

Relaxation of Local Plan Policy TCN11: Primary Frontages Area in King Street, Whitehaven

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WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS?

Policy TCN11 in the Copeland Local Plan 2001-2016 aims to promote and protect the shopping character of King Street in Whitehaven, and currently restricts the ground floor uses along King Street to A1 (Shops) as it is designated as Whitehaven town centre's Primary Frontages Area. However, there has been some concern expressed about the number of empty units on King Street and that they may be remaining vacant due to the restrictions in this policy. It is hoped that the relaxation proposed for Policy TCN11 will allow some complementary uses to shops and increase vibrancy along King Street.

WHY HAS THIS REPORT COME TO FULL COUNCIL?

This report is the resubmission of the report that was presented to Full Council on 13th October 2011 (Ref. Full 131011 Item 15) regarding a relaxation of uses along King Street, Whitehaven when the Council resolved that *"no action be taken at this time and the report be resubmitted in six months following full consultation with all Members of the Council"* (Minute C56). The consultation with all Councillors has now taken place and to date there have been four responses, which are generally supportive of a relaxation to Policy TCN11.

The Council is therefore asked to approve the revised wording of Local Plan Policy TCN11 to extend the range of uses as originally recommended by the Local Development Framework Working Party. It should be noted that the deferral of a decision on Policy TCN11 of the Local Plan means that the approach agreed upon now will also have an impact on the policy approach taken in the Local Development Framework's Development Management Policy DM6 which features in a later item on this agenda.

RECOMMENDATION:

That Members approve the revised wording for Policy TCN11 of the Copeland Local Plan outlined in this report.

1. INTRODUCTION

- 1.1 Policy TCN11 in the Copeland Local Plan 2001-2016 aims to promote and protect the shopping character of King Street in Whitehaven, and currently restricts the ground floor uses along King Street to A1 (Shops) as it is designated as Whitehaven town centre's Primary Frontages Area.
- 1.2 A survey in 2010 of residents of the Harbour ward by the Whitehaven Locality Partnership highlighted local concern over the number of vacant retail units in the town centre.
- 1.3 In order to gain a better understanding of the problem, officers from Copeland Borough Council, Cumbria Chamber of Commerce and Invest in Cumbria met with local property agents. The conclusion of that discussion was that Whitehaven is not alone in having a number of vacant shop units and that due to the growth of internet shopping and the structural changes to retail brought about by the recession, high streets nationwide will not be the same as in the past.
- 1.4 One specific issue the agents raised was the restriction to A1 retail use on King Street as required by Policy TCN 11 of the Copeland Local Plan. This use restriction precludes many high street uses such as estate agents and cafes, which fall within the A2 and A3 Use Classes.
- 1.5 The agents presented evidence of enquiries they had received for King Street for A2 and A3 uses which could bring units back into commercial use, generate footfall and bring some additional vibrancy to the street, but which had not been able to proceed because of the planning restriction in Policy TCN 11.
- 1.6 It was also noted that the purpose of the policy is to promote a vibrant shopping area for the town and while allowing different uses to open in King Street could potentially bring vacant units back into use it may change the character of this area in the long term.
- 1.7 Following the meeting it was agreed that Copeland Borough Council would seek views on a possible relaxation of the exclusive A1 use on all of King Street, and on 21st March 2011 the LDF Working Party approved a public consultation to consider whether the Council should relax the requirements in Policy TCN11 of the Copeland Local Plan 2001-2016. The consultation asked whether to extend the range of uses that will be permitted in King Street and if so, whether these additional uses should be for a temporary period and/or limited in number.
- 1.8 A six week consultation ran from 26th May to 8th July 2011 and questionnaires were sent to the following:

- Ward councillors and the county councillor
- Whitehaven Chamber of Trade
- Enterprise Whitehaven
- Federation of Small Businesses
- Cumbria Chamber of Commerce
- Local agents, developers and stakeholders
- Anybody currently operating a business or living on King Street
- Whitehaven Heritage Action Group

- 1.9 More than 130 questionnaires were sent out and we received 34 responses.
- 1.10 Most respondents supported extending the range of uses to include both A2 (Financial and professional services) and A3 (Restaurants and cafes) along the whole of King Street. Most also felt that restrictions and controls should be kept to a minimum, although there were some comments in favour of protecting the street as a retail destination and that it may not be appropriate to have more than two consecutive units that were not shops.
- 1.11 There were some concerns about charity shops and off-licences opening, but this is not something that the Council can control through planning policies.
- 1.12 The responses to the public consultation can be seen in full in Appendix A.
- 1.13 These responses, together with a proposal for revised wording to Policy TCN11 were presented to Full Council on 13th October 2011. At that meeting it was agreed that *“no action be taken at this time and the report be resubmitted in six months following full consultation with all Members of the Council”* (Minute C56).
- 1.14 The consultation with all Councillors has now taken place and four responses have been received to date. These additional responses were generally supportive of a relaxation to Policy TCN11 and expressed similar concerns as the original consultation.
- 1.15 It should also be noted that Mary Portas has undertaken a review of High Streets in Britain since the original request and consultation regarding relaxing the uses along King Street, and Recommendation 12 from her review is to *“Address the restrictive aspects of the ‘Use Class’ system to make it easier to change the uses of key properties on the high street”*. The proposal outlined in section 2 of this report would be consistent with Recommendation 12.

2. PROPOSALS

- 2.1 Policy TCN11 in the Adopted Local Plan 2001-2016 currently restricts the uses permitted in King Street to A1 (Shops) because this area is designated as primary frontage. The full text of the policy is:

Policy TCN11: Primary Frontages

A Primary Frontages Area is designated in Whitehaven Town Centre as shown on the Proposals Map Inset within which continuous retail frontages will be sought and only retail outlets (Class A1) will be permitted in groundfloor premises.

- 2.2 Whilst the feedback received from the public consultation indicated a strong desire from stakeholders that the policy is relaxed completely, allowing permission for A2 and A3 uses on the whole of King Street, the Council is mindful that this could have a long term effect on the valued retail character of King Street and would prefer, at this stage, to allow A2 and A3 uses to be permitted but subject to some limited control measures.
- 2.3 In the light of the feedback received, a revised policy wording and explanatory text for policy TCN11 in the Copeland Local Plan 2001-2016 has been produced. If approved by Council this will form part of the development plan until the policies in the Copeland Local Plan are replaced by the Copeland Local Development Framework (LDF). The text will also be incorporated within the relevant Development Management Policy within the LDF where it will be subject to wider consultation and then independent examination in public.
- 2.4 Therefore it is recommended that the policy and supporting text in the Local Plan is amended as follows:

'The most intensive area of shopping use in Whitehaven Town Centre is along King Street, between Market Place and Duke Street and this is identified on the Proposals Map as the Primary Frontages Area. Here, retailing is the predominant use but the Council will consider permitting changes of use to A2 and A3 due to relaxation of policy 'TCN11 – Primary Frontages. (This change was subject to stakeholder consultation in summer 2011.)

'TCN11 – Primary Frontages

A Primary Frontages Area is designated in Whitehaven Town Centre as shown on the Proposals Map Inset within which continuous frontages will be sought and ordinarily only retail outlets (Class A1) will be permitted in groundfloor premises. However, where a unit has been vacant and evidence can be provided showing that it has been actively marketed for A1 use, at a reasonable price, for at least 6 months, the Council will consider permitting change of use to financial and professional services (Class A2) or restaurants and cafes (Class A3). The Council would expect that no more than two consecutive non retail uses are permitted within this Primary Frontages area and that non-retail uses make up no more than 25% of the frontage lengths of King Street, in each of its two sections either side of Lowther Street. Special consideration will also be given to

minimising the impact of the waste storage and ventilation systems associated with A3 uses on the character of King Street.'

- 2.5 If the policy and supporting text are amended as described above the policies in the Local Development Framework should also seek to adopt this more relaxed approach, and have currently been drafted along these lines in Development Management Policy DM6 (see the item titled *Pre-Submission Core Strategy and Development Management Policies* DPD on the agenda).
- 2.6 If the Council chooses to retain the Primary Frontages designation and existing Local Plan policy wording then the wording for Development Management Policy DM6 will also have to be reworded when it is considered later on this agenda.

3. ALTERNATIVE OPTIONS TO BE CONSIDERED

- 3.1 The alternative would be to leave the policy wording and interpretation as it is currently written in the Copeland Local Plan 2001-2016.
- 3.2 However, taking this approach would run counter to desire of the Whitehaven Locality Partnership Town Centre group and the feedback that was given to the public consultation.

4. CONCLUSIONS

- 4.1 The LDF Working Party has proposed an amendment to the wording of Policy TCN11 of the Local Plan to allow A2 and A3 uses in King Street following the results of the consultation which supported the relaxation
- 4.2 It is recommended that Council approves this revised wording.

5. STATUTORY OFFICER COMMENTS

- 5.1 The Monitoring Officer's comments are:

No comments.

- 5.2 The Section 151 Officer's comments are:

No further comments.

- 5.3 Community Impact Assessment Comments:

Proposals in this report will have a positive impact in promoting equalities in all Copeland communities.

5.4 Other Consultee Comments, if any:

None.

6. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?

6.1 The policy wording will be incorporated into the LDF Development Management Policies DPD that will replace the Local Plan. The document is due to be submitted to the Secretary of State for Examination in 2012 and as part of the production process it will be subject to further consultation and independent examination

7. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?

7.1 It is hoped that the revised will help to reduce the number of vacant units on King Street.

List of Appendices

Appendix A – Detailed Breakdown of Responses from the Original Consultation

List of Background Documents:

Copeland Local Plan 2001-2016

Appendix A– Detailed Breakdown of Responses from the Original Consultation

The following provides a breakdown of the detailed responses and comments received for each question.

Question 1 – Should the uses on King Street:

Remain as A1 (Shops) uses only?	Be extended to include A1 (shops) and A2 (financial and professional services) uses only?	Be extended to include A1 (shops) and A3 (restaurants and cafés) uses only?	Be extended to include A1, A2 and A3 uses?
1	5	4	22

Total responses to this question: 32

Additional Comments:

- Need to be a high standard of business – cheap and cheerful can become tarnished very quickly.
- Allowing betting shops on King Street will further devalue it.
- Not to include any more charity shops.
- There is already a variety of cafes.
- Attracting additional traders to the town will impact on existing traders positively.
- The time limit for opening hours should be considered to avoid cafes and restaurants acting as a takeaway after 11pm.
- The existing policy is unsustainable when combined with empty rate policy and will have a rapid effect upon values and investment going forward.
- Conversion of upper floors to housing is also to be encouraged.

Question 2 – If agreed should the changes apply to:

The whole of King Street?	The north end of King Street (i.e. between Lowther Street and Duke Street).
23	9

Total responses to this question: 32

Additional Comments:

- The prime retail section has always been the southern section of King Street.

- Usually north end is a lot quieter than the south end and a lot of shops are smaller at the south end.
- It may be prudent to have a restriction on the number of units subject to relaxed restrictions in the southern portion of King Street (see question 6.)
- Too many charity shops in the north end of King Street.
- South end already has a mix of A1 and A3.
- The North end of King Street has always suffered from lack of footfall.

Question 3 – Should any flexibility only apply to units that have been vacant and actively marketed for a significant length of time?

Yes – only for units that have been vacant for at least 2 years.	Yes – only for units that have been vacant for at least 3 years.	No – it should apply for any unit that becomes vacant.
2	0	29

Total responses to this question: 31

Additional Comments:

- Need maximum flexibility to keep occupancy levels up.
- The market dictates what potential occupiers are willing to pay for a unit and this in turn is based upon what level of customer activity an occupier expects from the relevant location.
- Empty shops don't look good but retail outlets and cafes are better than charity shops.
- There is no benefit in limiting flexibility.

Question 4 – If the uses were extended to include A2/A3, should this only be for a period of time?

Yes	No
4	26

Total number of responses: 30

Additional Comments:

- Occupiers will not commit capital on fitting out and establish a business if there is a risk of temporary occupation only.
- It may prevent businesses taking up units if they think it is only for a temporary period.
- Most tenancies are for 5+ years.
- Suggest the position is reviewed after 2 years.
- We want businesses to be permanent and not short term.

- A temporary period would allow for adjustments if the economic situation were to improve.

Question 5 – If yes, what is the appropriate length of time for a temporary A2 or A3 use?

2 years	3 years	5 years	Other (please specify)
2	0	2	0

Total number of responses: 4

Additional Comments:

- No further comments made.

Question 6 – Should the level of A2 and A3 uses on King Street be limited?

Yes – they should represent no more than 10% of shop fronts.	Yes – they should represent no more than 20% of shop fronts.	Yes – they should represent no more than 30% of shop fronts.	No – the level of A2 and/or A3 uses should not be limited.
2	5	3	20

Total responses to this question: 30

Additional Comments:

- But we do need to see more variety - i.e. May we have some more shops selling formal clothing - not casual wear?
- Would this be legal - restraint of trade?
- The market will speak for itself
- Still need to protect retail destination.
- The main use must remain retail
- Any occupancy of vacant property must be encouraged.

Question 7 – Should the number of A2 and A3 (i.e. non retail) units next door to one another be controlled?

Yes – there should be no more than 2 consecutive non retail uses together.	No – there should be no restriction on the concentration of non retail uses.	Other – Please specify.
8	20	3

Total responses to this question: 31

Additional Comments:

- If it means losing an outlet then let us be imaginative and realistic.
- Look what happens in other areas.
- The market will decide for itself.
- Each to be considered on merit with a 'good estate management policy'
- No - one big problem in Whitehaven is too much of the same businesses side by side or directly opposite one another.

Other issues raised in 'Final Comments'.

- 'King Street needs a facelift along continental lines'
- 'We need a policy that uses Whitehaven's many splendid buildings.'
- 'Potential investors or retailers looking at Whitehaven would not be impressed with betting shops etc. on King Street.'
- 'Re A3 - I accept that if a restaurant [opens up] they should be allowed to apply for an alcohol licence.'
- 'A2 and A3 uses now often generate more footfall than some retailers - they also invest large sums of money on their shop fit and employ locals.'
- 'A4 and A5 uses should also be considered.'
- 'Because we are a small town with all these regulations and restrictions, we will always be a small town.'
- 'I am glad however to see that no pubs or clubs are being considered. I would also like this to extend to off-licence premises.'
- 'Although I would prefer King St completely retail I consider any open facility to be better than vacant shops.'
- 'Shops that cannot be used should have their windows decorated to at least look as if they are in use.'
- 'Tiffen & Co have marketed a number of units on King Street for a significant time period, for example 4 years. Demand has been forthcoming in particular from A2.'
- 'CDF would be looking to make sure that any permission granted would ensure that access complied with the Equality Act.'
- 'Full consideration must be given to refuse storage, maybe a screened central area or priority for A3 use to premises with yard storage.'
- 'Ventilation extract may be required to control cooking odours. Lower cost systems will use external ducting - not all premises may be suitable for this and there could be an impact on the appearance of the area.'
- Development of possible services in the town centre is beneficial to older people who make up a large percentage of town centre residents.