

Sellafield Ltd (Respondent ID 70)**Hearing Statement for the Copeland Borough Council Local Plan 2021-2038 Examination****Matter 8: Energy and Nuclear Development**

Please find below evidence to support Sellafield Ltd's response to the Matters, Issues and Questions provided by the Planning Inspector.

There has been open engagement between Copeland Borough Council (CBC) and Sellafield Ltd throughout the Local Plan process, with both organisations reaching an agreement on several matters. However, there are still unresolved matters, which Sellafield Ltd proposes to raise through the examination hearing sessions.

Sellafield Ltd's requirement is to have a Local Plan which is supportive of its nationally critical mission and provides a clear decision-making framework.

Sellafield Ltd has an obligation to meet Government and legislative requirements which include but are not limited to:

- Nuclear Decommissioning Authority (NDA) Strategy 2021 and the Government policies mentioned therein¹
- Energy Act 2004
- Nuclear Installations Act 1965 [and compliance with its Nuclear Site Licence regulated by the Office for Nuclear Regulation (ONR)]
- Environmental permits regulated by the Environment Agency (EA).

These should be taken into account when considering Sellafield Ltd's response.

The outstanding concerns that Sellafield Ltd aims to resolve through this process are:

- Ambiguity surrounding what is meant by:
 - a '*proportionate and meaningful contribution*', and how this can be justified through the planning system
 - an '*exceptional needs case*' in the context of development outside of the defined Sellafield site
- Lack of clarity over which Sellafield boundary will be used for planning purposes
- The conflict created by the Local Plan requiring development at Sellafield to be subject to general policies which either cannot be delivered on the Sellafield site, or which would prejudice safety and/or security on the site.

Issue: whether the approach to energy and nuclear development is justified and consistent with national policy.

This section sets out Sellafield Ltd's response to the matters, issues and questions relating to Matter 8. We have no comments to make regarding questions 8.1-8.6 or 8.8.

¹ [NDA Strategy 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Supporting development of the nuclear sector (Policy SP NU1PU)

8.7 Do the criteria in policy SP NU1PU provide clear and effective guidance for the consideration of nuclear development? Is the policy justified, effective and consistent with national policy?

Sellafield Ltd considers that ambiguity remains surrounding the requirement to make a “*proportionate and meaningful contribution to local economic, social and environmental strategies/priorities*”. In positive engagement with CBC, Sellafield Ltd is led to believe the policy aims to secure socio-economic contributions linked to development. There is a lack of evidence surrounding why CBC considers this to be necessary or justified, and it is considered that the phrasing is contrary to the NPPF.

Proposed minor modification MILP146 suggested adding a sentence stating that development by Sellafield Ltd within the Sellafield site boundary will be exempt from this requirement as “*existing provisions are already in place*”. The modified policy wording remains unjustified and imprecise. The NDA’s social economic obligations are set out in the Energy Act 2004 [S.7(1)(e)] and are delivered by Sellafield Ltd’s Social Impact Multiplied Programme². This requirement does not relate to the planning process.

The NPPF (para 57) states that planning obligations must only be sought where they are necessary, reasonable and directly related to the development, for example those covered by policy DS5PU of the Local Plan. Requiring nuclear developers to contribute over and above what is required through the planning system, is therefore contrary to the NPPF. For these reasons, the wording of this policy requirement is deemed imprecise and unjustified. This should be deleted and/or modified in such a way that it serves a clear purpose and is sufficiently precise and unambiguous.

If the criterion is still considered to be necessary, the wording should be amended to clarify that development by Sellafield Ltd would not be required to make socioeconomic payments linked to specific developments. As a minimum, the policy should refer to policy DS5PU: Planning Obligations.

General Nuclear Energy Sector and Associated Development (SP NU3PU)

8.9 Does the criteria in SP NU3PU provide clear and effective guidance for the consideration of nuclear energy sector and associated development?

Ambiguity remains surrounding the meaning of a “*justifiable exceptional need case*” and therefore we do not consider the policy provides clear or effective guidance. Further evidence is provided under question 8.11.

² [Introducing SiX - Sellafield Ltd's new social impact programme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/introducing-six-sellafield-ltds-new-social-impact-programme)

8.10 Is the policy justified, effective and consistent with national policy? Are the suggested Main Modifications (MA-LP72-76) necessary in the interests of soundness?

Based on our response to question 8.9, we consider that amendments to criteria A are required before the policy can be found sound. Sellafield Ltd has no further comments to make surrounding the proposed main modifications MA-LP72- 76.

Nuclear Development at Sellafield (Policy NU4PU)

8.11 Do the criteria in policy SP NU4PU provide clear and effective guidance for the consideration of nuclear and associated development at Sellafield?

There are outstanding concerns surrounding the definition of the Sellafield site boundary (see 8.12 below).

Sellafield Ltd would expect the parameters of an “*exceptional needs case*” to be defined within the Local Plan to allow proposals for development to be matured with clear and objective measures referenced. The proposed policy does not provide clarity as to whether the underpinning Government requirements set out in the introduction for the safe and secure operation of the Sellafield site will be considered as part of any exceptional needs case.

The policy does not recognise that there may be instances where Sellafield Ltd will not be able to meet other policies within the Local Plan where they compromise nuclear safety and/or security requirements. Therefore, it is considered that greater clarity is required to enable the understanding and application of this policy.

8.12 Is the policy justified, effective and consistent with national policy? Are the suggested Main Modifications (MA-LP77-LP81 necessary in the interests of soundness?

Sellafield Ltd acknowledges that several previous comments relating to this policy have been considered and actioned. In the interests of soundness, we support the removal of the following criteria from the policy:

- Criterion C (MALP80)
- Criterion G (MALP83)

Despite these amendments, we still consider that clarification is required surrounding aspects of the wording of policy NU4PU and therefore do not consider it to be justified or consistent with national policy (see comments at 8.11 above).

Criterion A:

The Sellafield site is the most complex and congested nuclear site in the world. It is highly likely that there will not be enough spare land available on which to build the new facilities that we need to deliver our clean-up mission and to safely decommission and demolish redundant

facilities (see map 1). This means that land constraints could lead to sub-optimal solutions being implemented (in relation to safety and security) which, in turn, could result in the inefficient use of public money and could lead to the clean-up mission taking longer, in direct conflict with NDA Strategy 2021.

Hence, Sellafield Ltd has concerns surrounding the proposal to include only the Nuclear Licensed Site within the Sellafield planning boundary, as this does not account for the full extent of our operational land or all the land within the site fence.

Map 1 shows the anomalies between the different delineations of the site 'boundary'. These anomalies should be tidied up so that Sellafield Ltd can maximise the use of its operational land, noting that many of the areas around the periphery of the site which appear to be available cannot be developed (see map 1). Therefore, we propose that all of our operational land should be included in the planning boundary (see map 2) including the main site, security features and ancillary access infrastructure (including Yottenfews car park). This approach is consistent with NDA Strategy 2021.

It is considered that Criterion A is unjustified. CBC's response following Sellafield's representation at Publication Draft stage was that they felt the most appropriate boundary for planning purposes is the Nuclear Licensed Site. However, CBC has provided no evidence to suggest they have considered the requirement for additional land at Sellafield to achieve the clean-up mission and the acceleration of high hazard reduction activities, or that alternative site boundaries have been considered.

This is also contrary to the NPPF (para 83), which states the following: *Planning policies and decisions should recognise and address the specific locational requirements of different sectors*. For these reasons it is considered that criterion A remains unsound and could have significant impacts on Sellafield Ltd achieving its clean-up mission.

Criterion B:

Sellafield Ltd welcomes criterion B as it allows for development outside of the existing Sellafield site boundary to be considered where appropriate. However, ambiguity remains surrounding the "*justifiable exceptional need case*", with the criterion failing to provide any certainty on the information required or how decision-makers at the application stage will approach the assessment. Sellafield Ltd considers that the exceptional "need" has already been established through NDA Strategy 2021 which is a Government policy document that has been subject to extensive consultation prior to publication.

Footnote 43 fails to establish the basic parameters upon which any development proposal would be assessed. Sellafield Ltd has previously requested that the following addition is made to footnote 43: "*established allocated employment sites. Such circumstances are likely to include the rationalisation for non-nuclear support activities to be located off-site to deliver the Sellafield Ltd mission and the wider public benefits associated with high hazard reduction and site selection.*" However, CBC does not appear to have considered this proposed amendment.

Furthermore, the policy contradicts Policy DS4PU which offers support to “*nuclear related development*” and “*essential infrastructure to support energy development and other infrastructure*” outside settlement boundaries provided there is a proven need for an open countryside location. Given this, future development outside of the defined Sellafield site, subject to adequately demonstrating the need for an open countryside location, would comply with Policy DS4PU and should not be deemed an exception. The requirement for developers to provide an ‘exceptional needs case’ is also not outlined in policy NU1PU, which encourages new nuclear missions. It is considered unjustified that development by Sellafield Ltd is required to meet an additional criterion compared to nuclear new build.

General:

It is not always possible for Sellafield Ltd to comply with other Local Plan policies e.g. landscaping, flooding, SUDS and design requirements etc due to constraints on the Sellafield site, the current regulatory framework, safety and security requirements, needing to progress mission delivery and providing value to the UK taxpayer.

Sellafield Ltd requests that an additional criterion is added to policy NU4PU to recognise that some development at Sellafield may be exempt from other Local Plan policies. Sellafield Ltd suggest the following wording: “*Proposals for development within the existing Sellafield site boundary shall not be subject to other policies contained in the Local Plan where these would compromise safety, security or other regulatory requirements*”.

It would be preferable to acknowledge the acceptability of potential non-applicability through the inclusion of an additional criterion, in the interest of clarity and future deliverability, as opposed to an ‘exceptions’ case needing to be presented alongside each proposal.

It is not considered reasonable nor justified to require development on the Sellafield site to comply with, for example, landscaping requirements when the design of a complex nuclear facility is required to meet robust standards with our safety and security regulator and the provision of landscaping features is highly unlikely to be compatible with those obligations.

Nuclear Demolition (Policy NU5PU)

8.13 Is the policy justified, effective and consistent with national policy?

Sellafield Ltd considered that policy NU5PU resulted in the unnecessary duplication of Class B, Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) whereby the principle of demolition is deemed acceptable subject to certain prescribed matters. Therefore, we agree with the deletion of policy NU5PU under main modification MALP84, as the initial inclusion was unjustified.