



Copeland Housing Technical Paper

Copeland Borough Council

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1. Glossary

CBC: Copeland Borough Council

HMO: House of Multiple Occupancy

HNS: Housing Needs Survey

LDNPA: Lake District National Park Authority

NPPF: National Planning Policy Framework

S106: Section 106 Agreement

SHMA: Strategic Housing Market Assessment

2. Introduction

- 2.1.1. This Housing Technical paper provides guidance for developers relating to a number of housing policies within the Copeland Local Plan 2021-2038. It also identifies potential options for the future Cumberland Council, who will implement the Local Plan following Local Government Reorganisations, in terms of how any developer contributions paid in lieu of affordable housing, could be best spent.
- 2.1.2. It is anticipated that this paper will form the basis of a Housing Supplementary Planning Document following Local Government Reorganisation. This will be subject to agreement and collaboration with other Officers within the newly formed organisation.
- 2.1.3. The report is structured based on the order of the relevant housing policies in the Copeland Local Plan. The report will be updated following the adoption of the Local Plan as the examination may result in changes to the policies within it.
- 2.1.4. It should be noted that the Local Plan only relates to the parts of Copeland outside the Lake District National Park. The Lake District National Park Authority is the Planning Authority for areas within the Park and their Local Plan can be viewed here: <https://www.lakedistrict.gov.uk/planning/planningpolicies/local-plan>
- 2.1.5. Copeland Borough Council is the Housing Authority for both Local Plan areas and Copeland is a self-contained housing market.

2.2. Policy Context

- 2.2.1. This technical document expands on and provides context for a number of the housing policies within the Local Plan 2021-2038. It builds upon information provided through policies H8: (Affordable housing), H15 (Rural exception sites) and H16 (Essential Dwellings for Rural Workers) and the supporting text.
- 2.2.2. The Local Plan and this technical document also builds upon guidance within the National Planning Policy Framework (NPPF)¹. Whilst development must be in accordance with the Development Plan (comprising the Local Plan), the NPPF is a material consideration in decision making. Developers should therefore assess how their proposals align with the NPPF at the earliest stage.
- 2.2.3. Chapter 5 of the NPPF regards delivering a sufficient supply of homes. It contains a number of requirements relating to the provision of affordable homes whilst giving Local Authorities flexibility to ensure local needs are met.
- 2.2.4. Further information regarding the housing requirement can be found in the Housing Topic Paper supporting the Local Plan and the Council intends to provide further guidance relating to design (including HMOs) in supplementary planning guidance.

¹ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Further information regarding each of the allocated housing sites can be found in the Site Profiles document which forms an appendix to the Local Plan.

3. Supporting Documents

3.1. Copeland Strategic Housing Market Assessment (SHMA)²

3.1.1. The SHMA 2020 identifies housing needs in the Borough (outside the Lake District National Park) and sets the housing requirement over the Plan period. It also recommends how many homes should be planned for to support aspirational economic growth.

3.2. Copeland Housing Needs Survey (HNS)³

3.2.1. A Housing Needs Survey was produced by Cobweb Consulting for the Council in July 2020. This looks at the housing stock in the borough (including condition), the housing profile and new household formation. It makes a number of recommendations for sub-areas within Copeland.

3.3. Copeland Affordable Sales Procedure⁴

3.3.1. This document, produced in December 2021, provides guidance on discounted market sales (under low cost home ownership scheme). Such housing is often provided through a Section 106 agreement linked to a planning permission. It sets out the qualifying criteria for residents who wish to apply for discounted sale property in the borough as they are unable to afford to buy appropriate housing on the open market. The procedure seeks to ensure that Discounted Sale properties remain within reach of households on local incomes in perpetuity.

3.4. Copeland Borough Council Housing Website⁵

3.4.1. The website contains information relating to the following, amongst other things:

- (1) Homelessness
- (2) Disabled facilities grants
- (3) Empty and unfit homes
- (4) Private sector housing
- (5) Community-led housing

² <https://www.copeland.gov.uk/attachments/strategic-housing-land-availability-assessment-shlaa-2020>

³ https://www.copeland.gov.uk/sites/default/files/attachments/housing_needs_survey.pdf

⁴ https://www.copeland.gov.uk/sites/default/files/attachments/affordable_sales_procedure.pdf

⁵ <https://www.copeland.gov.uk/housing>

(6) Affordable housing

4. Policy Guidance

The following guidance is broken into sections relating to:

- Policy H7 (Housing Density and Mix)
- Policy H8 (Affordable Housing)
- Policy H11 (Community-led, Self-build and Custom build housing)
- Policy H15 (Rural Exception Sites)
- Policy H16 (Essential Dwellings for Rural Workers)

5. Policy H7: Housing Density and Mix

Policy H7PU: Housing Density and Mix



Developments should make the most effective use of land. When determining appropriate densities development proposals should clearly demonstrate that consideration has been given to the shape and size of the site, the requirement for public open space and landscaping, whether the density would help achieve appropriate housing mix and help regeneration aims, the character of the surrounding area and the setting of the site.

Applicants must also demonstrate, to the satisfaction of the Council, how their proposals meet local housing needs and aspirations identified in the latest Strategic Housing Market Assessment (SHMA) and Housing Needs Assessment in terms of house type, size and tenure. Alternative more up-to-date evidence will be considered only in exceptional circumstances where a developer demonstrates to the Council's satisfaction that the SHMA and Housing Needs Assessment is out of date.

5.1. Density

- 5.1.1. The first part of the policy relates to housing density which is the number of houses per hectare on the site. Generally, the higher the density the most effectively the land is used, however it is important to ensure residential amenity is protected which may require careful design to avoid overlooking and protection of privacy. It may also be appropriate to have lower densities in some cases, for example, where bungalows are required on site (which have a greater footprint than multi-storey homes), on edge of settlement sites to reduce landscape impacts or where larger homes with gardens are required to provide a greater housing mix in an area.

5.2. Type

- 5.2.1. The second part of the policy relates to housing type, size and tenure.
- 5.2.2. The latest SHMA was produced in 2021; chapter 8 discusses housing mix. The SHMA will be updated periodically.
- 5.2.3. The Council would expect the mix to be broadly met on larger sites that have capacity to do so (and a greater impact locally), whereas there may be more flexibility with smaller sites to take into account local needs and existing stock to provide a better balance overall.
- 5.2.4. Type refers to:
- whether the housing is detached, semi-detached or terraced;
 - whether the housing comprises bungalows, multi-storey homes or flats etc
- 5.2.5. Size refers to the number of bedrooms and tenure refers to whether the housing is open market housing to buy or rent, affordable housing or other forms of housing such as sheltered accommodation etc.
- 5.2.6. Page 127 identifies a recommended mix of housing by size and tenure:

Suggested Mix of Housing by Size and Tenure – Copeland				
	1-bedroom	2-bedrooms	3-bedrooms	4+-bedrooms
Market	5%	35%	40%	20%
Affordable home ownership	15%	45%	35%	5%
Affordable housing (rented)	30%	40%	25%	5%

- 5.2.7. In terms of house type, the SHMA states that the majority of homes built should be houses, whilst there is a lower percentage of flats in Copeland than the national average, no particular need has been identified. The SHMA also recommends that bungalows are provided in order to meet the needs of our aging population.
- 5.2.8. The Council would not consider previous sales information from developers to be an alternative reflection of need.

6. Policy H8: Affordable housing

Strategic Policy H8PU: Affordable housing

On sites of 10 units or more (or of 0.5ha or more in size), or on sites of 5 units or more within the Whitehaven Rural sub-area⁶, at least 10% of the homes provided should be affordable as defined in the NPPF 2021 (or any document that replaces it) unless:

⁶ As identified in the Housing Needs Study 2020

- 1) this would exceed the level of affordable housing required in the area as identified in the Housing Needs Study; or
- 2) The development falls into an exemption category listed in the NPPF

Where the proposal involves the re-use or redevelopment of vacant buildings, a proportionate reduction in the affordable home contribution, equivalent to the existing gross floorspace of existing buildings, will be supported.

The following tenure split should be applied to developments that provide affordable housing:

- **25%** First Homes
- **15%** discounted market sales housing, starter homes or other affordable home ownership routes⁷
- **60%** affordable or social rented.

A financial contribution may be accepted in lieu of on-site affordable housing provision, to secure the equivalent provision off site where this is justified and helps create mixed and balanced communities. Where the number of empty homes within the settlement is above the national average, this contribution may be used to improve the standard of empty properties within that settlement and bring them back into use as affordable housing.

A lower proportion of affordable housing or an alternative tenure split will only be accepted in exceptional circumstances. In such cases developers must demonstrate, to the Council's satisfaction, why the current site specific circumstances mean that meeting the requirements of this policy would render the development unviable. This should be in the form of a clear, bespoke viability assessment.

- 6.1.1. The Housing Needs Survey and Strategic Housing Market Assessment both outline that Copeland has an unmet need for affordable housing. The need is greatest within the Whitehaven Rural sub-area.
- 6.1.2. Local Plan Policy H8 sets out the measures that CBC will take to increase the number of affordable homes in the borough. This is in line with guidance within the NPPF which requires that plans should set out the contributions expected from development (para34) and should specify the type of affordable housing required (para 63).
- 6.1.3. Further guidance on how this policy will be implemented is included below. This will be broken down by each paragraph of the policy for ease of reference.

⁷ As defined in the NPPF Glossary

On sites of 10 units or more (or of 0.5ha or more in size), or on sites of 5 units or more within the Whitehaven Rural sub-area , at least 10% of the homes provided should be affordable as defined in the NPPF 2021 (or any document that replaces it) unless:

- 1) this would exceed the level of affordable housing required in the area as identified in the Housing Needs Study; or**
- 2) The development falls into an exemption category listed in the NPPF**

6.2. What is Affordable housing?

6.2.1. The NPPF defines affordable housing as the following:

Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

(a) Affordable housing for rent: *meets all of the following conditions: (a) the rent is set in accordance with the Government’s rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).*

(b) Starter homes: *is as specified in [sections 2 and 3 of the Housing and Planning Act 2016](#) and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household’s eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*

(c) Discounted market sales housing: *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*

(d) Other affordable routes to home ownership: *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an*

affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to government or the relevant authority specified in the funding agreement.

6.3. Why doesn't the Policy require 10% of homes to be available for affordable home ownership?

6.3.1. NPPF paragraph 65 states that

"Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups."

6.3.2. The Council's SHMA highlights that providing home ownership routes only would prejudice the ability of residents who don't have access to deposits to enter the housing market. The policy, as informed by the SHMA, therefore proposes that 10% of homes on such sites should be affordable, and that the majority (60% of those homes) are available for social rent rather than ownership.

6.4. Why is the threshold different for developments in the Whitehaven Rural Sub-area?

6.4.1. Figure 5.16 in the SHMA shows that the Whitehaven Rural sub-area has the second highest need for affordable homes after Whitehaven. Given that development viability is likely to be less of a constraint in the rural area, as house prices tend to be higher and other constraints to delivery lower, reducing the threshold to 5 dwellings provides an opportunity to help address affordability.

6.5. What types of development are excluded from the policy requirement?

NPPF paragraph 65 states the following types of development are exempt from the requirement for 10% of homes **to be available for affordable home ownership**.

Development that:

- a) provides solely for Build to Rent homes;*
- b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
- c) is proposed to be developed by people who wish to build or commission their own homes; or*
- d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

- 6.5.1. This does not mean that they are exempt from providing other affordable home products, such as affordable rent. Each type of housing in the list will be looked at in turn below.

Build to Rent Homes

- 6.5.2. The NPPF Glossary contains the following definition of build to rent homes:

Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.

- 6.5.3. National Guidance⁸ states that affordable housing on build to rent schemes should be provided by default in the form of affordable private rent, a class of affordable housing specifically designed for build to rent. Affordable private rent and private market rent units within a development should be managed collectively by a single build to rent landlord.

- 6.5.4. The Guidance states that: *“20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme. National affordable housing policy also requires a minimum rent discount of 20% for affordable private rent homes relative to local market rents. The discount should be calculated when a discounted home is rented out, or when the tenancy is renewed. The rent on the discounted homes should increase on the same basis as rent increases for longer-term (market) tenancies within the development.”*

Specialist Accommodation

- 6.5.5. Specialist accommodation includes supported living housing for a wide range of people including older people, people with a learning disability and autistic people, people with mental health related needs, vulnerable young people and people who have experienced homelessness.

Self-build

- 6.5.6. The NPPF Glossary defines self-build housing as:

“Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the [Self-build and Custom Housebuilding Act 2015](#) (as amended), is contained in section 1(A1) and (A2) of that Act.”

- 6.5.7. The Local Plan notes that the exemption is only applicable to affordable home ownership routes.

⁸ <https://www.gov.uk/guidance/build-to-rent>

- 6.5.8. The Council will therefore expect contributions in lieu of affordable housing on self-build or custom build sites.

Entry-level and exception sites

- 6.5.9. Entry-level homes (sometimes referred to as starter homes) are those that are suitable for first time buyers. Local Plan policy H15 allows the development of such homes on Rural Exception sites. These are small sites outside of settlement boundaries where the Council would support affordable housing in perpetuity. Such sites would not normally be used for housing.

Where the proposal involves the re-use or redevelopment of vacant buildings, a proportionate reduction in the affordable home contribution, equivalent to the existing gross floorspace of existing buildings, will be supported.

6.6. What is the Vacant Building Credit?

- 6.6.1. Paragraph 64 of the NPPF states that *“To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”*. Footnote 30 states that this should be *“Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.”*

The following tenure split should be applied to developments that provide affordable housing:

25% First Homes

15% discounted market sales housing, starter homes or other affordable home ownership routes⁹

60% affordable or social rented.

⁹ As defined in the NPPF Glossary

6.7. What are the different tenures the policy refers to?

First Homes

6.7.1. First homes are a type of discounted market sale housing and the Government's preferred discounted market tenure.

6.7.2. First Homes will be secured through S106 agreements and the restriction will apply at each future sale. The Government has produced a template for such S106 agreements¹⁰.

6.7.3. <https://www.gov.uk/guidance/first-homes>

Affordable or social rent

6.7.4. The SHMA and HNS identify a need for affordable or social rent options above discounted market sales in Copeland. This is primarily due to the fact that many residents are unable to access sufficient funds to pay for a deposit.

6.7.5. Affordable rent is set up to 80% of market rent (including service charges). Social rent is let by Councils or housing associations

Other Discounted Market Sales

6.7.6. In such cases, the purchaser buys the home at a discounted price (usually 20% less than market value) from a Council or Housing Association and then owns the home outright. Any future resale is subject to same percentage discount. People purchasing such homes must demonstrate an affordable need.

6.7.7. Further information on Discounted Market Sales and eligibility can be found here: <https://www.copeland.gov.uk/discounted-sales>

6.7.8. There are other types of discounted home ownership options including shared ownership and shared equity schemes. Further information can be found here: <https://www.copeland.gov.uk/affordable-housing>

First Homes

a) must be discounted by a minimum of 30% against the market value;

b) are sold to a person or persons meeting the First Homes eligibility criteria (see below);

c) on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,

d) after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).

¹⁰ <https://www.gov.uk/government/publications/first-homes-model-section-106-agreement-for-developer-contributions>

A financial contribution may be accepted in lieu of on-site affordable housing provision, to secure the equivalent provision off site where this is justified and helps create mixed and balanced communities. Where the number of empty homes within the settlement is above the national average, this contribution may be used to improve the standard of empty properties within that settlement and bring them back into use as affordable housing.

6.8. Developer Contributions

- 6.8.1. Policy DS5 sets out the Council’s approach to collecting developer contributions through measures such as Section 106. This states that *“infrastructure delivered through obligations must be provided on site unless specific circumstances make off-site contributions more appropriate”*
- 6.8.2. Developer contributions can only be collected where the legal tests set out in the NPPF (Para 57) are met. That is that the obligations must be:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 6.8.3. Whilst the priority remains for affordable housing to be provided on site, in accordance with the NPPF, policy H8 allows for offsite provision of affordable housing, or an appropriate contribution in lieu, as a commuted sum. Where a contribution is made in lieu of on site affordables, this must be robustly justified and must contribute towards the creation of mixed and balanced communities.
- 6.8.4. In September 2019, amendments were made to the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. Previously, Local Planning Authorities (LPAs) were limited to collecting no more than five developer obligations per school infrastructure project. The pooling limit has now been removed, which means that any number of developer contributions can be used to fund a particular project. These changes aim to reduce the barriers faced when delivering infrastructure.
- 6.8.5. One method to reduce the number of empty homes in the borough whilst also contributing towards achieving Copelands housing target, is to pool developer contributions to bring empty properties back into use as affordable homes.
- 6.8.6. An important consideration will be the most appropriate form of offsite provision at any given development. In some instances, it may be more suitable for offsite provision to be in the form of new build dwellings, for example, where there is not a supply of suitable empty homes which can be renovated. This will be dealt with on a case by case basis.

6.8.7. The Council will work to ensure that offsite affordable housing provision remains within the same town or parish as the development site. This will ensure that the local community benefits from the affordable housing provision in the same way as if the provision was on site. It also ensures that development does not result in an oversupply in a particular area.

6.9. Why should contributions in lieu of on-site affordables be used towards empty housing?

6.9.1. The Copeland Housing Strategy outlines that there are over 1,000 empty homes in the borough, over 80% of which are considered to be '*long term empty*'. A property (residential or commercial) is classed as long-term empty if it is inactive in the market and has been recorded as empty for more than six months. If a property is empty for less than six months it may be due to a delayed sale or letting.

6.9.2. There are a number of negative impacts associated with empty homes. They can attract anti-social behaviour, such as vandalism and flytipping and if left for long periods of time can result in structural damage. In terms of economic impacts, empty homes can increase the overall decline of an area, resulting in reduced property values and urban deprivation through accelerated population loss.

6.9.3. It is important that Councils take opportunities to reduce the number of empty properties and make the best possible use of the existing housing stock. This will help reduce the need to build on greenfield sites whilst still ensuring that local housing needs are met.

6.9.4. Further information can be found on the Council's website: <https://www.copeland.gov.uk/bringing-empty-homes-back-use>

6.10. Where should contributions be directed to?

6.10.1. When prioritising which empty properties should receive funding through developer contributions, the following should be considered:

- Which properties are in the worst state of repair;
- Which are causing the most impact/blight on the local community;
- Whether the property is located within a group of empty buildings needing repair, which are clustered together; and
- Where the funding has come from; for example where the application is within either the Principal Town or Key Service Centres, priority will be given to those homes with a town centre location in the interests of sustainability.

6.11. Calculating Developer Contributions

6.1.1 Developer contributions, required to provide infrastructure to support a development, will be calculated on a case by case basis taking into account relevant evidence and responses to the application from statutory consultees.

7. Policy H11: Community-led, Self-build and custom build housing

Policy H11PU: Community-led, Self-build and custom build housing



Community-led housing schemes will be supported, particularly those which help bring empty homes back into beneficial use, where they accord with the Development Plan. Applicants must demonstrate how their proposal meets the housing needs identified within the Council's SHMA and Housing Needs Study.

Self and custom build housing will be supported where the development accords with the Development Plan and make a positive contribution to the street-scene. A design code will be required for all developments over 5 units.

7.1. What is community-led housing?

- 7.1.1. Community-led housing developments are owned, managed and/or stewarded by local community groups; this gives them the opportunity to have a greater say as to what type of houses are built and who can occupy them. Houses can be built to meet local needs and will remain as affordable and/or local housing for perpetuity.
- 7.1.2. Community groups are able to build the homes themselves or employ a developer to do so. They may also wish to manage the homes themselves or put arrangements in place with a registered provider who will own the freehold or leasehold to the properties.

7.2. What support is available for those wishing to develop community-led housing?

- 7.2.1. In 2018, the Council produced a Community-led housing statement¹¹ that sets out how the Council will work with community groups to support the development of community-led housing.

¹¹ https://www.copeland.gov.uk/sites/default/files/attachments/comm_led_housing_state_2018.pdf

7.2.2. Further support and advice can be found on the ACT website at <https://www.cumbriaaction.org.uk/what-we-do/community-led-housing-hub>. ACT are the rural and community development charity for Cumbria.

7.3. What is self and custom build housing?

7.3.1. The Self and Custom Build Housing Act 2015¹² provides a definition of self and custom build housing. It includes developments where individuals are involved in building or managing the construction of their home from beginning to end, to projects where individuals commission their home, making key design and layout decisions, but the home is built ready for occupation.

7.3.2. Applicants must provide details at application stage which set out how the initial owner of the home will have primary input into its final design and layout.

7.3.3. Applicants for developments over 5 units must also submit a design guide which demonstrates how the development relates to the local vernacular. Whilst the Council does not want to stifle innovation and prevent unique designs, developments should take design cues from their surroundings. Development must also comply with national design guidance.

7.3.4. The Council holds a self-build register which contains details of self-build plots available within the borough (that benefit from planning permission) and lists those looking to purchase a self-build plot. Further information regarding who can be entered onto the register is available on the Government's website¹³.

8. Policy H15: Rural Exception Sites

Policy H15PU: Rural Exception Sites



Housing development within the open countryside will be permitted on rural exception sites, these are small sites where it is demonstrated that affordable housing is required to meet local needs.

Applicants must demonstrate that the development is viable and housing will be retained in local, affordable use in perpetuity. An element of market housing will be accepted to support the development of local, affordable housing where:

¹² <http://www.legislation.gov.uk/ukpga/2015/17/contents/enacted/data.htm>

¹³ <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

- a) There are excessive development costs due to site constraints; and
- b) It is demonstrated that the additional revenue created by the development of open market housing is essential to enable the delivery of affordable housing on the site; and
- c) The majority of the homes are affordable and the amount of open market housing is the minimum required to achieve site viability.

The development must meet an identified need to the satisfaction of the Council, must be well designed and appropriate in terms of size and scale for its location. The development must not result in unacceptable harm on the character of the area, the surrounding landscape, heritage assets or biodiversity.

8.1. Why does the policy restrict development on such sites to that which meets a local need?

- 8.1.1. The NPPF, paragraph 80 only allows development within the open countryside in exceptional cases; one being on rural exception sites where the development is required to meet local needs.
- 8.1.2. The SHMA shows that housing is less affordable in the more rural areas of the borough and developing rural exception sites provides an opportunity for local people to stay within their communities where they may otherwise be priced out.
- 8.1.3. On such sites, occupancy will be limited by local occupancy restrictions.

8.2. What is meant by Local Occupancy

- 8.2.1. Local Occupancy Restrictions are a planning policy tool which aim to steer the housing market in rural areas towards occupants who can demonstrate a clear link to the locality and who need to live in that location. This is to ensure that local people continue to have access to housing, which is affordable. It can also help to prevent properties within rural areas from being used as a second or holiday home.
- 8.2.2. Local Occupancy restrictions may be registered against various types of properties. However, the three main types of local occupancy restrictions are:
 - a) Former Council Houses as a result of right to buy legislation
 - b) New properties or residential conversions of old buildings as a result of planning conditions under a s106 agreement or similar¹⁴
 - c) Affordable housing (including renting) as a result of planning conditions, covenants or similar restrictions

¹⁴ This can include housing on rural exception sites, essential rural workers dwellings etc.

8.3. What Local Connection Criteria will be used to determine eligibility for local occupancy housing?

8.3.1. All new homes which have local occupancy restriction will be limited to those who can demonstrate that they have a need to live in that area. In practice, that means that the occupant must demonstrate at least one of the following criteria immediately prior to occupation:

- The person has lived within the town or parish for at least five years; or
- The person has been in continuous employment in the locality for at least the last 9 months and for a minimum of 16 hours a week; or
- The person has a need to live in the locality for employment as a key worker¹⁵.
- The person needs to live in the locality to either give or receive substantial care or support to a close family member (medical evidence will be required)
- The person has been a continuous resident in the defined locality for five years, immediately prior to:
 - Requiring another dwelling as a result to household changes. This can include circumstances such as marriage or divorce, having children or downsizing.
 - Undertaking full time post- secondary education or skills training, if they are returning to the locality within 12 months of completion.
 - Being admitted to hospital, residential care or sentenced to prison, and are returning to the locality within 12 months of their discharge or release; or
- The person is a former resident who lived in the locality for five years and moved out of the locality for social or economic reasons. This applies if they are returning to live in the locality within 3 years of their departure
- The person is classed as a relevant person under the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012

8.4. What is the Cascade system?

8.4.1. When there are no local people meeting the definition set out in paragraph 5.2.1 above, a cascade approach will be implemented. Occupants will be selected in accordance with the following priorities and in the following order:

- 1) People who have lived in an adjoining town or parish for at least five years;

¹⁵ A key worker is defined as a worker who fulfils a role regarded as vital for the community, especially in the health, education, security and infrastructure sectors.

- 2) People who have an immediate relative¹⁶ living in the locality, who has lived there for a minimum of five years;
- 3) People who have been in continuous employment in a neighbouring locality for at least the last 9 months and for a minimum of 16 hours a week;
- 4) People living elsewhere in Copeland for a minimum of five years

8.4.2. At any time when the owner is a Registered Provider, all prospective occupiers shall also establish a Proven Need for Accommodation.

8.4.3. In the case of any prospective occupier, the owner shall, prior to a Sale or Letting, provide satisfactory documentary evidence to the Authority that sufficient steps have been taken to find an occupier falling within the local connection criteria or a higher priority group within the Cascade Provisions but that no such person has come forward.

8.4.4. For the avoidance of doubt, the Cascade Provisions shall apply afresh in the case of each proposed Sale or Letting of the Affordable Dwelling.

8.5. How are localities identified?

8.5.1. The localities used for the purpose of identifying local connections are based on parish areas. These can be seen in appendix A.

8.5.2. Please note, the areas of Copeland within the Lake District National Park are under the planning remit of the LDNPA¹⁷.

9. Policy H16: Essential Dwellings for Rural Workers

Policy H16: Essential Dwellings for Rural Workers



Housing will be permitted within the open countryside where it can be demonstrated that the dwelling is essential to allow a rural worker to live permanently at or near their place of work.

The development will only be permitted where:

- a) there is a clearly established existing functional need;

¹⁶ Immediate relative includes parents, siblings and dependent or non-dependent children

¹⁷ For more information about the LDNPA Local plan, please visit:

<https://www.lakedistrict.gov.uk/planning/planningpolicies/local-plan>

- b) the need relates to a full-time worker, or one who is primarily employed in a rural business and does not relate to a part-time requirement;
- c) the unit and the rural business concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- d) the functional need could not be fulfilled by another existing dwelling on the unit*, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- e) other planning requirements, e.g. in relation to access, or impact on landscape and biodiversity, are satisfied.

*For example, as demonstrated by the Keen V SSE & Aylesbury Vale DC (1995) decision, it would be unreasonable to expect a retired farm worker who has resided on the holding for many years to vacate a dwelling to make it available.

9.1. What is the open countryside?

9.1.1. In planning terms, the open countryside is the area outside identified settlement boundaries set out in the Local Plan. It is rural in nature but can include smaller settlements such as hamlets or clusters of buildings that aren't specifically identified in the Local Plan.

9.1.2. Development in such areas is only acceptable in exceptional circumstances¹⁸, one case being where the development is essential to accommodate a rural worker. Any new dwelling would be restricted to occupation by a rural worker by condition or legal obligation. Should the need for such occupation cease in the future, a planning application would be required to remove or alter the condition, however should this be successful the Council would still stipulate that any future occupier must demonstrate a local need.

9.2. Criterion a - What is meant by an existing functional need?

9.2.1. Rural workers dwellings are required by people who need to live in close proximity to where they work. Their occupation could be in agriculture, forestry or an other land based rural enterprise¹⁹. In order to demonstrate a functional need for a rural workers dwelling applicants must demonstrate that the worker is a full time worker and there is a need for them to be readily available to attend to the needs of the business for most of the year (day and night). For example:

- Where farm animals or agricultural processes require on site attention 24 hours a day;
- Where there would be a risk to human or animal health or from crime, that couldn't be addressed through remote surveillance;

¹⁸ The NPPF, paragraph 80, lists such circumstances but states that apart from in these cases isolated new homes in the open countryside should be avoided.

¹⁹ <https://www.gov.uk/agricultural-workers-rights/what-counts-as-an-agricultural-worker>

- In order to deal with emergencies that could cause serious loss of crops or products

9.2.2. When determining such applications, the Council will consider whether:

- The need could be accommodated by another dwelling (or vacant building that is suitable for conversion) on the site or one within a reasonable distance of the unit.
- Whether the need is only temporary. For example, spring lambing would not pass the functional need test and in such cases temporary accommodation should be considered. The NPPG also states that employment on an assembly or food packing line, or the need to accommodate seasonal workers, will generally not be sufficient to justify building isolated rural dwellings.
- Whether the proposed size of the dwelling is suitable to meet the need and intended location. For example if the need is for a single worker, a large 5 bed roomed home is unlikely to be appropriate.

9.2.3. Where the proposal is for a temporary home, it must be well-located in relation to its surroundings²⁰ and well screened. It should also be a suitable size to meet the identified need and no larger.

9.2.4. If planning permission is granted it may be subject to conditions removing some of the Permitted Development rights under Part 1 and Part 2 of the Town and Country Planning Act (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification) for development within the curtilage of the dwelling. This is to ensure it does not exceed the size required to meet functional need and in order to ensure long term viability.

9.3. What information should be submitted to demonstrate a functional need?

Details of the existing business

- Applications should include information about how the unit operates, details of acreage, stock / flock numbers, staffing and management arrangements, details of where each member of staff, including the applicant, lives. The application should also state whether the proposal is for a succession dwelling (see section 6.5 below)

Details of the land holding

- Applications should include a scaled plan showing all the land which comprises the unit. (Land in the applicant's ownership and / or land within a permanent agricultural tenancy should be shown in blue). It should also identify any existing dwellings on the site and any agricultural buildings (showing whether they are vacant or used)

²⁰ And should ideally be located within an existing building group

Accommodation Elsewhere

- The submission must also include details of properties for sale and rent locally setting out why they have been disregarded. The search area will be dependent on how the enterprise operates and the maximum distance that could be travelled in an emergency. The search area may vary from case to case and must be fully justified in the submission.

Future changes anticipated in the next 3 years

- Applications should include details of any proposed changes to the running of the enterprise and any proposed farm diversification schemes. It should set out whether the new dwelling would be dependent on these proposed changes and the anticipated timescale for any proposed changes.

9.4. Criterion c – what information will be required to demonstrate financial viability?

- 9.4.1. The Council expects applicants to submit a financial assessment which demonstrates the long term viability of the business. This should include the previous 3 years audited accounts and forecast figures for at least a year. The applicant should also consider submitting a supporting letter from their accountant.
- 9.4.2. The assessment should demonstrate that the ongoing profitability of the business will sustain the worker living on site (based on the National Minimum Wage as a minimum) and fund the proposed dwelling.
- 9.4.3. The Council will seek a review of the assessment from an impartial viability consultant, this would be at the expense of the applicant.

9.5. Criterion d – Does this criterion take account of succession dwellings?

- 9.5.1. Succession dwellings are those that are required to allow the next generation of a farming family to take on the business without the current occupier having to move out of the family home.
- 9.5.2. In such cases applications must demonstrate that legal agreements are in place that confirm the younger person is responsible for the management of the farm business, has majority control over the business and will be the decision maker.
- 9.5.3. The additional dwelling would be expected to be smaller than the main dwelling and would be subject to occupancy restrictions.
- 9.5.4. At present, the Council offers a free pre-application advice service which applicants are encouraged to take advantage of before submitting a formal planning application.