

## **Submission of Core Strategy and Development Management Policies DPD**

**EXECUTIVE MEMBER:** Councillor George Clements  
**LEAD OFFICER:** John Groves, Head of Nuclear, Energy and Planning  
**REPORT AUTHOR:** Chris Hoban

### **WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS?**

**These are the principal planning policy documents of the Council's Local Development Framework. As such they will be an essential means of implementing the Copeland Partnership Plan, the Council's Corporate Plans and other important social, economic and environmental strategies in the Borough over the next 15 years or so. Submission to the Secretary of State is the next stage in their production process.**

### **WHY HAS THIS REPORT COME TO FULL COUNCIL?**

Full Council approval is required before the documents are submitted to the Secretary of State for Public Examination. They have been considered by the LDF Working Party and are brought to Council with a recommendation to approve the submission and proposed minor changes.

### **RECOMMENDATION:**

That Council approves the submission of the Core Strategy and Development Management Policies DPD together with the proposed Minor Changes (as at Appendix A) to the Secretary of State for Public Examination.

## **1. INTRODUCTION**

- 1.1 The Pre-Submission draft of the Core Strategy and Development Management Policies DPD was approved by Full Council at its meeting on 22<sup>nd</sup> March 2012. It was then published on 31<sup>st</sup> May for a six week public consultation period.
- 1.2 The responses have now been analysed and the submission documents are on course to be ready to be sent to the Secretary of State on the scheduled date of 31<sup>st</sup> October 2012.
- 1.3 The Pre-Submission Draft Core Strategy and Development Management Policies DPD is the version which will be submitted to the Secretary of the State for examination. At this stage the Council can put forward modifications where objections or other representations have suggested valid improvements. It is possible that the Inspector might recommend that some of these be subject to public consultation during the Examination period. It is not permissible for changes to be made at this stage which

make significant alterations to the plan; any such change would require re-submission and further public consultation, therefore causing considerable delay and some additional expense.

- 1.4 It is proposed that 33 suggested minor modifications, outlined in Appendix A, are submitted to the Inspector alongside the Pre-Submission Draft Core Strategy and Development Management Policies DPD.
- 1.5 The purpose of this report is to inform Members of the responses that were received during the public consultation, outline the Minor Modifications that we are proposing to make to the Pre-Submission draft, and request approval to submit the Core Strategy and Development Management Policies DPD and Minor Modifications to the Secretary of State for Public Examination.

## **2. THE REPRESENTATIONS RECEIVED DURING THE CONSULTATION AND PROPOSED CHANGES**

- 2.1 148 representations were made by 32 organisations and individuals. 35 of these were supporting the plan, and 55 comments suggesting improvements (such as textual errors or omissions). Thus only 58 were objections questioning the soundness of the plan. Of these, 29 were from Parish Councils and refer to matters of detail which are unlikely to jeopardise the plan at examination. In particular, we have explained to Millom Without Parish Council that their concerns (which are based on the plan not having enough detail) can most appropriately be met by incorporating them in their proposed Neighbourhood Plan, with which the Parish Council appears to be content.
- 2.2 By way of comparison, other Core Strategies submitted by second tier districts in recent months have generated between 400 and 2,000 objections, with up to 300 changes being submitted to Inspectors.
- 2.3 The main content of the representations, and the Planning Policy team's intended responses, are detailed in the Statement of Consultation. This is a bulky document; its content is laid down by regulation, and so is referred to as a Background Document for this report. About 80 changes have been suggested, and about a third of those have been accepted in whole or in part, another third rejected as being contrary to what has emerged during production of the plan and previous consultations, with the remainder being considered unnecessary (including the comments of Millom Without, who will have the support and advice of the Planning Policy team as they express their concerns in their own Neighbourhood Plan).
- 2.4 Two main objections which it would be wise to meet, as follows:
  - Firstly, there is a series of objections, mostly from Sainsbury's but also from wind power generators, that the plan is not compliant with the National Planning Policy Framework and does not support growth. We do not agree

with this, but Inspector reports from other districts indicate that the Inspectorate is insisting that authorities explicitly refer to NPPF requirements that there is a 'presumption in favour of sustainable development' and that applications consistent with the plan will be approved. Thus insertions are proposed which will deal with that.

- Sainsbury's have also objected, with respect to out-of-centre retail applications, that the plan does not have arrangements and floorspace size thresholds for impact assessments. The council's longstanding practice has been to use the 'sequential test' and thresholds for impact assessment as laid down in national policy, and it is proposed to insert text making that explicit.

- 2.5 A list of the proposed modifications, as it will be submitted, can be found at Appendix A. In addition a 'tracked change' version of the DPD, showing the modifications, will be available as a background document. This text has not been circulated as it is substantially the same as the published document; the key proposed changes are described above. The Planning Policy team has also conducted a 'soundness self-assessment' based on templates supplied by the Planning Advisory Service. This will be discussed with the Planning Inspectorate shortly, and is also available as a background document.

### **3. NEXT STEPS – SUBMISSION AND EXAMINATION**

- 3.1 If approved by the Council the Core Strategy and Development Management Policies DPD will be submitted to the Secretary of State on 31<sup>st</sup> October. This is in line with the Local Development Scheme (the project plan for the Local Development Framework). The Planning Inspectorate has been informed of this, and it is understood that an Inspector has been earmarked for the Public Examination to start then, with a public hearing, if needed, probably in February 2013.
- 3.2 The plan will be submitted along with the Sustainability Appraisal (which was complete before publication), the Statement of Consultation and a selection of key supporting documents – notably the Strategy for Infrastructure, Topic Papers on such subjects as housing and employment land, and the West Cumbria Economic Blueprint. (Supporting documents are accessible on the Local Development Framework Evidence Base page on the Council web site.) The suggested minor changes, and 'tracked change' text incorporating them, will also be submitted.
- 3.3 The Public Examination is a statutory requirement, and will result in significant costs for the Council. The funding to pay for this is already in place, having been set aside from Housing Planning Delivery Grant that has been accrued in previous years for excellent planning performance. This funding stream ceased in 2010. It should be noted that any Public Examination relating to future Local Development Framework documents, such as the Site Allocations Plan, will also incur similar costs and these will have to be borne by the Council.

- 3.4 Assuming that the plan is found to be sound, and that the Inspector is able to stick to the proposed timetable, a report should be received about May 2013, enabling the Council to adopt the plan soon after that.

#### **4. STATUTORY OFFICER COMMENTS**

- 4.1 The Monitoring Officer's comments are: The Core Strategy and Development Management DPD have followed the correct decision-making process and require approval by Council under the Scheme of Delegation.
- 4.2 The Section 151 Officer's comments are: The 2012-13 revenue budget for Planning Policy includes circa £100,000 for Legal and Professional fees which has been provided for this purpose. There also remains circa £76,000 in reserves to support this process into 2013-14.
- 4.3 EIA Comments: The proposals in the Core Strategy and Development Management Policies DPD will have a positive impact in promoting equalities in all Copeland communities

#### **5. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?**

- 5.1 The approach to project management, including risks, is set out in the Council's Local Development.
- 5.2 In order to reduce the risk of being found unsound Council officers have completed a Soundness Self-Assessment checklist, which is available as a Background Document.

#### **6. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?**

- 6.1 Approval by Full Council to submit the documents will enable the Examination process to begin when the documents are submitted to the Secretary of State on 31<sup>st</sup> October.
- 6.2 Once the Examination is completed and the Inspector's Report is received by the Council a revised Core Strategy and Development Management Policies DPD will be brought to Full Council for adoption. This will ensure an up to date Development Plan.

#### **List of Appendices**

Appendix A: Schedule of Proposed Minor Modifications

## **Background Papers**

Pre-Submission Draft Core Strategy and Development Management Policies DPD with tracked changes

Statement of Consultation

Core Strategy and Development Management Policies DPD Soundness Self-Assessment

Paper copies of Background papers are available for reference in the Members' Room

**COPELAND CORE STRATEGY AND  
DEVELOPMENT MANAGEMENT POLICIES  
PUBLIC EXAMINATION**

**SCHEDULE OF  
MINOR MODIFICATIONS**

3<sup>rd</sup> October 2012

## **Core Strategy and Development Management Policies: schedule of suggested minor modifications to the 'pre-submission draft' version of the Development Plan Document.**

The following schedule describes the proposed amendments to the Core Strategy and Development Management Policies in light of representations made when the document was published for comment on May 31 2012.

148 representations were made, of which 35 were in support, 55 commenting on particular aspects, and 58 objecting on grounds of soundness.

The Council proposes a total of 33 minor modifications. In this context, 'minor' means that they are considered to improve the accuracy or clarity of the plan, but do not change the sense or the intent of any policy or other aspect of it and therefore do not, in the Council's view, require further public consultation.

The changes fall into three broad categories.

Firstly, some objections have been made that the document does not conform to the National Planning Policy Framework adopted late in 2011, when the document was at a late stage of preparation. The Council does not accept this; in particular, we do not accept that the plan contradicts the presumption in favour of sustainable development. However, the experience of other plans submitted since the NPPF was adopted persuades us that it is sensible to make explicit reference to the presumption, and to make it clear that applications which are consistent with the plan will be approved without undue delay.

Other objections have suggested that particular policies are inconsistent with national policy. Again, the Council generally does not accept this, but there are instances where we are persuaded that it would be useful to explain how the submitted local policy is consistent with, or will be implemented in line with, national policy.

Thirdly (and in most cases), the changes introduce textual corrections making the intent of the plan clearer or updating references which were out of date.

In line with the regulations, the submitted document is that which was published in May (with an updated introduction). In the interest of clarity a version of the text incorporating the suggested changes is available on the Examination pages of the Council's web site.

| Change ref. | ID/Rep. no. | Representor | Policy/text              | Suggested change  | Justification  |
|-------------|-------------|-------------|--------------------------|---|--|
| 1           | n/a         | n/a         | Pages 6, 13, 29, 36, 176 | Replacement of 'Major Infrastructure Planning Unit' by 'National Infrastructure Directorate'  | Updating to reflect name change since the Directorate became operational.  |
| 2           | 37/S030     | Sainsbury's | Page 14.                 | <p>New paragraph 3.3.19<br/>Copeland needs development to modernise and diversify the economy and to provide a better range of housing and a better quality of life for our people, whilst respecting and nurturing our exceptional environment. The Borough Council believes in working proactively with applicants to enable development to be approved which will achieve this. This plan is pro-development and should be read as supporting the presumption in favour of sustainable development contained in the National Planning Policy Framework.</p> <p>Delete second sentence from former 3.3.19 (now 3.3.20) to avoid repetition.</p> | <p>Insertion of adaptation of PINS 'model' wording, to clarify explicitly that the plan supports the presumption in favour of sustainable development.</p> <p><i>Although we reviewed the Plan against the NPPF before it was published, and concluded that, as a pro-development plan, it met the NPPF including the 'presumption in favour of sustainable development', this was before the 'model wording' was published. The suggested changes 2, 3 and 4 represent our adaptation of those words to the format and style of the plan. They refer to adopted national policy and therefore we consider that they can be regarded as minor modifications, not material additions in policy terms.</i></p> <p>See also the following two proposed changes.</p> |
| 3           | 37/S030     | Sainsbury's | Policy ST1, page 19      | Add at end of policy:<br>Planning applications that accord with these principles and relevant Development Management policies, and do not undermine the   | Insertion of adaptation of PINS 'model' wording, to affirm consistency with the NPPF.  |



| Change ref. | ID/Rep. no. | Representor   | Policy/text  | Suggested change  | Justification   |
|-------------|-------------|---------------|--|---|---|
|             |             |               |  | Spatial Development Strategy, will be approved without unnecessary delay, unless material considerations indicate otherwise.  |   |
| 4           | 37/S030     | Sainsbury's   | Page 137   | New paragraph 10.1.2<br>Where there are no policies relevant to an application, or relevant policies are out of date at the time of making the decision, the application will be assessed against national planning policy contained in the National Planning Policy Framework. The Council will grant permission unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, or other material considerations indicate that the application should be refused. | Insertion of adaptation of PINS 'model' wording, to clarify explicitly that the NPPF will be used in decision making on matters where the plan is silent.           |
| 5           | 37/S033     | Sainsbury's   | Page 19 para 3.4.3<br>Page 35 para 4.3.1<br>Page 66 para 7.2.3 | Removal of relic references to PPSs which were missed when the plan was reviewed against NPPF   | Updating.   |
| 6           | 45/S051     | Sport England | ST4A<br>page 28  | Add:<br>and has the capacity to meet the additional demand,   | Clarification<br><br><i>Although it could be argued that this is implicit, we agree that the sense of the policy is improved by this addition. As the intent of</i> |

| Change ref. | ID/Rep. no. | Representor            | Policy/text     | Suggested change  | Justification   |
|-------------|-------------|------------------------|-----------------|---|---|
|             |             |                        |                 |   | <i>the policy is not altered, we consider this to be appropriate as a minor modification.</i>   |
| 7           |             | Cumbria County Council | ST4B<br>page 28 | Deletion of 'mitigatory'  | Clarification<br><br><i>The County Council has correctly pointed out that contributions might legitimately be sought that went beyond being merely 'mitigatory'. The Developer Contributions SPD will take the clarification further.</i>   |
| 8           | 37/S031     | Sainsbury's            | ER7<br>page 43  | Add to para 4.7.4:<br>However, it may be that there will be proposals for development of retail and other town centre uses not in an existing centre. Such applications will be dealt with in accordance with national planning policy (NPPF paragraphs 24-27); that is, applying the sequential test allowing out-of-centre development only when preferable centre or edge-of-centre sites are not available, and requiring impact assessments on developments over the default threshold of 2,500 m <sup>2</sup> . | To clarify explicitly that, the policy being silent on the matter, decisions on out-of-centre proposals will be dealt with according to the 'default' in NPPF.<br><br><i>The approach here reflects the local circumstance that there is no perceptible demand for development of a size that could not be accommodated within town centres or anticipated boundary extensions. (The 2006 Local Plan likewise did not incorporate a sequential test in policy, and up to now no representor has suggested that this is an issue.) However, this objection leads us to conclude that it would be sensible to make the position clear, and that this can be done in the text to avoid the policy being made repetitive of national policy. Note that <u>NPPF does not require that there be a local policy on sequential test and impact assessment thresholds</u>. As this is a text reference to adopted national policy, we consider the</i> |

| Change ref. | ID/Rep. no.                   | Representor  | Policy/text                | Suggested change   | Justification   |
|-------------|-------------------------------|--|----------------------------|--|---|
|             |                               |  |                            |  | <i>modification is minor and not material in policy terms.</i>  |
| 9           | 37/S034<br>28/S085<br>27/S093 | Sainsbury's<br>Cleator Moor and District Chamber of Trade<br>RW & E Mulholland | ER9<br>page 45             | Add at end of policy:<br>Appropriately-scaled retail and service development which promotes the vitality and viability of rural settlements will be supported. | Clarification that the intent of the policy is not restrictive.<br><br><i>This policy was not intended to be read as being unsupportive of new retail or service development in villages. However, we would also not wish it to be read as allowing development which might be out of scale with those villages or lead to the competitiveness of larger centres being undermined. So, rather than use the simple words 'enhance' or 'improve' as suggested, we propose the additional sentence. This is in our view legitimate as a minor modification, as it does not alter the sense of the policy – note that it is consistent with the interpretation of settlement hierarchy in ST2/Fig. 3.2.</i> |
| 10          | 21/SO58                       | Tesco Stores   | Policy ER9A<br>(i) page 45 | 'meet the needs of local residents' replaced by 'serve local communities'.   | To avoid the implication that a 'needs test' is being applied surreptitiously. The modification does not alter the intent, and is unlikely to alter the effect, of the policy.  |
| 11          | n/a                           | n/a  | Text box<br>page 46        | Add:<br>and Retail Assessment Addendum Report (2011)   | Insertion of evidence base document previously omitted from information on policy background.   |
| 12          | 39/S013                       | National Trust   | ER10C,<br>page 47          | Add: character of allocated Tourism Opportunity Sites, the area surrounding them of the surrounding area or public access thereto,                             | Amendment to improve the sense of the policy.<br><br><i>The Trust correctly points out that the policy as drafted implied that it was concerned about</i>   |

| Change ref. | ID/Rep. no. | Representor     | Policy/text                                      | Suggested change  | Justification   |
|-------------|-------------|-----------------|--|---|---|
|             |             |                 |  | Delete:<br>on allocated Tourism Opportunity Sites   | <i>the character of the surroundings of the sites and not the sites themselves. This was not its intention.</i>   |
| 13          | 8/S126      | Cumbria Tourism | ER10F, pages 47/48                               | Change 'Tourist Board' to 'Tourism' in ER10F and add the Tourism Strategy to the evidence box   | Updating amendment.   |
| 14          | 29/S100     | Theatres Trust  | Para 5.5.2 Policy SS4, pp. 57/58; DM21 page 157. | Add 'theatres' to list in 5.5.2 5 <sup>th</sup> bullet point<br>Add 'and cultural' in two relevant places in SS4 (title and SS4D).<br>Delete 'community' in SS4C (to make the reference comprehensive)  | To make it clear that the policy covers cultural facilities.<br><br><i>In our view 'community' encompasses 'cultural'. However, we are persuaded that it makes sense to make it explicit that the policy does cover cultural facilities. This reflects NPPF para. 70, and since it makes the policy more consistent with the NPPF and does not add to the policy's intent, we consider it is an appropriate minor modification.</i> |
| 15          | 45/S052     | Sport England   | Para 5.5.2 page 57                               | Typographical correction to 7 <sup>th</sup> bullet point  | Typographical correction  |
| 16          | 45/S051     | Sport England   | Para 5.5.7 page 58                               | Add:<br>For open space, sports and recreational buildings and land, including school playing fields, the criteria of NPPF paragraph 74 will apply:<br><ul style="list-style-type: none"> <li>an assessment must be undertaken to show that they are surplus to requirements; or</li> <li>the loss would be replaced by equivalent or better provision in</li> </ul> | To make it clear that there are special criteria to be brought into play when sports facilities might be lost.<br><br><i>We are persuaded that this addition is sensible, to make sure that the policy does not intend to dilute the provisions of para. 74. As this addition reflects the NPPF and does not alter the policy's intent, we consider it appropriate as a minor modification.</i>                                     |

| Change ref. | ID/Rep. no.        | Representor                             | Policy/text            | Suggested change   | Justification  |
|-------------|--------------------|---|------------------------|--|--|
|             |                    |   |                        | a suitable location; or <ul style="list-style-type: none"> <li>the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.</li> </ul> |  |
| 17          | 38/S143            | Cumbria County Council                  | Policy T1B<br>page 62  | Alteration to bullet point in T1: <del>A595 capacity</del> improvements to <u>the A595</u>   | In the interest of accuracy.<br><br><i>The County Council points out that the improvements proposed go beyond capacity improvements</i>  |
| 18          | 16/S063            | Allerdale Borough Council               | Policy T1C<br>page 62  | Refer to Port of Workington. Response: add (to be more precise) 'employment zones in and Port of' before the name of the town.   | Agreed that this point should be more specific as referring to employment/infrastructure assets in Workington, rather than the town as a whole.  |
| 19          | 38/S143            | Cumbria County Council                  | Para 6.2.6<br>page 63  | Delete 'mitigatory', insert 'appropriate'  | Clarification<br><br><i>The County Council points out that, as Highway Authority, it might legitimately seek contributions for works which are not solely mitigatory. The Developer Contributions SPD will take the clarification further.</i> |
| 20          | 38/S145            | Cumbria County Council                  | Policy ENV3<br>page 68 | Insert 'UK and' before 'Cumbria' in first sentence;<br>Add 'and stepping stones' to ENV3E.   | To express more accurately the intent and coverage of the policy.  |
| 21          | 28/S086<br>27/S094 | Cleator Moor Chamber<br>RW&E Mulholland | Table 6.1,<br>page 69  | Add River Ehen (Ennerdale Water) to Keekle confluence to list of SSSIs   | Correction of omission   |
| 23          | n/a                | Internally generated                    | Table 6.1,<br>page 69  | Delete 'of', insert 'for'  | Correction   |
| 22          | 38/S145            | Cumbria County Council                  | Table 6.1,             | Add reference to Cumbria   | To assist the reader in search of fuller   |

| Change ref. | ID/Rep. no. | Representor                     | Policy/text                      | Suggested change  | Justification   |
|-------------|-------------|---------------------------------|----------------------------------|---|---|
|             |             |                                 | page 72                          | Biodiversity Evidence Base  | information.  |
| 24          | 88/S131     | Seascale Parish Council         | Paras. 8.5.18/8.6.13 pp. 110/116 | Move reference to Seascale Community Plan from 8.5.18 to 8.6.13   | Correction.   |
| 25          | 65/SO01     | Haile and Wilton Parish Council | Para. 8.5.18                     | Correct date of Parish Plan to 2011   | Updating.   |
| 26          | 88/S136     | Seascale Parish Council         | Paragraph 8.6.8 page 113         | Insert Drigg and Sellafield stations.   | Correction.   |
| 27          | 38/S145     | Cumbria County Council          | Policy DM25 page 161             | Alterations to policy to make it clear that it applies to priority as well as statutorily protected species | In the interest of accuracy and clarity.  |
| 28          | 38/S145     | Cumbria County Council          | Para. 10.5.6 page 162            | Delete word 'occasionally'  | Accepted that this might be misleading as such occurrences could be frequent in some areas.   |
| 29          | 79/SO48     | REG Windpower                   | Policy DM27 page 164             | Insert 'significant' before 'adverse effect'  | To better align the policy with NPPF  |
| 30          | 82/SO55     | The Woodland Trust              | Policy DM28 page 165             | Insert reference to protection of ancient woodland and veteran trees  | To correct an omission in the policy bringing it more in line with the NPPF (para 118).   |
| 31          | n/a         | Cumbria County Council          | Glossary                         | Insert definition of green infrastructure   | Amendment accepted in previous ('preferred options') consultation but omitted in error from published document.                               |
| 32          | 38/S145     | Cumbria County Council          | Glossary pp. 173- 182            | Add 'greenspace' to definition of infrastructure and definition of 'stepping stones'                        | (1) For greater consistency with definitions elsewhere.<br>(2) Reference to term inserted in ENV3.  |
| 33          | 38/S143     | Cumbria County Council          | Appendix 3 page 184              | Delete 'TSP7' and insert 'T1 and DM22'.<br><br>Various changes to thresholds for                            | To update and to be consistent with national guidance thresholds and other advice.<br><br><i>The County Council has advised that Appendix</i> |

| Change ref. | ID/Rep. no. | Representor | Policy/text | Suggested change  | Justification   |
|-------------|-------------|-------------|-------------|---|---|
|             |             |             |             | <p>development subject to Transport Assessment and Travel Plans.</p> <p>Add to end of Appendix: -<br/>And for other types of development in accordance with national guidance.</p> <p>The Borough Council will expect Transport Assessments and Travel Plans to be consistent with national guidance, currently <i>Guidance on Transport Assessment and Good Practice Guidelines: Delivering Travel Plans through the Planning Process</i>.</p> | <p><i>3 as it stands, which was taken forward from the Local Plan, is not consistent with the thresholds in national guidance (published in 2007, the year after the Local Plan was adopted). There is no evidential justification for departing from the thresholds. As the purpose of this modification is to adjust the appendix to make it compatible with national policy, we do not consider the change to be material.</i></p> |





