



Homes  
England

AVISON  
YOUNG

Making homes happen

# Copeland Local Plan 2021 – 2038 Examination Hearing Statement

## Matter 14 – Development Standards

December 2022  
Respondent ID81

OFFICIAL

## Preface

Homes England is the Government's housing agency, responsible for increasing the number of new market and affordable homes that are built across England as well as the supply of housing on public land, and to accelerate the rate at which this land can deliver new homes; helping to stimulate economic growth and to attract private sector investment in local areas, especially outside of London.

This Statement is concerned with Matter 14 (Development Standards) of the Matters, Issues and Questions published on 11 November 2022 by the Inspector appointed to examine the Copeland Local Plan 2021 – 2038. It should be read in conjunction with Homes England's further Statements regarding Matters 10, 15, and 19, along with the Representations made by Homes England at the Preferred Options, Pre-Publication Focussed Consultation, and Publication Draft stages, submitted in November 2020, October 2021, and March 2022 respectively.

All correspondence with Homes England for the purpose of the Copeland Local Plan Examination should be sent to:

***Homes England***

*NW Planning & Enabling Team*

*11th Floor*

*No.1 Mann Island*

*Liverpool*

*L3 1BP*

Email correspondence should be sent to: [nwlocalplanconsultat@homesengland.gov.uk](mailto:nwlocalplanconsultat@homesengland.gov.uk)

## Matter 14 – Development Standards

Issue – Whether the approach towards development standards is justified, effective and consistent with national policy?

### Planning Obligations (Policy DS5PU)

**14.1 - Is the approach to infrastructure provision/enhancements and planning obligations effective? Is it clear as to when contributions for the enhancement of existing or provision of new infrastructure would be sought?**

1. At paragraph 58, the NPPF states that “*where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable.*” The NPPF therefore expects two things: (i) that details of the contributions that developments are going to be required to make are set out in Policies; and (ii) that the contributions referred to in such Policies are justified having regard to the tests set out in Paragraph 57 of the NPPF (reflecting the relevant statutory tests) and subject to appropriate viability testing.
2. There are no Policies within the Copeland Local Plan which state what infrastructure will be required, when it will be required and how and when it is to be funded, relative to the rate at which planned development occurs. Policy DS5PU provides a list of infrastructure items that might be made the subject of planning obligations and then states:
 

*[...] When determining the nature and scale of any planning obligations sought, account will be taken of specific site conditions, the Infrastructure Delivery Plan and other material considerations [...]*

Homes England is concerned that this may not strictly accord with the provisions of the NPPF and that the Policy may not be effective as a consequence.
3. That said, it is not uncommon for Local Plans to defer to IDPs when dealing with infrastructure requirements and Homes England does not have a fundamental objection to this approach being taken in Copeland, subject to the IDP being amended in the ways set out below. It should also be noted that where the IDP requires developer contributions to facilitate delivery, it will need to be completely robust insofar as: (i) the infrastructure requirements listed within it are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to it; and (ii) the requirements have been subject to appropriate viability testing and are proven to be deliverable.
4. At this stage Homes England is not fully satisfied that infrastructure requirements listed within the IDP (EB43) as relevant to site HWH2 are demonstrated to be appropriate and robust, nor are we fully satisfied that they have been subject to appropriate viability assessment.
5. Homes England has five concerns with the way in which the IDP has been drafted.
  - a) **Accordance with the statutory tests** - Firstly, the IDP contains two Schedules within its Appendix 1. The first is said to contain details of projects that are critical to supporting the delivery of the sites identified in the Local Plan. These, it goes on to say, have been subject to viability testing. The second contains a list of other infrastructure projects which have not been subject to viability assessment but would “*support the making of places*”. We assume that only the projects listed in the first of the schedules are considered by the Council to satisfy the statutory tests. If this is correct, Homes England recommends that either the second schedule be removed from the IDP, or it is made clearer within the IDP that developers of sites within the Plan will not be required to make contributions to the delivery of the projects described therein.

- b) **Requirements additional to infrastructure proposed by the Homes England planning application -** Secondly, infrastructure that is said to be critical to the delivery of the development of Site HWH2 is not actually necessary. Homes England has tested the infrastructure requirements for site HWH2 through a recently concluded planning application which has confirmed that the infrastructure referred to in the IDP is not necessary to make development of the site acceptable in planning terms.

Regarding highways especially; extensive work has been undertaken by Homes England in the form of a Transport Assessment, Road Safety Audit and other technical works to confirm traffic impacts of the proposed development and the design of two off-site highway mitigation measures which were considered appropriate by the local and national highway authorities and subject to an independent review which resulted in no outstanding objections. This position was further endorsed by the Council's planning officers in recommending approval of the scheme subject to the implementation of these off-site works.

Differences between the IDP and the results of Homes England's recent planning application can be summarised as follows:

#### **IDP Requirements for Site HWH2**

- Traffic calming measures on HARRAS Road - £10,300
- Provision of shared use path using existing verges on HARRAS Road – £656,500
- Provision of shared use path utilising wide verges on Red Lonning - £573,400
- Bus stop on Red Lonning - £91,000 for layby and £5,500 for shelter
- New bus service - £105,000 per annum (but see below)
- ID31 Local road network capacity improvements at Moresby Road / Cleator Moor Road / Main Street – (a share of) £805,800
- ID 32 Local road network capacity improvements at Cleator Moor Road / Overend Road – (a share of) £332,400

#### **Infrastructure Requirements for HWH2 Determined by Planning Application (Ref: 4/18/2287/O1)<sup>1</sup>**

- Improvement to the Main Street / Cleator Moor Road mini roundabout;
- Improvement to the A595 Egremont Road / Homewood Road roundabout;
- A landscape and habitat management plan;
- A contribution towards the achievement of biodiversity net gains off-site;
- A contribution towards the provision of improved sports facilities off site - £100,000; and
- A Travel Plan Monitoring Fee - £6,600.

Note: Affordable housing is also proposed at the site at 15% in accordance with current policy requirements of the adopted Local Plan. The planning application process has also concluded that it is not necessary for the development to deliver shared-use paths on HARRAS Road and Red Lonning, nor for it to fund a new bus service and bus stops on Red Lonning. The infrastructure requirements determined through the planning

---

<sup>1</sup> Note: planning permission was refused by the Council against Officer recommendation for approval in the light of concerns Members had about highway safety and congestion in the HARRAS Road / Park View / Victoria Road / Albert Terrace / Soloway View / Hilton Terrace and Wellington Road area to the northwest of the site. These are not parts of the highway network referred to in the IDP, and Homes England intends to appeal the refusal before February 2023.

application were agreed by all relevant consultees, including the County Council acting as Local Highway Authority and Education Authority, and Officers of the Council.

Given the above, infrastructure requirements for site HWH2 set out within the IDP are not aligned with those deemed suitable by the Council and statutory consultees in relation to Homes England's planning application, and there is no evidence base provided to demonstrate that delivery of the HWH2 site is reliant on the improvements specified as necessary within the IDP. Homes England therefore recommends that the IDP be amended to reflect the infrastructure requirements agreed through Homes England's planning application.

- c) **Apportionment of costs** - Thirdly, and notwithstanding the critical points above, the IDP states that the HWH2 development requires a new bus service with an annual cost of £105,000. It then goes on, in brackets, to say "Viability Study assumes 50% share of costs so £52,500 over 5 years". However, Table 9.3 of the Transport Improvement Study (2021) (EB23) indicates that the additional bus service specified in the IDP is required to serve at least 2 other developments which suggests that the cost should be split three ways. It is not clear how the IDP has concluded that HWH2 should shoulder 50% of this cost burden. It is also not clear how the IDP has concluded that a new bus service should be funded for a period of 5 years.
  - d) **Timescales for infrastructure delivery** - Fourthly, the IDP does not say when the various pieces of infrastructure it lists are required and when contributions need to be made relative to the delivery of the proposed development.
  - e) **Viability implications** - Finally, it is not clear from the IDP what the total cost of infrastructure requirements for Site HWH2 will be. Homes England notes that the Local Plan Viability Study assumes £1.695m of contributions towards highways schemes from this site which equates to £4,583/dwelling. It is not clear how this has been calculated but, pro rata, this sum is far greater than the contributions assumed from other housing allocations in Whitehaven, which vary from £14/dwelling to £107 dwelling.
6. Given the above, it is Homes England's view that: as currently drafted Policy DS5PU is not effective and the evidence on which the Policy relies is not robust; and infrastructure requirements for site HWH2 set out within the IDP are not considered to be necessary as they are not aligned with infrastructure requirements agreed through Homes England's planning application.
7. Left unaltered, the IDP will create issues for the promoters of development at the planning application stage including issues linked to the provisions of paragraph 58 of the NPPF. One of the following Main Modifications is therefore recommended:
- a) Policy DS5PU be deleted and the Council relies on the provisions of the NPPF to frame and guide its negotiations with developers in respect of Planning Obligations; or
  - b) Policy DS5PU remains as drafted, but the IDP is amended such that it refers only to infrastructure requirements that demonstrably satisfy the statutory tests. In the case of Site HWH2, this would mean referencing only the infrastructure deemed necessary through the recent planning application assessment; or
  - c) The reference within Policy DS5PU to the IDP is deleted.

**14.2 - Does it provide an appropriate level of flexibility in terms of the impact on the viability of development proposals? Is it justified and consistent with national policy?**

8. Policy DS5PU states that:

*Where an applicant considers that the provision of appropriate infrastructure would make the development unviable a viability assessment must be submitted to, and agreed by the Council, as early as possible within the planning application process. The viability assessment submitted as part of any application must clearly state why the applicant thinks particular circumstances justify the need for a viability assessment (e.g. setting out if there have been any change in site circumstances since the Plan's adoption or why they consider the Local Plan Viability Study to no longer be up to date).*

9. This wording is consistent with the policy in paragraph 58 of the NPPF, however Policy DS5PU assumes that the infrastructure requirements specified in the IDP are technically sound and can be delivered without impacting adversely on the viability of the proposed developments. Beyond the point made above that infrastructure requirements currently set out within the IDP are not considered necessary to the delivery of site HWH2, Homes England would like to clarify that it cannot be assumed that these infrastructure requirements can be delivered without adversely affecting the viability of site HWH2. Policy DS5PU should not make this a requirement unless its IDP and Viability Study are robust, which Homes England does not consider them to be.
10. In addition, it would be helpful for the Plan to explain how, in circumstances where a viability assessment indicates that a development is unable to provide all the infrastructure that might ordinarily be deemed necessary, the Council will prioritise the use of any available contribution.

nwlocalplanconsultat@homesengland.gov.uk  
0121 234 9921  
gov.uk/homes-england