

# Barrow Borough Local Plan Examination

## Hearing Statement Matter 1:

### Legal Compliance and the Duty to Co-operate

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Barrow Borough Council

May 2018



## Inspectors MIQ's:

### **Matter 1 - Legal Compliance and Duty to Co-operate**

#### ***Issue 1a: Duty to Co-operate***

##### Questions

1. In preparing the BBLP, has the Council complied with the requirements of the Duty to Co-operate<sup>1</sup>, with particular reference to:
  - a. The relevant strategic matters to which the duty applies as defined by S33A(4) of the Planning and Compulsory Purchase Act? Could the Council please indicate which matters it considers to be genuinely strategic?
  - b. The relevant local authorities and prescribed bodies as defined by S33A(1) in terms of co-operating on these strategic matters?
  - c. Whether the Council has engaged constructively, actively and on an ongoing basis with these organisations on the relevant strategic matters?
2. More particularly, in relation to overall housing provision:
  - a. Who has the Council engaged with in terms of overall housing provision and what form has this taken?
  - b. Is the treatment of Barrow as a single HMA appropriate and justified?
  - c. In overall terms has the Council engaged constructively, actively and on an ongoing basis in order to optimise the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of housing provision?
3. More particularly, in relation to overall employment land provision:
  - a. Who has the Council engaged with in terms of overall employment land provision and what form has this taken?
  - b. What are the inter-relationships with other authorities in terms of economic activity, travel to work and the market for employment land and premises?
  - c. How have any inter-relationships been taken into account in preparing the Local Plan and arriving at a figure of 19ha of employment land?

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<sup>1</sup> Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended)

- d. In overall terms has the Council engaged constructively, actively and on an ongoing basis in order to optimise the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of employment land provision?
4. For any other strategic matters requiring co-operation. For each matter please confirm:
    - a. What are the particular issues?
    - b. Who has the Council engaged with? When did this engagement begin, has it been active and ongoing and what form has it taken?
    - c. In overall terms has the Council engaged constructively? What has been the outcome of co-operation?
    - d. Are there any cross boundary issues in relation to any of the proposed site allocations such as transport or other infrastructure requirements? Is so how have they been addressed through co-operation?

***Issue 1b: Other legal and procedural requirements***

Questions

1. In preparing the BBLP has consultation on the BBLP been undertaken in accordance with the Council's adopted Statement of Community Involvement (LP25) and the consultation requirements in the Regulations<sup>2</sup>?
2. Do the scope, content and timescale for the preparation of the BBLP accord with the Council's latest Local Development Scheme? Are there any obvious omissions, in terms of policies, from the submitted plan?
3. Has the formulation of the BBLP been based on a sound process of sustainability appraisal (SA)? In particular:
  - a. Has the assessment of sites, employment sites in particular, taken full account of the need to assess the significance of any heritage assets which may be affected by an allocation in accordance with paragraph 141 NPPF? Where is the evidence of this?

*Please note that this question will more broadly be considered in Matter 10, heritage asset policies*

- b. Does the SA test the plan against reasonable alternatives, in terms of its overall strategy for growth and development, site allocations and policies?
- c. Has the Council provided clear reasons for not selecting unreasonable alternatives?

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<sup>2</sup> Regulations 18 and 19 of Town and Country Planning (Local Planning) (England) Regulations 2012

- d. Is it clear how the SA has influenced the BBLP strategy, policies and proposals and how mitigation measures have been taken account of?
  - e. Have the requirements for Strategic Environmental Assessment been met, including in respect of the cumulative impacts of the plan?
  - f. Have the Proposed Modifications been subject to SA?
4. Is the Plan legally compliant with respect to the Habitats Regulations<sup>3</sup> and any requirement for appropriate assessment? How have the findings of the Habitats Regulations Assessment Screening Report influenced the BBLP?
  5. Does the BBLP, taken as a whole, include policies designed to ensure that the development and use of land in Barrow borough contributes to the mitigation of, and adaptation to, climate change in accordance with Regulations<sup>4</sup>?
  6. Is policy DS2 justified and effective and consistent with national policy?
  7. Is the BBLP consistent with the Barrow Ports Area Action Plan?
  8. Has the preparation of the BBLP complied with Part 2 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Plan) (England) Regulations 2012 in all other respects?
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## Council Responses:

### ***Issue 1a: Duty to Co-operate***

#### ***Question 1 Response:***

1.1. Section 33A(4) of the Planning and Compulsory Purchase Act defines a strategic matter as

*(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and*

*(b) sustainable development or use of land in a two-tier area if the development or use—*

*(i) is a county matter, or*

*(ii) has or would have a significant impact on a county matter.*

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<sup>3</sup> Conservation of Habitats and Species Regulations 2010 (as amended)

<sup>4</sup> Section 19(A) of the Planning and Compulsory Purchase Act 2004 (as amended)

1.2. The Duty to Co-operate requires local planning authorities and other bodies to co-operate with each other to address strategic issues relevant to their areas. Within the context of the 'duty', strategic issues are interpreted as those which are larger than local (cross boundary) and which cannot therefore be addressed by a single local planning authority working alone. The priority given to any strategic issues will evidently depend on the local circumstances and in some instances there may be a few or in some cases, no such issues.

1.3. The duty requires ongoing constructive and active engagement on the preparation of the Local Plan and other development plan documents and other activities relating to the sustainable development and use of land, in particular in connection with strategic infrastructure.

1.4. The National Planning Policy Framework (NPPF) emphasises that the duty relates in particular to the following strategic priorities:

- Homes and jobs needed in the area;
- The provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management and the provision of minerals and energy (including heat);
- The provision of health, security, community and cultural infrastructure and other local facilities; and
- Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

1.5. The Council considers that there are a number of strategic matters affecting Barrow Borough Local Plan as defined by the Act and the guidance in the NPPF.

1.6. There are several strategic cross-boundary key issues in Barrow that extend beyond the Borough boundary, which have been considered during the preparation of the Local Plan, and have necessitated the co-operation with our neighbouring authorities.

1.7. The Borough is bordered by the districts of South Lakeland and Copeland, and also by the Duddon Estuary, Morecambe Bay and the Irish Sea, with parts of the Borough forming the wider setting for the Lake District National Park. The Local Plan takes account of strategic issues that overlap the Borough's boundaries into these areas and the Council has and will continue to work with neighbouring districts and other key agencies to ensure that the Local Plan effectively addresses such issues and does not conflict with other relevant plans and strategies that apply to these areas.

1.8. The cross-boundary issues identified are:

- Impact of employment in Barrow on the economy of neighbouring towns and vice versa given that the Borough is part of a larger Travel to Work Area.
- Ensuring that housing at Ulverston supports regeneration initiatives in Barrow.
- Inter-connections between Housing Market Areas and Travel to Work Areas.
- Transport connections between Barrow and neighbouring towns and employment areas.
- Connections to the M6 motorway, Furness Line and West Coast Main Line.
- Retail leakage from Ulverston to Barrow.
- Bathing water quality along the coast.
- Green infrastructure linkages, including to the wider area and National Park.
- Ecological networks, particularly along the coast.
- North West Coast Connections project.
- Wind energy developments off the coast.
- The settlement of Lindal physically crosses the boundary with South Lakeland.
- Flooding, flood risk management and flood risk defence.
- Coastal development, coastal erosion and coastal/watercourse management, including Cumbria Coastal Strategy.

1.9. The Council has prepared a Duty to Co-operate Statement (EL3 001), which sets out how the Council has engaged and cooperated with other authorities and public bodies in the preparation of the Local Plan. In particular, the Council has participated in a number of joint projects with other authorities on key evidence base documents ( see EL3 001 section 3 page 8) and has worked closely with key infrastructure providers to ensure that the Local Plan will deliver infrastructure as required.

#### Neighbouring Authorities

1.10. The Council has been in regular contact with South Lakeland District Council, Copeland Borough Council, Lancaster City Council and Cumbria County Council throughout the production of the Local Plan and information has been exchanged via meetings, telephone calls and electronically. Details can be found in the Duty to Co operate Statement (EL3 001) section 2 page 5.

1.11. In addition, Cumbrian authorities, including the County Council and Lake District National Park Authority, have an established network of officer groups and support mechanisms for circulating information and joint working. A number of stakeholder groups have been set up to assist in this process and the Council also uses established groups such as the Cumbria-wide Development Plans Officer Group to disseminate information and share best practice.

### Infrastructure Providers

1.12. The Council has actively consulted, and had meaningful dialogue with a number of infrastructure providers including:

- Highways England
- Local Highways Authority (Cumbria County Council)
- Network Rail
- United Utilities
- Office of Rail Regulation
- National Grid
- NHS Cumbria Clinical Commissioning Group

1.13. All these bodies have been consulted at all stages of plan preparation and where appropriate there has been more in depth discussions. The Council has met with infrastructure providers on a regular basis and details can be found in the Duty to Co operate Statement (EL3 001) section 5 page 11. These discussions and meetings have also informed the preparation of the Infrastructure Delivery Plan (EL5 001) to understand the infrastructure requirements of the Local Plan and proposed allocations in terms of highways, education and health provision.

### Other Prescribed Bodies

1.14. The Council has actively consulted, and had meaningful dialogue with a number of other prescribed bodies during the production of the Local Plan namely:

- Natural England
- Environment Agency
- Historic England
- Homes England (formerly Homes & Communities Agency)
- Marine Management Organisation
- National Trust

1.15. All these bodies have been consulted at all stages of plan preparation and where appropriate there has been more in depth discussions. The Council has met with prescribed bodies on a regular basis and details can be found in the Duty to Co operate Statement (EL3 001) section 5 page 11. In addition specific additional evidence base documents have been prepared on the advice of and in conjunction with some of these bodies, for example Natural England and the Environment Agency were involved in the development of the Sustainability Appraisal (EL1 006 & EL1 007) and Historic England have provided advice and best practice in the production of the Heritage Impact Assessments (EL13 001) and subsequent update (EL13 004).

### Local Partnerships

1.16. The Council has consulted with both the Local Enterprise Partnership, Cumbria LEP, and the Local Nature Partnership, Cumbria LNP.

1.17. Cumbria LEP provide the strategic lead in all activities contributing to the growth of the county's economy, the council have a formal arrangement for co operation with the LEP and is represented on the LEP Board. The Local Plan Vision and Objectives align with the strategic priorities of the Cumbria Strategic Economic Plan (EL8 001 & EL8 002).

1.18. Cumbria LNP have been involved as a statutory consultee both on an informal and formal basis to provide input into the development of policy and to provide advice on proposed site allocations.

### **Question 2 Response:**

2.1. In terms of housing provision the Council has engaged with a range of developers, organisations and bodies with an interest in housing in the borough. This process began in 2012 and has continued throughout the process of the development of the Local Plan.

2.2. The Strategic Housing Market Assessment (SHMA) produced in 2014 incorporated a stakeholder survey of consultees, including developers, local estate and letting agents, housing providers, bodies and organisations in the housing sector and a random telephone survey of local residents.

2.3. Engagement with key stakeholders including Local Housing and Planning Authority representatives, Registered Social Landlords/Registered Providers (RPs), estate agents, lettings agents, developers and Supporting People representatives has taken place.

2.4. The SHMA was updated in 2016 (EL1 011) and an Addendum produced in 2017 (EL1 012).

2.5. Barrow Borough contains some areas of high deprivation which have suffered long-term social and economic problems including high levels of worklessness. These largely result from an overdependence on the declining manufacturing sector and their relative remoteness from regional/national markets. Significant employment in these areas is dependent on a small number of key employers such as BAE Systems and Kimberley Clark.

2.6. NPPG paragraph defines a housing market area as "a geographical area defined by household demand and preferences for all types of housing reflecting the key functional linkages between places where people live and work."

2.7. The Council's 2017 SHMA (EL1 012) notes that:

*"In establishing the extent to which Barrow-in-Furness Borough is a housing market area, house price, migration, travel to work and contextual data have been assembled in line with Planning Practice Guidance.*

*The Department of Communities and Local Government (DCLG) suggests that a housing market is self-contained if upwards of 70% of moves (migration and travel to work) take place within a defined area. An analysis of 2011 Census migration data suggests that 86.2% of households move within the Barrow-in-Furness Borough and 84.7% of residents in employment work within the Borough.”*

2.8. Barrow-in-Furness Borough can be described as a self-contained housing market on the basis of migration flows and travel to work patterns as established by the evidence supporting the SHMA and Housing Land Statement (EL4 001), this stance is further justified by the Cumbria Housing Strategy

**Question 3 Response:**

3.1. Furness Economic Development Forum (FEDF) is a public/private sector partnership. Its objective is to support the economic growth of the Furness area and its companies through leadership, direct provision of services by partner organisations, by influencing others and coordinating information. Cooperation with FEDF has been ongoing throughout the development of the Local Plan and the Council is represented on the FEDF Board.

3.2. In 2017, FEDF established the following four Working Groups:

- Employment and Skills
- Business Support
- Quality of Life
- Infrastructure

3.3. The Quality of Life Working Group will be used as a delivery mechanism for the Local Plan forming the basis of the agenda for this group. A list showing the FEDF Board membership is shown in Appendix B page 23 of EL3 001.

**Engagement**

3.4. The Council has principally engaged with the Furness Economic Development Forum (FEDF), along with its predecessor Furness Enterprise, in developing the Employment Land Review (EL1 014). The FEDF is the main support for economic growth in the Furness area and works closely with the Cumbria Local Enterprise Partnership (LEP) to facilitate economic growth through the LEP’s Strategic Economic Plan and the Government’s Growth Deal for Cumbria. Furness Enterprise provided the Council with information on the local property market and employment land requirements back in 2013. This information has been used as the basis for the Council’s Employment Land Review. Regular meetings have been held with Furness Enterprise / FEDF as the Employment Land Review developed and additional information has been provided through written correspondence.

3.5. The Council has worked closely with Cumbria County Council and neighbouring authorities throughout the production of the Local Plan and no significant issues have been raised with the Employment Land Review (EL1 014) or the Economic policies in the Local

Plan. Engagement with neighbouring authorities has not revealed any development needs that need to be met in Barrow.

3.6. Paragraph 1.21 of the Employment Land Review (EL1 014) includes examples of other engagement during the preparation of the study.

#### Inter-relationships with other Authorities

3.7. The Travel to Work Area (TTWA) is largely self-contained and covers the whole of the Furness area, which includes Ulverston in the neighbouring district of South Lakeland. The principle economic link outside of the Borough is with Ulverston. The GVA wealth generation of the Furness area is driven by advanced manufacturing, which is concentrated in Barrow and Ulverston. Ulverston is a centre for specialist manufacturing, including GlaxoSmithKline, and is home to an important supply chain linked to BAE Systems in Barrow. The town also has growing links to the offshore and gas industry.

3.8. FEDF have stated that there are few available plots in Ulverston and there are constraints with topography and flood risk meaning that the cost of development is high. There has not been the same level of public sector investment in site preparation as there has been in Barrow. There could be opportunity to attract to Barrow existing firms in Ulverston who are planning to expand. The market for industrial development is mainly drawn from the Furness area, including supply chain firms in the area. Demand for expansion is more common than new starts. Paragraphs 5.35 to 5.37 of the Employment Land Review (EL1 014) contains further information on the supply of land in Ulverston.

3.9. The identification of the Local Enterprise Zone (LEZ) will be key to attracting expanding businesses, including from elsewhere in Barrow. The LEZ is identified as an additional component of growth in Barrow in order to form part of the total employment land requirement in the Borough.

3.10. As part of Britain's Energy Coast there are important links to neighbouring Copeland, outside of the TTWA, particularly in connection with the proposed nuclear power station at Moorside. Also, between 300 and 500 people currently travel to Sellafield each day from the Furness area. The Moorside plant will provide an opportunity to deliver high value jobs and supply chains in Barrow. The Port of Barrow will have a key role in servicing the construction of the proposed power station at Moorside in the neighbouring Borough of Copeland, and also the North West Coast Connections Project that will connect the power station to the grid in Lancashire. Land Retained for Port Related Uses is identified in the Barrow Port Area Action Plan (AAP). This allocation will continue to be identified separately in the AAP. The AAP will be reviewed after the adoption of the Local Plan.

#### Further Information

3.11. Chapter 5 of the Employment Land Review (EL1 014) contains further information from the FEDF on the local property market. Paragraphs 5.3 to 5.13 contains information on demand whilst paragraphs 5.14 to 5.53 contain information on the supply of land and

premises. Sites that have been considered for employment use in chapter 7 of the study include sites that have been considered in conjunction with discussions with Furness Enterprise / FEDF. The Council has also considered the economic plans and strategies of neighbouring authorities, as set out in paragraphs 4.45 to 4.63 of the Employment Land Review (EL1 014).

***Question 4 Response:***

Other strategic matters which have required co operation in the production of the Local Plan are detailed below.

Transport Connections

4.1. Transport connections are a strategic matter which extend beyond the boundary of the borough and are of great importance as the borough is located on a peninsula. Barrow Borough is heavily reliant on transport connections which can be limited which is a source of frustration for the local economy, in terms of business, tourism, leisure and commuting. Connections in and out of the borough by road, ultimately to the M6 motorway, and by rail via the Furness Line and West Coast Main Line are in need of improvement.

4.2. The Council has and will continue to engage with stakeholders on this issue and are involved in stakeholder groups working on transport in the Borough, the county and regionally. Recent engagement with the Major Road Network ( MRN) consultation, Transport for the North and in the West of M6 Strategic Connectivity Study demonstrate this commitment.

Retail

4.3. Barrow is the largest town in south Cumbria and as such provides the retail offer for a much wider area outwith the borough, both for convenience and comparison goods. The largest supermarkets and bulky goods retailers in Furness are located in Barrow along with national retailers.

4.4. A Retail & Town Centre Uses Study (EL7 001) was prepared for Barrow Borough which states that Barrow in Furness, along with Kendal (in South Lakeland District), meets the shopping, services, leisure and public administration needs of southern Cumbria. It also identifies Dalton in Furness is the second largest settlement in the Borough providing a supporting role to Barrow in Furness in the local retail hierarchy, serving an immediate rural catchment area (some of which is outside of Barrow Borough).

4.5. In particular, the Study ( EL7001) notes, residents of South Lakeland and Copeland would use shops and services within Barrow Borough. Thus the retail catchment area for Barrow is a strategic matter and consultation on retail matters has been ongoing between districts during the preparation of the Plan.

## Green Infrastructure

4.6. The Council is taking a strategic approach to the protection, management and enhancement of its green infrastructure network, building on green infrastructure policy within Barrow's emerging Local Plan. This is achieved through the production of the Draft Green Infrastructure Strategy which the Council intends to adopt as a Supplementary Planning Document after the adoption of the Local Plan.

4.7. The Draft SPD sets out a strategic approach to GI, which is consistent with paragraph 114 of the National Planning Policy Framework and paragraph 20 of draft NPPF (March 2018).

4.8. The Council has undertaken a number of rounds of consultation on this document and received positive feedback from Nature and Ecology bodies and other stakeholders so that it can be used as a tool to enhance the environment for both people and nature.

4.9. Green Infrastructure linkages and ecological networks do not stop at the boundaries of the borough and the Council has been in discussion with South Lakeland DC in particular about the importance of joining up this infrastructure, as SLDC plans to prepare its own GI strategy in due course.

## Energy

4.10. Energy is a strategic issue for Barrow Borough, there are a number of energy related projects both in the borough and with county wide linkages.

4.11. National Grid is developing the North West Coast Connections Project to connect a new nuclear power station at Moorside, near Sellafield, and the windfarms off the coast of Walney, into the electricity transmission network. The proposed route corridor runs across the Barrow peninsula and through a tunnel under Morecambe Bay to Heysham in Lancashire. The project supports the wider Energy Coast Masterplan, which is a £2 billion package of regeneration projects that aims to establish West Cumbria as a major national hub for low carbon and renewable energy production. The proposal will have implications for the Borough, and the authority, is part of a NWCC Project Group liaising with National Grid.

4.12. There are numerous other energy related developments in the borough including the North and South Morecambe Gas Terminal, former Power Station, and the Walney Extension Offshore Wind Farm, located approximately 19 km from the Walney Island coast, and expected to have the world's largest offshore installed capacity when inaugurated.

4.13. The Council has therefore consulted and engaged with energy providers during the production of the Local Plan including Centrica, National Grid, Powergen, Orsted (formerly Dong Energy) and Spirit Energy.

### Flood Risk Management

4.14. Flooding and Flood Risk Management is a strategic issue for Barrow Borough which is affected by both fluvial and coastal flooding, more information can be found in the Strategic Flood Risk Assessment (EL10 001). Cumbria County Council is the Lead Local Flood Authority for Cumbria, who have in collaboration with the Environment Agency, District and Borough Councils, (including Barrow Borough Council), United Utilities and other bodies produced a Local Flood Risk Management Strategy (LFRMS).

4.15. Throughout the production of the Local Plan the Council has liaised on an ongoing basis with the LLFA, United Utilities, the Environment Agency, and has its own Making Space for Water Group (MSfWG) made up of officers from LLFA, EA, BBC, Highways Authority, Water Companies and Major Infrastructure providers – i.e. Highways England.

4.16. The MSfWG works in partnership to provide accurate assessments of the risk, nature and scale of local flooding, identify and bring forward solutions to reduce the risk of flooding from local sources and to record, investigate and mitigate the effects of flooding incidents.

### Coastal Issues

4.17. Managing the impacts of new development on the coast is a strategic matter for Barrow Borough as a large part of the Borough is within the coastal area, therefore pressure for development could detrimentally impact upon the coast. The Borough is surrounded by Morecambe Bay and the Duddon Estuary which are designated internationally and nationally for their habitat, species and biodiversity value.

4.18. The Council has coastal protection responsibilities and has produced the Walney Island Flood & Coastal Erosion Strategy (EL10 013) and collaborated on the North West Shoreline Management Plan (EL10 004).

4.19. The Council has therefore consulted and engaged with statutory bodies during the production of the Local Plan including the Marine Management Organisation, EA and Natural England.

### ***Issue 1b: Other legal and procedural requirements***

#### ***Question 1 Response:***

5.1. Throughout the development of the Local Plan the Council has undertaken several rounds of consultation which are detailed in the Consultation Statement (EL1 005) all engagement during the development of the Local Plan has been guided by the Statement of Community Involvement (SCI) (EL3 005).

5.2. The Council consulted with both statutory consultees and the wider public to gather feedback on and help us improve the content of the Draft Local Plan. We approached a wide range of stakeholders, including both statutory and non-statutory consultees. A full list of

the statutory organisations (as identified from our Statement of Community Involvement) that we consulted with is shown in Appendix 1 of EL1 005.

5.3. In addition to writing to all consultees by letter or email, all consultation documentation was available on the council's website and data portal and hard copies were available at public locations such as libraries and council offices throughout the borough, and to Parish and Town Councils. We also held a series of drop in events across the borough, advertised in the local press and in the Development Services newsletter and disseminated information using a variety of informal networks. Promotional material (leaflets and posters) was distributed around the borough and press releases issued to the local newspaper. Site notices were also placed on site at all proposed housing allocations at both the Publication and Pre Submission Draft Stages.

5.4. Briefings on the Local Plan and the consultations were given to Members, and other local interest groups on request.

***Question 2 Response:***

6.1. The timetable for the production of the Local Plan and other policy documents is set out in the Council's Local Development Scheme (LDS) ( EL3 004) which has been updated since submission to provide an accurate picture for the examination, the most recent adopted LDS is therefore EL3 008 in the Examination Library.

6.2. There has been slippage on the timetable set out in the 2016 LDS, which stated we had intended to submit the Plan in April 2017. This occurred for a number of reasons including the emergence of new evidence, including new household projections, which resulted in the production of an additional Draft of the Plan and subsequent consultation.

6.3. The scope, content and timescale of the Local Plan and the updated LDS (EL3 008) are now in accordance with each other.

***Question 3 Response:***

**Heritage Assets**

7.1. The assessment of the sites has taken account of the findings of the Heritage Impact Assessments (May 2017) (EL13 001). The Heritage Impact Assessments have been updated (April 2018) to include the following sites: SHL013b, EMR01, EMR06, EMR07, EMR08, EMR12, EMR13, OPP1, OPP2 and OPP5. These sites have been added to the assessment as they are also in proximity to listed buildings and / or conservation areas. The assessments show that the impact on the significance of heritage assets will be "low but potentially beneficial" at worst. Therefore, it is not necessary to update the assessment tables in the Sustainability Report (EL1 006). For completeness, a brief summary of the impacts on heritage assets for each of the sites is provided in Matter 1 Appendix A. Further information can be found in the Heritage Impact Assessments 2018 (EL13 004).

Assessment of Alternatives

7.2. The Local Plan Issues and Options Draft (September 2014) set out a variety of different policy and site options. These options were assessed in the Draft Interim Sustainability Appraisal (February 2016). See Appendices D-G. In addition, Appendix D, pages 6-15, sets out and assesses options for the distribution of development in the Borough. Recommendations are provided for each option.

7.3. Appendix E of the Final Draft Sustainability Report (Updated) (March 2017) (EL1 006) pulls out the assessments of the policy options and sites that have not been taken forward in subsequent drafts of the Local Plan.

Unreasonable Alternatives

7.4. Appendix E of the Final Draft Sustainability Report (Updated) (March 2017) (EL1 006) pages 34-61 pulls out the policy options that have unavoidable sustainability impacts and have therefore been progressed no further. These were originally assessed in the Draft Interim Sustainability Appraisal (February 2016).

7.5. No sites were considered to have unavoidable sustainability impacts. The Non-Selected Site Assessments document provides the reasoning and justification for not progressing the non-selected housing sites. The Employment Land Review (EL1 014) pages 123-142 summarises the site assessments for each of the employment sites and explains why certain sites have not been progressed.

Influence on the Local Plan

7.6. The potential adverse effects of the policies along with avoidance and mitigation measures are set out in Appendix D of the Final Draft Sustainability Report (Updated) (March 2017) (EL1 006), pages 49-69. Pages 46-47 sets out the suggested improvements to the policies of the Local Plan Pre-Submission Draft.

7.7. The potential adverse effects of the sites along with avoidance and mitigation measures are set out in Appendix D of the Final Draft Sustainability Report (Updated) (March 2017) (EL1 006), pages 107-189. Much of the avoidance and mitigation can take place through the implementation of Local Plan policies when developing the sites, as set out on pages 109-110. Measures would need to be negotiated with the applicant at the pre-application stage.

Strategic Environmental Assessment

7.8. Chapter 2 of the Final Draft Sustainability Report (Updated) (March 2017) (EL1 006) shows how the SA has met the requirements of the SEA Directive. Table 1 on page 15 identifies the requirements of the SEA Regulations and identifies which part of the SA Report (Final Draft Sustainability Report (EL1 006), Interim Report or Scoping Report) addresses each part of the requirements.

7.9. In terms of cumulative effects, Appendix D pages 49-67 identifies where a policy has potential to have a cumulative effect on other proposals or plans. Pages 107-189 identifies where the sites have potential for cumulative effects.

#### Major Modifications

7.10. The Sustainability Report Update 2018 (EL1 007) assesses whether the major modifications to the Local Plan would likely give rise to additional significant effects.

#### **Question 4 Response:**

8.1. Yes, a pre-screening assessment was undertaken at the Local Plan Issues and Options stage and a Pre-Screening Report was produced in October 2014. Each subsequent draft of the Local Plan was then assessed under the HRA regulations and reports were produced in April 2016 (Preferred Options stage), July 2016 (Publication Draft stage), March 2017 (Pre-Submission Draft stage) and November 2017 (Submission Draft stage).

8.2. The relationship between the BBLP at its various stages and the Habitats Regulations is set out in sections 2 and 3.2 of the March 2017 Report.

8.3. At each stage, the Screening assessments considered if the policies or sites within the Local Plan would be likely to cause significant effects on the network of Natura 2000 Sites. As a number of likely significant effects were identified, an appropriate assessment was carried out which considered in detail the impact on the integrity of the European site, both alone and in combination with other plans, with respect to the site's conservation objectives. The AA also identifies and assesses a number of mitigation measures to avoid or reduce any possible impacts. The March 2017 Report states that following the proposed mitigation, the Local Plan will have no adverse impacts on Natura 2000 network.

8.4. An Update to the March 2017 Report was produced in November 2017. This was carried out in light of the fact that a number of changes were made to the Local Plan between Pre-Submission and Submission Draft stages. The document assessed the proposed modifications and came to the same conclusion as the March 2017 Report, that the Local Plan would have no residual effects following mitigation.

#### **Question 5 Response:**

9.1. Section 19(A) of the Planning and Compulsory Purchase Act 2004 (as amended) states that:

*“Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.”*

9.2. The Local Plan taken as a whole includes policies and allocations which contribute to the mitigation of, and adaption to climate change. The Submission Draft Local Plan (EL1 001) recognises in the vision, objectives and Climate Change and Pollution Chapter that the

challenge of climate change has affects at local level and that the Local Plan has a role in positively addressing these effects through policy and allocation of sites. The effects of climate change on the borough include the effects of sea level rise, coastal erosion and increased temperatures.

9.3. In particular the Climate Change and Pollution Chapter (Pages 58 – 82 EL1 001) contains a number of policies designed to secure that the development and use of land in Barrow Borough contributes to the mitigation of, and adaptation to, climate change.

**Question 6 Response:**

10.1. The Council considers that Policy DS2: Sustainable Development Criteria is justified, effective and consistent with national policy. The policy is drafted to enable sustainable development to take place in the Borough, in addition to having regarding to other relevant Development Plan policies and the National Planning Policy Framework.

10.2. In response to concern from a representor that the policy may be a barrier to sustainable development as it required all developments to meet all of the criteria the wording was amended in the Submission Draft as per MIN19 of the schedule of minor modifications (EL1 016).

10.3. This policy has been supported by other representors and in particular by Council Members as it improves the quality and sustainability of development proposals.

**Question 7 Response:**

11.1. The Local Plan is consistent with the adopted Barrow Port Area Action Plan (EL9 001) which was adopted in 2010, and development of the BPAAP area remains a priority for the Council.

11.2. The Council intends to review and re-assess the allocations and policies in the BPAAP through a BPAAP Review. It believes that this is a more sensible approach than updating the BPAAP policies and allocations through the emerging Local Plan and this stance is still taken as it will give the Council opportunity to review the whole document in a strategic rather than piecemeal way.

11.3. The BPAAP remains part of the Council's Development Plan which is the starting point when determining planning applications within the port area. The fact that this area has its own Action Plan, demonstrates the Council's commitment to the development of the port area.

11.4. Policy EC1 of the Local Plan (EL1 001 page 115) supports future port related development, it has been expanded to include reference to the 'Port of Barrow' to reflect the fact that the policy relates to a wider area than the Business Park.

11.5. The majority of Associated British Ports (ABP) owned land is allocated for port retained uses. The remainder is unallocated for a specific use (meaning that windfall energy

developments could come forward) or marina development. These allocations will be reviewed and amended where appropriate through the BPAAP Review.

***Question 8 Response:***

12.1. The Council has met the requirements for consultation and publicity as required by the Town and Country Planning (Local Planning) (England) Regulations 2012, and complies with Part 2 of the Planning and Compulsory purchase Act 2004.

## Hearing Statement Matter 1: Legal Compliance and Duty to Co-operate

### Appendix A

The Heritage Impact Assessments have been updated (April 2018) to include the sites below, as these are also in proximity to listed buildings and / or conservation areas. A brief summary of the impacts on heritage assets for each of the sites is provided. Further information can be found in the Heritage Impact Assessments 2018.

#### Housing Site

##### SHL013b

This site is in close proximity to a number of listed buildings, the closest being the Grade II\* listed buildings at Ormsgill Farm, together with a Grade II listed barn and outbuildings approximately 160m to the north west. Historic maps show a steel casting works on the site in the late 19th century and there is the potential for remains of it to survive below ground.

The Heritage Impact Assessment states that in terms of the impact on significance, there would be no change. As a brownfield site, the proposed allocation has already been subject to development. It is recommended that any forthcoming planning application should include information on the presence/absence of any archaeological assets located at the site and how their significance will be affected by the development proposals.

#### Employment Sites

##### EMR01

This site is in the vicinity of a Grade II\* listed building at St James Church, Blake Street, which is 435 metres from the site. However, it is not within the setting of the building. The site also has potential for industrial archaeology.

The Heritage Impact Assessment states that in terms of the impact on significance, this will be low but beneficial depending on archaeological significance. There will be a requirement for a desk-based assessment to assess archaeological potential.

##### EMR06, EMR07 and EMR08

There are a number of listed buildings within close proximity of these sites, the closest being the Grade II\* listed buildings at Ormsgill Farm, together with a Grade II Listed barn and outbuildings 220m from the site, and Sowerby Lodge 120m to the west across the railway line.

The Heritage Impact Assessment states that in terms of the impact on significance, this will be minimal or no change. The sites are sufficiently far removed from the heritage assets not to have an impact on them or their setting, particularly those on the other side of the A590.

### EMR12

There are various listed buildings in proximity to this site, the closest being a Grade II Listed Building at North Lodge, Abbey Road, Dalton-in-Furness. The Heritage Impact Assessment states that in terms of the impact on significance, this will be minimal. Due to landform and the existing site context it is not considered that setting will be particularly impacted.

### EMR13

This site is adjacent to the North Scale Conservation Area, which includes a number of listed buildings. This is also the site of a World War II WAAF camp and the existing factory building dates to a similar period. There is the potential for remains of the former camp to survive. It may be an undesignated heritage asset of local significance.

The Heritage Impact Assessment states that in terms of the impact on significance, this will be minimal but potentially beneficial. Given the existing context of the site and its poor appearance it is likely that future development will have a positive impact. Given that the site is slightly elevated, consideration of the height of the buildings, vistas, landscaping and materials can combine to mitigate impact.

## **Opportunity Sites**

### OPP1

This site is adjacent to a Grade II listed building at Graving Dock at the Dock Museum. There are also three Conservation Areas in proximity to the site. In terms of archaeology, historic maps show industrial activity on the site in the late 19th and early 20th centuries.

The Heritage Impact Assessment states that in terms of the impact on significance, this will be low but potentially beneficial, dependant on archaeological evidence. The site is immediately adjacent a heritage asset and there is potential for the setting to be improved. Careful consideration should be given to how the southern end of the “opportunity site” is developed. In addition, consideration of the height and materials of any future buildings would minimise any harmful impact when viewed from the conservation areas across the Channel.

It is advised that consideration is given to preserving any ancillary features surviving on the site that are related to the former industrial uses as tangible reminders of the past.

### OPP2

This site is in close proximity to a number of listed buildings, the closest being the Grade II\* listed buildings at Ormsgill Farm, together with a Grade II listed barn and outbuildings approximately 170m to the north west.

The Heritage Impact Assessment states that in terms of the impact on significance, there will be no change. The site is somewhat self-contained and it is not felt that development will impact on any of the heritage assets.

#### OPP5

This site is in close proximity to a Conservation Area and a number of listed buildings. The Heritage Impact Assessment states that in terms of the impact on significance, this will be low but potentially beneficial. Parts of the site are screened by existing buildings. The site is currently of a poor appearance and the vacant building is of heavy proportions. There is the potential for a development of a more domestic scale with the introduction also of soft landscaping and pedestrian links to the conservation area.