

Examination of the Copeland Local Plan 2021-2038

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Mr Hoban
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By email via the Programme Officer

Dear Mr Hoban,

**Examination of the Copeland Local Plan 2021-2038
Next Steps following the Hearing sessions**

At the Examination Hearing which closed on 8 March 2023, I discussed a number of issues on which the Council's strategic planning team agreed to either clarify and update its evidence or provide draft Main Modifications (MMs) to address matters of soundness. These were set out in an action list that was updated after the close of the Hearing. Proposed MMs were also set out in the Suggested Main Modifications to the Plan (CD14) and Suggested Main Modifications to the Appendices (CD16), although some of those will be updated through the action points.

The Council has now submitted most of the documents for which I am grateful. Please note that I am still awaiting the following outstanding information which was requested at/following the Hearing sessions:

- Playing Pitch Assessment (final Stage C and Stage D)
- Updated Statement of Common Ground with Sport England.

This information is required to be submitted by 15 June 2023.

As indicated at the close of the Hearing, I am now writing to set out the next steps for the Examination. My comments are based on all that I have read, heard and seen to date. However, I emphasise that the Examination is not yet concluded and consultation on proposed MMs is still to take place. Consequently, the comments set out in this letter are without prejudice to my final conclusions on the Plan and subject to receipt of the outstanding information.

Further main modifications

In addition to the proposed MMs already identified, there are a number of matters, where I consider that further amendments are necessary to ensure a sound plan on adoption. I set these out below and advise that the full reasoning for them will be set out separately in my report.

Habitats Regulations Assessment (HRA)

In response to concerns raised by Natural England regarding the potential effects of air pollution on the Duddon Mosses Special Area of Conservation (SAC); Lake District High Fells SAC and Subberthwaite Blawith and Trover Low Commons SAC, the Council has undertaken recent transport and air quality modelling work which has resulted in an update to the HRA. Natural England are satisfied with the conclusion of no likely significant effects on the protected sites referred to above and have, therefore, withdrawn their objection to the Plan, confirmed in the letter dated 7 June 2023. A number of modifications are necessary to the Plan to address matters raised by the HRA which are identified in CD14 and CD16, including an additional Appendix H which sets out HRA Requirements for Allocated Sites.

Development Strategy

Policy DS1PU simply reflects the National Planning Policy Framework (the Framework) and should, therefore, be deleted.

Policy DS2PU should be deleted as it repeats a number of other policies in the Plan. In addition, some of the suggested sustainable design measures have not been subject to a viability appraisal. Furthermore, there is insufficient evidence at the local level to support the Higher Housing Standard for water consumption of 110 litres per person per day in new housing in the lifetime of the Plan as set out in Suggested Main Modification MA-LP14 (CD14). Consequently, I consider that it would be more appropriate to amend **Policy DS6** to include an additional criterion to encourage the use of water efficiency measures such as rainwater recycling measures, green roofs and water butts where possible/appropriate.

Several changes are also suggested to Policies DS3PU and DS4PU in the Suggested Main Modifications (CD14) the precise wording of which I shall liaise with the Council via the Programme Officer (PO) in due course.

Housing Allocations/Housing Supply/Trajectory

Following the hearing sessions revised trajectories have been prepared for each site reflecting discussions regarding their timing, delivery and in some cases capacity. The supporting text of Chapter 13 Housing, Policy H5PU and Appendix E 'Housing Trajectory' will require updating as a result.

Retail and Leisure

Several changes, identified in the Action List, are required in order for the policies to be effective and consistent with national policy. I will liaise with the Council via the PO in due course on the precise wording of policies R5PU, R6PU, R7PU and R8PU.

Energy and Nuclear Development

Strategic Policy NU1PU states that *'the Council will expect all nuclear sector-related development to make a proportionate and meaningful contribution to local economic, social and environmental strategies'*; however, there is nothing in the policy or supporting text to clarify what this means. Consequently, the policy is ambiguous, and it is not clear how a decision maker should react to a development proposal. The

wording should, therefore, be deleted. The last paragraph of Policy NU1PU should simply state that the Council will expect the benefits of nuclear sector-related development to outweigh any impacts. Furthermore, a distinction should be made in the supporting text to community benefits which may be secured when discharging obligations under Section 7 of the Energy Act 2004 and conditions and obligations which are necessary to be secured through the planning system and which should meet the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I shall liaise with the Council, via the PO in relation to revised wording in due course.

Strategic Policy NU3PU as presented refers to the need for nuclear energy/infrastructure and associated development to be either on a designated employment site or on suitable sites within settlement boundaries, or otherwise be accompanied by a 'justifiable exceptional need case'. **Strategic Policy NU4PU** refers to a similar test for proposed Sellafield related development which would be outside the Sellafield boundary. The principle of focusing new development on employment sites and within defined settlement boundaries is consistent with the spatial strategy of the Plan by encouraging development in locations which are accessible by public transport, and which would support local services. However, the requirement for an exceptional need case is not justified and should be deleted.

Criterion a of Policy NU3PU and criterion b of Policy NU4PU should be reworded to reflect that new development should prioritise locations on allocated employment sites or within settlement boundaries unless it can be demonstrated that there is a proven need for the development in that specific location and that the need cannot be met in locations consistent with the spatial strategy.

In relation to Policy NU3PU the reference to a 'positive legacy' in criterion c is ambiguous and should be removed. The reference to pre-application advice is a procedural matter and should be relocated to the supporting text.

Clarification should be provided in the supporting text of Policy NU4PU that due to the unique considerations of the Sellafield mission, regarding safety, security and other regulatory requirements, certain policies may not be appropriate for all developments within the site. However, the supporting text should be clear that development plan policies should be the starting point for the consideration of new development and that any departure from those policies would require rigorous justification. I will liaise with the Council via the PO regarding the exact wording in due course.

Nuclear Demolition - Policy NU5PU sets out the approach to the consideration of proposals for the demolition of buildings or structures on the Sellafield site. The Council has proposed the deletion of the Policy in the suggested MMs. The policy goes beyond the factors that could be considered in a Prior Notification application and criterion 3 repeats policies elsewhere in the Local Plan or the JCS. I, therefore, agree that it should be deleted.

Sellafield Site Boundary

The boundary of the Sellafield site, as shown on the Policies Map shall be amended to reflect Map 1 'Copeland Borough Council Proposed Boundary' of the Statement of Common Ground (SoCG) between CBC, Sellafield Ltd and the Nuclear Decommissioning Authority (May 2023). This approach has the benefit of regularising the boundary where there are anomalies between the perimeter fence and the Nuclear Licenced Site (NLS) Boundary.

It would not be appropriate to extend the boundary to the extent requested by Sellafield Ltd and the NDA in the SoCG. I do not have sufficient evidence before me to be certain that the additional land is required for operational purposes within the lifetime of the Plan and that land within the NLS could not be rationalised to avoid the use of land beyond the current boundaries. Overall, there is insufficient evidence regarding the longer-term plans and proposals for Sellafield to justify the extension of the boundary at this point. This should be a matter for a Local Plan review.

Natural Environment/Health, Sport and Culture

A number of changes are required to the natural environment policies as discussed at the hearing sessions and set out in the suggested MMs, as updated by the action points.

In particular, whilst policies in the Plan address the protection of open space, playing pitches and built/indoor facilities, they do not set out how the Council will secure the provision of open space, green infrastructure, playing pitches and built/indoor facilities in new developments or off-site provision and/or financial contributions to the improvement of existing open space where appropriate. A first draft of a proposed new policy/revised policies to address this issue has been received and I shall liaise with the Council, through the PO in due course regarding the exact wording.

Monitoring and Implementation

As discussed in the hearing sessions, Table 18 'Monitoring Table' requires amendment to ensure that the indicators, targets/objectives are more specific and measurable in the interests of effectiveness.

There are a number of other detailed MMs arising from discussions at the Hearing sessions and set out in the Action Points and I will liaise with the Council on these in due course via the PO. The list of Action Points with the latest updates should be added to the Examination website.

Overall, at this stage of the Examination, I consider that, subject to MMs, the Plan is likely to be capable of being found legally compliant and sound. My final conclusions on this and all of the main issues covered in the Matters, Issues and Questions will be set out in my report, which will be published following consultation on the proposed MMs, taking account of any representations on them.

The next step in the Examination is for the Council to prepare a consolidated schedule of all the potential MMs identified prior to, and during, the Hearing sessions, set out in the Statements of Common Ground and as set out in this letter. The Council should also consider the need for any consequential changes that might be required in connection with any potential MMs.

The schedule of MMs should be presented in Plan order. The proposed additional modifications (AMs) should be set out in a separate schedule. For clarity and to avoid an excessive number of MMs, it is best to group all the changes to a single policy together as one MM, setting out the full policy with additions shown underlined and deletions shown as ~~struck through~~.

There are a number of proposed MMs which would generate changes to the submitted Policies Map. Additionally, the Council has identified a number of areas where the Policies Map needs to be updated and amended for factual and other reasons. It is important that the Schedule of Proposed Modifications to the Policies Map accompanies the consultation on proposed MMs for transparency.

The proposed Policies Map changes and any AMs being proposed by the Council should be published alongside the MMs for completeness, albeit these are outside the scope of the Examination.

The MMs will need to be the subject of Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA), insofar as this is necessary, to be undertaken by the Council prior to consultation and published alongside the proposed MMs.

With regards to the evidence provided by the Council at my request during and after the Hearing, the consultation should make it clear that interested parties can comment on the documents submitted where this relates to their representation on a proposed MM.

Advice on MMs and SA, including on consultation is provided in the Planning Inspectorate's Procedure Guide for Local Plan Examinations 2021 (in particular, paragraphs 6.1 to 6.12). Amongst other things this states that the scope and length of the consultation should reflect the consultation at the Regulation 19 stage (usually at least 6 weeks). It should be made clear that the consultation is only about the proposed MMs and not about other aspects of the Plan and that the MMs are put forward without prejudice to the Inspector's final conclusions.

I will need to review the schedule provided and may have comments on it. I will also need to agree the final version of the schedule before it is made available for public consultation for a minimum of 6 weeks. The draft SA and HRA should be sent to me for consideration before they are published alongside the proposed MMs.

If, following the MMs consultation, I consider that a further Hearing is necessary to discuss matters raised in representations, I will advise the Council at that stage. However, currently I do not anticipate a further Hearing will be required.

I would be grateful if the Council could publish a copy of this letter on the Examination website as soon as possible after receiving it. However, I need to be clear that I am not inviting or proposing to accept comments on this letter from any Examination participants. The consultation on the proposed MMs will provide the opportunity for any further representations on whether they adequately address any outstanding issues of soundness and legal compliance with the Plan.

I would like to thank the Council for its cooperation during the Hearing sessions and the work to date on the proposed MMs. If you need any clarification on the contents of this letter, please contact me through the PO.

Yours sincerely,

Caroline Mulloy

Inspector