on functionally linked land within Lancashire e.g. areas of grass land within Fylde which are used as feeding areas for Pink Footed Geese. It only describes areas of interest within the landmass of Lancashire, this is considered to be a major flaw as the Plan boundary does include these areas.

The Section on Links to other Plans, Programmes and Strategies (3.6) should contain a review of all of the Local Plans for all of the Local Planning Authorities of Lancashire. All of these plans contain policies that are relevant to Minerals and Waste development. The policies in these Local Plans do make up the Development Plan and should be referred to accordingly. There should also be a reference to all the Neighbourhood Development Plans that have been made in Lancashire.

At 5.1.3 the seventh bullet is: Will it assist Lancashire in achieving a sustainable supply of minerals? This is misleading because using the NPPF definition, minerals includes Onshore Oil and Gas therefore this bullet should be amended to say will assist the UK in meeting a sustainable supply of minerals? Alternatively onshore oil and gas could be referred to separately.

The Table on page 49, fifth column refers to restricting development at certain environmental designations, again it makes no mention of environmental designations which are immediately adjacent to, or within the Plan's boundary area, but within the Ribble Estuary e.g. The RAMSAR/SPA sites of the Ribble Estuary

Again with respect to the SA Objective can it be accommodated within the environmental capacity of the area? No mention is made of the areas of International significance which are located within the Plans boundary but are within the Ribble Estuary.

Section 5 Assessment of Options and Alternatives, it would be better if the key to assessing the effects was included at the beginning. It is not proposed to make detailed comments on the scoring of the options however there do appear to be some inconsistencies. For example for Onshore Oil

and Gas, will it reduce car and lorry traffic?, the third option which prioritises development at accessible locations must have a more positive impact on the Options, than the alternatives, but this is not reflected in the scoring with it being given an uncertain impact.

The Local Policy Section on page 171 should refer to the Neighbourhood Plans in each Local Authority Area and the Sand Dunes Management Plan and Coastal Strategy within Fylde. Also the Marine Plan for the North West which is currently being produced by the Marine Management Organisation, in addition to the shoreline management plans.

Habitats Regulations Assessment

Page 160, the emerging Fylde Local Plan to 2032 was adopted on 22 October 2018. It is considered that the paragraph in the right hand column does not comply with the Sweetman II Judgement because it refers to mitigation to conclude that the Fylde Local Plan is unlikely to have any significant effects on the European Sites. The conclusions of the final HRA/AA Addendum should be referred to as follows:

The Habitats Regulations Assessment Fylde Local Plan to 2032:HRA Report concludes as follows:

It has, therefore been concluded that, for the Fylde Local Plan whilst screening identified a small number of sites with the potential for likely significant effects, subsequent Appropriate Assessment showed that there would be no adverse effects on the integrity of European site identified within this HRA Report, either alone or in- combination with other plans or projects.

Within section 5.2, some Minerals policies are screened out. If they relate to onshore oil and gas then Fylde Council considers that these policies should not be screened out, depending on clarification of the definition of minerals.

At page 30 MW4 Development in the Countryside, possible impacts should include loss of habitats. At Page 66 MW17 Onshore Oil and Gas, possible impacts should include loss of habitats, wildfowl such as pink footed geese and swans fly to grassed areas (functionally linked land) just inland of the coast, they also fly over the Fylde Peninsular to Morecambe Bay. As well as wildlife disturbance, there will be habitat destruction associated with the exploration and exploitation of minerals if well pads are constructed in large compounds in the countryside. Also noise associated with 24 hour working plus lighting on drilling rigs has potential to create a significant amount of disturbance to bird flight paths. Accordingly these potential effects should be taken into consideration in the assessment.

The Conclusion on page 126 is that "As a result of the screening process a number of policies were identified as potentially having a significant effect on some European sites, principally as a result of the uncertainty around where potential developments may come forward. These policies were subsequently assessed in more detail and it was concluded that any impacts could be mitigated against through the application of other policies in the plan, most notably Policy MW1 which is concerned with environmental safeguards.

The definition of Minerals in the plan as drafted excludes Onshore Oil and Gas. The definition needs to be changed in order for this policy to apply to such activities. Also this conclusion does not appear to comply with the Sweetman II Judgement in that mitigation (in this case using another policy) cannot be used to determine that Appropriate Assessment (AA) is not necessary. The table on page 10 sets out the Habitats Regulations Assessment methodology. Chapter 7 is described as containing the further assessment by an Appropriate Assessment, but uses MW1 as mitigation and

concludes that an AA is not required. Based on the findings of the Sweetman II judgement, this is not the correct procedure and the Plan should be subject to an AA.

I hope the above comments are of assistance in progressing the Minerals and Waste Local Plan. Fylde Council wishes to be kept informed of the submission of the Local Plan for Independent Examination, the publication of the recommendations of the independent examiner and the adoption of the Local Plan.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Mark Evans', written in a cursive style.

Mark Evans
Head of Planning and Housing