

Allerdale Borough Council

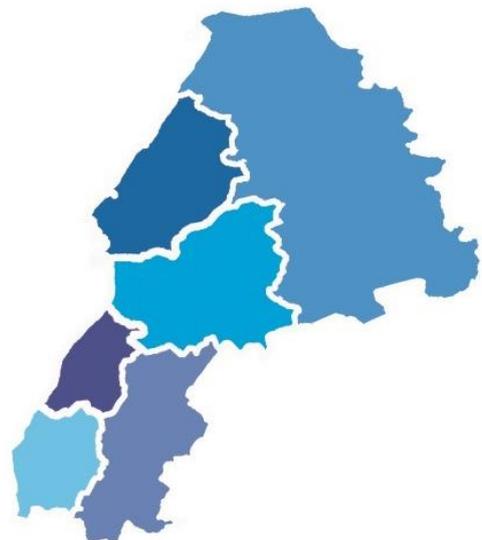


Allerdale Local Plan (Part 2) Site Allocations

Examination Matters and Issues

Matter 1 – Procedural/Legal
requirements

April 2019



Issue 1a: Whether the Council has complied with the relevant procedural and legal requirements

Q1. Has the ALPP2 been prepared in accordance with the latest version of the Local Development Scheme in terms of its form, scope and timing? Are there any obvious omissions, in terms of policy guidance, from the submitted plan?

1.1 The latest version of the Local Development Scheme (LDS) was published in September 2018 (CD14). The ALPP2 has been produced in line with the LDS in terms of its form, scope and timing. The ALPP2 scope includes the site allocations and a review of Policies S8, S17 and S19 from the ALPP1. The ALPP2 will, when adopted, replace the remaining saved policies in the Allerdale Local Plan (1999) and, together with ALPP1, provide a complete and comprehensive policy framework to guide decision making and deliver sustainable development during the Plan period.

Q2. Have requirements been met in terms of the preparation of the Local Plan, notification, consultation and publication and submission of documents?

1.2 The Plan preparation stage involved multiple stages of engagement and consultation to maximise the opportunity for local communities, businesses, stakeholders and statutory consultees to help shape the plan. In total there were five consultation stages:

- Call for Sites . the starting point for the process was publicising an open invitation for landowners, developers and communities to submit sites for development or areas considered to be important as open space or for wildlife. This consultation also included the draft site selection methodology.
- Issues and Options . this consultation published all the sites that had been submitted during the Call for Sites for initial comments from statutory consultees and local communities. The opportunity to submit additional sites was still open. The Issues and Options also posed a series of questions which the Council was seeking feedback on to shape drafting the preferred options. Questions covered such matters as how to apportion growth amongst the Local Service Centres.
- Issues and Options Additional Sites . this consultation published the sites received during the Issues and Options stage and asked for comments from statutory consultees and local communities.
- Preferred Options . at this stage the Council identified its preferred policy approach and site allocations for housing, employment, and retail and wind energy. Reasonable alternatives to the preferred approach were also published alongside for consultation. The opportunity to submit further sites remained open at this stage.
- Focussed Consultation . the purpose of this consultation was to publish the sites that had been submitted during the preferred options consultation and to consult on emerging policies in relation to housing standards and broadband provision.

1.3 The Plan preparation stages allowed sites to be submitted to the Council during three separate consultation stages. It provided an opportunity to set the policy options and direction at an early stage, and, at Preferred Options consultation, it provided not only a clear direction on a preferred course but also an opportunity to consider reasonable alternatives. The Plan preparation approach allowed the process to be front loaded, and informed by both statutory technical advice and the views of the local community and businesses.

- **Notification** . the Council maintains a comprehensive database which is regularly reviewed. It contains both specific and general consultees and any person or organisation can ask to be added to the mailing list. The list of organisations notified at each stage of the process is set out in the Consultation Statement and appendices (CD10 and CD10a1-7). The documents were placed at deposit locations in accordance with regulation 35 and published on the Council website.
- **Consultation** . the stages of consultation during the preparation of the Plan are outlined above and the consultation methods used are set out in response to question 3.
- **Publication** . the Pre-submission draft was published in October 2018. This followed the Full Council decision on 19 September 2018. The ALPP2 and supporting documentation, including the statement of representations procedure were published on the Council's website and at deposit locations in accordance with Regulation 35. Full details are set out in the Consultation Statement and appendix (CD10 and CD10a7)
- **Submission** . the Plan was submitted in accordance with Regulation 22 details are set out in the Council's response to question 3 below.

Q3. Has the Local Plan been prepared in accordance with the Council's Statement of Community Involvement and met the minimum consultation requirements in Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) [Local Plan Regulations]?

1.4 The Council set out in its Statement of Community Involvement (CD15) how it intends to involve local residents, businesses and community groups in the preparation of Development Plan Documents and Supplementary Planning Documents. The Council maintains a database of specific and general consultees which is updated regularly.

1.5 The Council considers that ALPP2 has been prepared in accordance with the Statement of Community Involvement (SCI). It has used the consultation methods identified in the SCI (see list below) and invited representation from both specific and general consultees. Further details and examples of the consultation undertaken can be found in the Consultation Statement and Appendices (CD10-10a1-7).

- **Press Releases** . the Council used dedicated press releases for all the consultation stages during the Plan preparation stages from Call for Sites to Preferred Options.

- **Press Notices** . official Notices were placed in the Times and Star and the Cumberland News at Issues and Options, Preferred Options and Pre-submission draft stages.
- **Council Website** . all documentation was placed on the Council website at every stage of the Plan Preparation, Pre submission draft and Submission stages.
- **Documentation** . consultation documents and comments forms were produced at each stage and Frequently Asked Questions were published at Issues and Options, Preferred Options and Pre-submission draft stages. Posters and Flyers were used at Issues and Options and Preferred Options Stage. Consultation documents were also available in alternative formats and languages on request.
- **Drop in sessions and exhibitions** . public drop in sessions were held at the preferred option stage in all the Key Service Centres.
- **Locality Meetings** . presentations and workshops with Borough Council and Parish Council Members were held at Issues and Options and Preferred Options.
- **Facebook and Twitter** . the Council used Facebook and Twitter throughout the consultation periods, especially to publicise the drop in sessions and deadlines for comments.

1.6 The Council have met the minimum requirements under Regulation 22 as follows:

- A Sustainability Appraisal report was submitted with the ALPP2 for Examination (CD5);
- Policies Map were submitted with the ALPP2 (CD3);
- The Council has produced a Consultation Statement (CD10);
- The bodies and persons invited to make representations and how they were consulted is set out in the Consultation Statement (CD10a1-6);
- A summary of the main issues made under Regulation 18 and how the representations were taken into account is set out in the Consultation Statement (CD10a4);
- The number of representations made under Regulation 20 and the summary of the main issues is set out in the Consultation Statement (CD10a7); and
- Copies of representation made under Regulation 20 can be found in the Consultation Statement (CD11).

1.7 Copies of all supporting documents were sent to the Secretary of State at the time of submission and are listed on the Council website in the ALPP2 Examination Library.

1.8 A copy of the ALPP2, Policies Map, Sustainability Appraisal and Consultation Statement and Statement of Fact were made available in accordance with Regulation 35. Specific, general consultees and those persons that wished to be notified of the Local Plan submission were informed (CD19 and 20).

Q4. Are the likely environmental, social and economic effects of the ALPP2 adequately and accurately assessed in the Sustainability Appraisal? Does the SA test the Plan, its allocations and policies against reasonable alternatives? Have the requirements for Strategic Environmental Assessment been met? Is it clear how the SA has included the ALPP2 and how mitigation measures have been dealt with?

- 1.9 The likely environmental, social and economic effects of ALPP2 have been adequately and accurately assessed in the Sustainability Appraisal (SA). The SA (Task A2) establishes a baseline understanding of the social, economic and environmental characteristics of the Plan area, the likely future conditions and identifies the key sustainability issues and problems. The Issues are set out under social, economic and environmental headings¹ The SA framework covering the SA objectives, sub objectives, questions and indicators cover the three elements.² This established a sound basis to assess the social, economic and environmental effects of the ALPP2.
- 1.10 Task B1 of the SA assesses the compatibility of the SA objectives with the Plan objectives, highlighting areas of conflict. One of the key tensions identified was the need to balance the need for housing and economic growth whilst protecting the natural environment. (CD5)³ The assessment of reasonable alternatives clearly sets out the positive and adverse social, economic and environmental impacts and also the mitigation that would make those potential adverse impacts acceptable⁴. The mitigation measures to address adverse impacts have been incorporated in policy wording where appropriate (Policies SA32 and SA49) and the individual site policies SA8-SA29 and SA36-SA45. This is in addition to the strategic and development management policies in ALPP1 which aim to protect and enhance the economic, social and environmental conditions of the Borough.
- 1.11 The Call for Sites exercise (LPP1) and the Issues and Options Discussion Paper (LPP4) was the starting point for analysing and developing reasonable alternative policy and sites. The sites went through a sieving process in line with the site assessment methodology (SD9). The SA report lists the sites rejected in Stage 1 with reference to where there was conflict with SA objectives⁵ Stage 2 of the site assessment was to screen all sites against the SA criteria. This stage of the selection methodology ensured a strong link to the SA. The list of alternative sites was reduced further to reasonable alternatives. The criteria used at this stage of the assessment and links to the SA framework are set out in the SA report⁶.
- 1.12 The reasonable alternatives were then assessed against the SA objectives⁷. Reasonable policy alternatives were also assessed against the SA objectives

¹ Sustainability Appraisal Scoping Report June 2014 section 6 and 7 p17-72 (CD4)

² Sustainability Appraisal Scoping Report June 2014 section 8 p73-88 (CD4)

³ Sustainability Report Sept 2018 Table 10 p29 (CD5)

⁴ Sustainability Report Sept 2018 p79- 158 (CD5)

⁵ Sustainability Report Sept 2018 Table 12 p34 (CD5)

⁶ Sustainability Report Sept 2018 Table 13 p39 (CD5)

⁷ Sustainability Report Sept 2018 p80-137 (CD5)

(CD5c). The reasonable alternative policies and sites formed part of the Preferred Options consultation which included a summary of the SA findings (LPP6).

- 1.13 The Strategic Environmental Assessment forms part of the Sustainability Appraisal. The relationship between the SEA requirements and the SA are set out in the SA scoping report⁸ (CD4). In addition the views of Natural England, Heritage England and the Environment Agency were sought regarding the scoping report and full sustainability appraisal (CD5d).

Q5. Is the Local Plan legally compliant with respect to the Habitats Regulations and any requirement for Appropriate Assessment? Was the approach in accordance with the recent judgement of the Court of Justice of the European Union (12 April 2018-Case C-323/17) which rules that it is not appropriate to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site at the screening stage as part of the Habitats Regulation Assessment (HRA)? How have the findings of the HRA influenced the ALPP2 and will the policies achieve the necessary mitigation?

- 1.14 Yes the Local Plan is compliant with respect to the Habitats Regulation Assessment (HRA) and Appropriate Assessment. The scope of the HRA was established and found sound as part of the ALPP1 Examination and provided the foundation for the HRA for ALPP2. The HRA has been undertaken in consultation with Natural England and no objection has been received in terms of scope or the approach taken by the assessment.
- 1.15 Stage 1 of the HRA screened the proposed site allocations for likely significant effects. This stage identified potential effects of the Plan on the qualifying features of the Natura 2000 sites and assessed whether or not the effects will be significant either alone or in combination with other plans or projects. The precautionary principle has been used in assessing whether effects may be significant so, where there is any uncertainty, the potential effect has been examined in greater detail in the next stage i.e. Appropriate Assessment.⁹ A summary matrix of the screening assessment is set out in HRA¹⁰ Avoidance and mitigation was not applied at the screening stage and therefore the HRA is in accordance with the recent judgement of the Court of Justice of the European Union.
- 1.16 The conclusions of the HRA show that where sites had the potential for likely significant effects on Natura 2000 sites the impacts can be mitigated through avoidance, retention of biodiversity features, pollution controls and biodiversity enhancement. Individual site policies (SA8-SA29, SA31, SA36-SA45) include detail on retaining biodiversity features, opportunities for biodiversity enhancement and where applicable reference to drainage into protected watercourses. In addition the strategic policies in ALPP1 add further policy in

⁸ Sustainability Appraisal Scoping Report June 2014 section 3 and 4 p.4-12 (CD4)

⁹ Habitats Regulations Assessment Local Plan Site Allocations September 2018 para. 1.2.4 p.4 (CD 9)

¹⁰ Habitats Regulations Assessment Local Plan Site Allocations September 2018 table 2 p.35 (CD 9)

relation to design (S4), green infrastructure (S24), biodiversity (S35) and water quality (S36).

- 1.17 The wording of policies SA32 and SA49 have been developed alongside the HRA to ensure the necessary mitigation can be achieved. The HRA concludes that the wording in both policies provides strong protection for Natura 2000 sites.¹¹
- 1.18 With regard to Policy SA50 the Council refers to its response to the Inspector's Initial Questions and question 80.

Q6. Does the approach in, and evidence supporting, the ALPP2 demonstrate that it will contribute to mitigation and adapting to climate change in accordance with Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 (as amended)?

- 1.19 S19 (1A) of the Planning and Compulsory Purchase Act requires 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.
- 1.20 The effects and causes of climate change in the UK have been clearly set out by the UK Climate Change Committee¹² including summer temperature rises and increased winter rainfall. In Allerdale this is likely to manifest itself primarily as more frequent fluvial and surface water flooding events.
- 1.21 The ALPP1 underpins the approach adopted in ALPP2 and contributes to the mitigation and adaptation to climate change in a number of ways. Through its Strategic Objectives, particularly SO1a-SO1g which promote reducing Allerdale's carbon footprint, supporting a low carbon future, locating development close to services and alternative means of transport, supporting renewable energy and effective use of land. These objectives are translated to policy in particular S2 (Sustainable Development Principles), S3 (Spatial Strategy and Growth), S19 (Renewable Energy and Low Carbon Technologies), S22 (Transport Principles), S29 (Flood Risk and Surface Water Drainage) and DM12 (Sustainable Construction).
- 1.22 The ALPP2 builds on this at a site specific level through the site selection process and the supporting evidence. The site selection methodology and Sustainability Appraisal have built into their assessment criteria a number of indicators that aim to ensure the sites selected address climate change. For example factors such as flood risk, distances to services, facilities, bus stops and cycle paths. The evidence base added to this in terms of the Strategic Flood Risk Assessment modelling which took account of climate change to predict future flood risk (EB1) the Allerdale Transport Improvement Study

¹¹ Habitats Regulations Assessment Local Plan Site Allocations September 2018 para. 7.2.1 p.74 and para. 7.2.2 p75 (ref CD 9)

¹² UK Climate Change Risk Assessment 2017- Synthesis Report: Priorities for the next five years (2016) UK Climate Change Committee.

(EB4) which examined and outlines opportunities for improvements to public transport, cycling and walking.

- 1.23 The site specific policies SA8-SA29, SA36-45 and SA46-49 incorporate detail that will contribute to the mitigation and adaptation of climate change. Specifically, mitigation measures in terms of flood risk, use of sustainable drainage systems, and enhancement to biodiversity and green infrastructure.
- 1.24 Policy SA33 improves access to broadband thereby potentially reducing the need to travel to access services and employment. Policy SA52 promotes the enhancement of green infrastructure and by doing so will help to reduce habitat fragmentation. Policy SA50, alongside Policy S19, supports the development of wind energy which will contribute to a low carbon future.

Q7. Is the Local Plan legally compliant with national policy, the provisions of the Planning and Compulsory Purchase Act 2004 (as amended) and the Local Plan Regulations for the preparations of the Plan?

- 1.25 The Council is satisfied that the ALPP2 is legally compliant with national policy, Planning and Compulsory Purchase Act 2004 and the Local Plan Regulations.
- 1.26 It has been prepared in accordance with the Local Development Scheme and Statement of Community Involvement. It has been subject to Sustainability Appraisal. It has met the requirements of the Local Plan Regulations, regarding plan preparation, publication and submission. Details are set out in the Consultation Statement (CD10 and Appendices Cd10a1-10a7).
- 1.27 It has been positively prepared identifying a land supply that will deliver the objectively assessed development requirements adopted in ALPP1. The chosen policies and sites are considered to be the most appropriate when considered against reasonable alternatives. Reasonable alternatives were assessed as part of the Sustainability Appraisal and consulted on during the Preferred Options stage.
- 1.28 The ALPP2 is supported by proportionate evidence which includes amongst other things; Strategic Flood Risk Assessment, highway modelling, infrastructure capacity, Habitat Regulation Assessment and Viability Assessment. Effective joint working with infrastructure providers was achieved during the drafting of the Infrastructure Delivery Plan.
- 1.29 Overall the ALPP2 will deliver sustainable development taking account of impacts, mitigation and enhancement opportunities in respect to the historic and natural environment, locating development close to services and facilities and alternative means of transport where possible and meeting the challenge of climate change especially in relation to flooding risk.

Q8. Does the ALLP2 make it clear, as required by Part 4, paragraph 8(5) of the Local Plan Regulations, which parts of the existing development plan it will supersede?

1.30 Appendix 4 of the ALPP2 sets out which part of the development plan it will supersede.

Q9. The Council has produced a Schedule of Minor Post-Publication Changes (Ref CD17). Are all these changes minor? Or are some Main Modifications that require full consultation/sustainability appraisal?

1.31 All proposed changes listed in the minor modifications schedule are not considered major and as such the Council believes full consultation or sustainability appraisal is not required. The modifications relate to removal of text that applied to the presumption draft consultation, updating site references for the final version of the Plan and correcting typographical errors.

Issue 1b: Is the Local Plan's preparation compliant with the Duty to Cooperate imposed by Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) [PCPA]?

Q10. In preparing the ALPP2, has the Council complied with the Duty to Cooperate required by Section 33A of the PCPA?

- 1.32 The Duty to Co-operate (the Duty) is set out in Section (33A) of the Planning and Compulsory Purchase Act 2004. This states that the local planning authority must engage ~~constructively~~, actively and on an on-going basis during the preparation of local plans when they relate to ~~strategic matters~~ Strategic matters are defined as development, including infrastructure, with significant impact on at least two planning areas. The Duty applies to all local planning authorities and county councils together with other ~~prescribed~~ bodies. The prescribed bodies are listed in Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 1.33 The National Planning Policy Framework (NPPF) paragraph 156 sets out the strategic issues where co-operation might be appropriate. These include:
- The homes and jobs needed in the area
 - The provision of retail, leisure and other commercial development
 - 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
 - Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment including landscape
- 1.34 Allerdale shares a border with Carlisle City Council to the north, Eden District Council and the Lake District National Park Authority to the east and Copeland Borough Council to the south. It also operates in a two tier area with Cumbria County Council having responsibilities as Highway Authority, Lead Local Flood Authority, Local Education Authority and Social Services amongst other things.
- 1.35 The ALPP1 established the strategic direction of the Local Plan and a fundamental part of its preparation, examination and adoption was to take account of cross boundary issues and engage constructively and actively with neighbouring local planning authorities and prescribed bodies. The strategic cross boundary issues identified were:
- Solway Coast Area of Outstanding Natural Beauty (AONB)
 - Hadrian's Wall World Heritage Site
 - Transport Infrastructure . Cumbrian Coast Railway, Strategic road network (A66 and A595)
- 1.36 In terms of housing growth Allerdale, along with the adjoining planning authorities, will deliver their Objectively Assessed Need within their own plan

areas and as such housing is not a strategic cross boundary matter. This is also the case with regard to employment and retail development.

- 1.37 In addition, no strategic cross boundary infrastructure was identified as being required to deliver the growth strategy set out in ALPP1. This approach to strategic cross boundary matters was found sound and the Duty to Co-operate fulfilled with respect to ALPP1. The nature and scope of the strategic cross boundary matters remain unchanged as evidenced by the Statements of Common Ground (CD13a)
- 1.38 The development of ALPP2 has continued this cooperation with adjoining local planning authorities and prescribed bodies. The focus of the cooperation has shifted more towards local issues within the Plan area as opposed to cross boundary matters which were settled in the ALPP1. Specifically, the cooperation has centred on joint evidence base work, and working with the prescribed bodies that have responsibility for infrastructure delivery. The co-operation between the Council and all bodies under the Duty to Cooperate has been maintained throughout the preparation of ALLP2 from Call for Sites to Publication. Evidence of this activity is set out in the Duty to Cooperate Topic Paper (CD13)¹³.

Q11. Have the relevant local planning authorities and prescribed bodies engaged constructively, actively and on an ongoing basis?

- 1.39 The prescribed bodies and relevant local planning authorities have engaged constructively working collectively on aspects of the evidence base that support the ALPP2. Full details of the collaborative evidence base work is outlined in Duty to Cooperate topic paper (CD13)¹⁴ but some examples include:
- Strategic Flood Risk Assessment . this was a joint commission recognising the need to plan on a river catchment basis which was cross boundary. The commissioning local planning authorities were South Lakeland District Council, Lake District National Park, Allerdale and Copeland Borough Councils. The project group include the County Council (as the Lead Local Flood Authority) and the Environment Agency. United Utilities contributed data.
 - Allerdale Transport Improvements Study and Highway Site Access Assessment . this was jointly commissioned by the Council and Cumbria County Council. The former study also included Highways England. Both studies were signed off by the appropriate highway authorities.
 - Allerdale Workspace and Employment Land Study 2016 . this was jointly commissioned by Britain's Energy Coast and the Council and included the National Park Authority and undertook a review of employment sites.
- 1.40 In addition to the evidence base studies the Council has actively engaged with adjoining local planning authorities and prescribed bodies both informally through emails and meetings and as consultees during the planning

¹³ Duty to Cooperate Topic Paper appendix 1 CD13

¹⁴ Duty to Cooperate Topic Paper para. 3.22 CD13

preparation consultations. Examples of this activity are provided in the Duty to Cooperate Topic Paper (CD13)¹⁵.

1.41 In addition the Council along with the Cumbrian Local Authorities and Prescribed bodies actively and constructively work together on joint initiatives and engage in discussions through a variety of forums:

- The Borderlands Growth Deal . Allerdale Borough Council and Carlisle City Council
- Britain's Energy Coast . Allerdale Borough Council, Copeland Borough Council, Nuclear Industry and County Council
- Cumbrian LEP (technical officers group) . all Cumbrian local authorities and National Park
- Development Plan Officers Group . all Cumbrian local planning authorities attend with standing invitation for authorities that adjoin Cumbria.
- Nuclear Transport Group . Allerdale Borough Council, Carlisle City Council, Cumbria County Council, Copeland Borough Council, Highways England and Network Rail.

Q12. How has the cooperation influenced the preparation of the ALPP2?

1.42 The site selection process has been underpinned by the joint evidence base, mentioned above, and the information and advice that the Council has received from Cumbria County Council, Highways England, Heritage England and Natural England in particular.

1.43 It has influenced the iterative process of sieving sites and selecting allocations. This co-operation, throughout the plan preparation has enabled the Council to understand the constraints, issues and impacts of particular sites both individually and cumulatively and the scope for mitigation and enhancement. This mitigation detail is reflected in policies SA8-SA29, SA36-SA45. This evidence has also fed into the Sustainability Appraisal. The Habitat Regulation Assessment was undertaken in consultation with Natural England and informed the selection of sites and contributed to the understanding of impacts on Natura 2000 sites.

1.44 By working closely with infrastructure providers such as Highways England, Environment Agency, Lead Local Flood Authority, Highway Authority, Local Education Authority, Clinical Commissioning Authority and United Utilities the Council was able to understand the impacts on infrastructure, where there were deficits and identify appropriate mitigation. The conclusion of this work is set out in the Infrastructure Delivery Plan (CD12).

1.45 In terms of policy, cooperation has influenced both the content and scope of policy proposed in ALPP2:

¹⁵ Duty to Cooperate Topic Paper appendix 2 CD13

- **Area Suitable for Wind Energy Development** . the National Park Authority was consulted during the drafting of the area and the introduction of the proposed buffer+zone along the Park boundary¹⁶.
- **Housing Standards** . this was a shared policy approach with Cumbria County Council reflecting their strategies and responsibilities in relation to adult social care and public health.
- **Broadband** . this supports and complements initiatives such as Connect in Cumbria and was an area of policy that the County Council particularly supported as it complements their ability to deliver in this area as well as supporting wider economy and social benefits.
- **Green Infrastructure** – discussion took place with Natural England while mapping the green infrastructure network to try and capture the biodiversity element of the network.

¹⁶ Duty to Cooperate Topic Paper appendix 2 CD13