

Main Modifications Responses

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Dear Mr Hoban

Friends of the Lake District supports the main modifications proposed in relation to comments it made at Publication stage and considers these necessary for soundness and/or legal compliance.

In relation to MM16, the change at DS6 m) might usefully be amended to read 'in line with up to date good lighting guidance'.

We would also suggest that a minor modification is also made in support of MM16 (DS6 m), to direct readers to the Cumbria Good Lighting Technical Advice Note recently approved by Cumberland Council, as this is the most up to date and most relevant guidance for the plan area - see <https://www.friendsofthelakedistrict.org.uk/lighting-policy>. This link might usefully/logically replace the link at what was footnote 28 in the Publication version of the Plan, which the new guidance supersedes.

Furthermore, we note that the link created by minor modification MI-LP242 does not appear to work. The correct link is <https://www.friendsofthelakedistrict.org.uk/report-submission>

With kind regards,

Lorayne Wall

Lorayne Woodend Wall MRTPI

Policy Officer (Planning)

Attention Chris Hoben

Copeland Local Plan 2021-2038: Main Modifications Consultation

Thank you for the opportunity to comment on a number of changes made by the Planning Inspector to the proposed plan, which have been identified to make the submitted plan sound.

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015. We are responsible for operating, maintaining and improving the Strategic Road Network (SRN) in England, in accordance with the Licence issued by the Secretary of State for Transport (April 2015) and Government policies and objectives.

Our previous response to the consultation on the Copeland Local Plan was written in the context of statutory responsibilities as set out in National Highways' Licence, and in the light of Government policy and regulation, including the:

- National Planning Policy Framework (NPPF);
- Town and Country Planning Development Management (Procedure) Order (England) 2015 (DMPO); and
- DfT Circular 01/2022 The Strategic Road Network and the delivery of sustainable development ('the Circular').

As a statutory consultee in the planning system, National Highways has a regulatory duty to co-operate. Consequently, we are obliged to give consideration to all proposals received and to provide appropriate, timely and substantive responses.

Our desire to be a proactive planning partner goes beyond this statutory role and follows the spirit of the Licence which stipulates that National Highways should: "Support local and national economic growth and regeneration".

We encourage all parties promoting and preparing Local Plans, SPDs, Frameworks, Planning Documents etc that may have an impact on the SRN to engage with us as early as possible, to enable collaborative working and to deliver positive outcomes in a timely manner.

Having read and made note of the modifications set out in the Schedule Of Main Modifications and Appendices documents, and the Proposals Map Modifications Schedule. It has also been recognised that comments can only be made on the modifications contained in the schedules of Proposed Main and Additional Modifications and the associated consultation documents. There is no need to re-submit any previous representations.

It is therefore National Highways intention to provide no further comments on the Main Modifications Consultation at this time and ask you to refer back to our previous consultation comments that still stand.

A Statement of Common Ground had also been signed as part of the last consultation along with discussions around schemes and around any developer contributions put forward for delivery of these schemes

However it would be useful to understand the current position on a number of sites that have been recognised on requiring mitigation needed e.g the Harris Moor application and impacts at the Hospital roundabout and crossing junction. Where any mitigation still needs to be agreed and delivered, unfortunately we have not heard where these current schemes may be up to regards design and delivery and if it is felt to be beneficial a meeting can be set to discuss.

I hope you find these comments useful and ask if a meeting would be required please just get in touch.

Kind Regards

Lindsay

**Lindsay Alder, PGCE,
Pronounced: Lind-say Al-der
Pronouns :She/Her/Hers
Spatial Planner
Network Development & Planning Team
OD EDI Lead
Equality Diversity and Inclusion NW Champion**

Thank you for your consultation on the Copeland Local Plan Main Modifications. I can confirm that the Canal & River Trust have no comments to make.

Kind regards

Tim Bettany-Simmons BA (HONS), MSc, MRTPI
Area Planner & Special Projects / Cynlluniwr Ardal & Prosiectau Arbennig



Strategic Planning
The Market Hall
Market Place
Whitehaven
Cumbria, CA28 7JG

Our ref: PL00189763

Your ref:

Mobile

Date 20th March 2024

Sent by email to LocalPlanConsultation@cumberland.gov.uk

Dear Sir/Madam,

RE: Consultation on the proposed Main Modifications of the Copeland Local Plan

Thank you for consulting Historic England about the Main Modifications of the Lake District Local Plan Review.

Please find attached our comments at Appendix A. For information we have no comments to make on the SA/SEA of the Main Modifications.

If you have any queries about any of the matters raised above or would like to discuss anything further, please do not hesitate to contact me.

Yours faithfully,

Henry Cumbers
Historic Environment Planning Adviser
Historic England

Appendix A: Table of Historic England's comments on the Proposed Modifications to the Policies of the Copeland Local Plan

Mod. No.	Section	Publication page Number	Sound/ Unsound	Comments	Suggested Change
MM5	Objectives: Copeland's Places	17/18	Sound	We support the proposed Main Modification.	No change
MM24	E2PU	67-69	Sound	We support the proposed Main Modification.	No change
MM30	RE1PU bullet c	80	Sound	We support the proposed Main Modification.	No change
MM31	RE2PU	81/82	Sound	We support the proposed Main Modification.	No change
MM34	CC2PU	87/88	Sound	We support the proposed Main Modification.	No change
MM49	R5PU	115/116	Sound	We support the proposed Main Modification.	No change
MM54	T1PU	127	Sound	We support the proposed Main Modification.	No change
MM55	T2PU	128	Sound	We support the proposed Main Modification.	No change
MM57	T3PU	129	Sound	We support the proposed Main Modification.	No change

Mod. No.	Section	Publication page Number	Sound/ Unsound	Comments	Suggested Change
MM76	H15PU	167	Sound	We support the proposed Main Modification.	No change
MM84	H21PU	173	Sound	We support the proposed Main Modification.	No change
MM107	BE1PU	219/220	Sound	We support the proposed Main Modification.	No change
MM108	BE2PU	221/222	Sound	We support the proposed Main Modification.	No change
MM109	BE3PU	223	Sound	We support the proposed Main Modification.	No change
MM150	Site Profile HEG3	151	Sound	We support the proposed Main Modification.	No change
AM10	1.1.1	1	Sound	We support the proposed Additional Modification.	No change
AM47	4.1.3	19	Sound	We support the proposed Additional Modification	No change
AM82	6.4.7 last sentence	47	Sound	We support the proposed Additional Modification.	No change
AM111	7.8.5	75	Sound	We support the proposed Additional Modification.	No change

Mod. No.	Section	Publication page Number	Sound/ Unsound	Comments	Suggested Change
AM117	7.9.5	76	Sound	We support the proposed Additional Modification.	No change
AM201	13.7.11	145	Sound	We support the proposed Additional Modification	No change
AM252	16.1	216	Sound	We support the proposed Additional Modification	No change
AM253	16.2 title	217	Sound	We support the proposed Additional Modification	No change
AM255	16.2.1	217	Sound	We support the proposed Additional Modification	No change
AM257	16.2.4	217	Sound	We support the proposed Additional Modification	No change
AM258	16.2.5	217	Sound	We support the proposed Additional Modification	No change
AM259	16.3.2	217	Sound	We support the proposed Additional Modification	No change
AM260	Fig 11 title	218	Sound	We support the proposed Additional Modification	No change

Mod. No.	Section	Publication page Number	Sound/ Unsound	Comments	Suggested Change
AM261	Fig 11	218	Sound	We support the proposed Additional Modification	No change
AM263	16.4.1	219	Sound	We support the proposed Additional Modification	No change
AM264	16.5.1	220	Sound	We support the proposed Additional Modification	No change

25 March 2024

Mr Chris Hoban
Strategic Planning Manager
Cumberland Council
Market Hall
Market Place
Whitehaven
CA28 7JG

Dear Mr Hoban,

Proposed wording amendments in relation to the Copeland Local Plan 2021-2038 Main Modifications Consultation

Sellafield Ltd would like to thank Cumberland Council (formerly Copeland Borough Council) for the ongoing positive collaboration on the production of the Copeland Local Plan. We have considered the proposed Main Modifications and believe they address all outstanding issues raised during the public examination hearing session. We can therefore confirm that we have no further comments to make with regards to the legal compliance or soundness of the Local Plan. This has been reflected in our formal response to the consultation.

The remainder of this letter provides some proposed wording amendments which we feel would contribute towards improving the consistency and clarity of the main modifications. We understand that the purpose of the consultation is to highlight any remaining issues with regards to legal compliance and soundness and therefore the intention of this letter is to be treated as an informal response which provides minor suggested improvements.

These are as follows:

Main Modification	Proposed amendment	Justification
MM39	Under policy NU3, the word 'development' has been replaced with 'projects'. We suggest the word 'development' is more appropriate in the context.	'Development' is a planning term, whereas 'projects' is more vague. Sellafield Ltd carry out many 'projects' which do not have any planning requirements and therefore this amendment would make it clear the policy only relates to planning related development.
MM39	Under Policy NU3(a), the amended wording states that a justification needs to set out why available sites within settlements are not suitable. This wording should be amended to also incorporate employment sites.	This will help to maintain consistency with the requirements of the policy and highlight that development will be prioritised where it is on an allocated employment site.

MM40	Proposed paragraph 10.12.5 highlights the policies which Sellafield Ltd may be exempt from. We would recommend that the policy reference for the landscaping policy is added here.	For ease of cross referencing.
MM40	Proposed paragraph 10.12.5 would benefit from wording which states the development plan will be the first consideration when determining a planning application.	This wording was proposed in the Inspectors post hearing letter, however this has not been incorporated. Adding this wording would provide additional clarity in the instance of Sellafield Ltd requesting an exemption from Local Plan policies.
MM41	Proposed wording amendment at NU4(b): <i>'Development proposed outside the Sellafield site and not within settlements or an allocated employment site should be accompanied by a justification setting out why it is essential for the development to be on that particular site and why land on the Sellafield site, on allocated employment sites or within settlements available sites within Sellafield and is not suitable'</i>	As above, it should be clear that development will be prioritised where it is on an allocated employment site.

We hope you will take the time to consider these proposed minor amendments, and where you feel it is appropriate and beneficial, incorporate them into the final adopted version of the Copeland Local Plan.

If you have any questions or would like to discuss these proposed amendments further, then please get in touch at

Yours Sincerely,

Dr Jean Monteith

Development Control Lead
Sellafield Ltd



For internal use:

Resp. No. MAIN - 05

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

The Copeland Local Plan 2021-2038 Publication Draft and Addendum Document were submitted to the Secretary of State for Public Examination in September 2022. The appointed Planning Inspector has now considered all representations made regarding those documents, and discussed all relevant matters and issues during Hearings in 2023, and has now identified a number of Main Modifications that are required in order to ensure the Local Plan is sound (i.e. positively prepared, justified, effective and consistent with national policy).

These Main Modifications are now subject to a six week public consultation between **Wednesday 14th February and Thursday 28th March 2024**.

This Representation Form provides the opportunity to comment on the proposed Main Modifications Schedule and Appendices documents, as well as Proposals Map Modifications. These documents can be viewed at: <https://www.copeland.gov.uk/content/main-modifications-consultation>. **Please note that representations are only sought on the Main Modifications and changes to the Policies Map, and not the Local Plan as a whole.** Representations should reflect issues of legal compliance and soundness and representations can only be considered on this basis.

It should be noted that all representations will be published and cannot be treated as confidential, but personal details such as addresses, email addresses and telephone numbers will be removed.

Please complete a separate sheet for each representation you wish to make and return this form **no later than Thursday 28th March 2024** to:

Strategic Planning
Cumberland Council
Market Hall
Market Place
Whitehaven, CA28 7JG

Or email: localplanconsultation@copeland.gov.uk

Part A: Your Details

Please provide your details below. This information will be added into our database so we can contact you when the Inspector's Report is published and the Adoption of the Local Plan.

All information in the following table will be used solely for this purpose and no identifying information will be used in any future stages of the Local Plan process.

If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

Please do not include the names and details of individuals in the public domain

	Your Details	Agent's Details (if applicable)
Name	Jean Monteith	
Position	Development Control Lead	
Organisation	Sellafield Ltd.	
Address		
Postcode		
Telephone		
Email		

Privacy Notice

Your personal details will be used solely for the Copeland Local Plan and in line with the Council's Privacy Statement.

A copy of the Council's Privacy Statement can be viewed at

https://www.copeland.gov.uk/sites/default/files/attachments/cbc_privacy_statement_29_3_22.pdf.

Further information is also available by contacting the Council's Data Protection Officer at info3@cumberland.gov.uk or by calling 01946 598300 and asking to speak to the Data Protection Officer.

Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="checkbox"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="checkbox"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="checkbox"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="checkbox"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

Sellafield Ltd would like to take this opportunity to thank Cumberland Council (formerly Copeland Council) for the ongoing positive engagement and collaborative work throughout the production of the Copeland Local Plan.

We have considered the proposed Main Modifications and believe they address all outstanding issues discussed during the public examination hearing session. We can therefore confirm that we have no further comments to make with regards to the legal compliance or soundness of the Local Plan.

We have however identified some proposed wording amendments which may help to strengthen the proposed modifications and contribute to improved consistency and clarity of the document. We understand these suggestions will not form part of a formal consultation response and will therefore provide them as a separate document for the Council’s consideration.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

N/A

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form

Strategic Planning,
Cumberland Council
Market Hall,
Market Place,
Whitehaven,
CA28 7JG

SENT BY EMAIL

10/04/2024

Dear Planning Policy Team,

COPELAND LOCAL PLAN: MAIN MODIFICATIONS

1. Thank you for consulting with the Home Builders Federation (HBF) on the Copeland Local Plan Main Modifications consultation.
2. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.
3. The HBF would like to comment on a selection of the proposed modifications that are considered to have implications for the home building industry.

MM2: Vision

4. The Council propose to amend the end date of the Plan, so it covers 15 years from adoption, this is an amendment from 2038 to 2039. The HBF considers that this is an appropriate amendment.

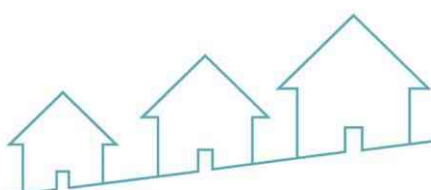
MM7 & MM8: DS1PU

5. The Council propose to delete policy DS1PU and to insert text into paragraphs 5.2.3 and 5.2.4 in relation to taking a positive approach to sustainable development, early engagement with developers, and using planning conditions. The HBF considers that this is an appropriate amendment.

MM9 & MM10: DS2PU

6. The Council propose to delete Policy DS2PU this is to be replaced by a table highlighting good practice measures. The HBF considers that the deletion of Policy DS2PU is appropriate. The HBF considers that that the addition of the table setting out good practice measures, may be appropriate, but it is important that this is not seen as policy and is not taken as a requirement for developments.

MM13 DS4PU



7. The Council propose to amend this policy to *'where the proposal is for housing and the site is well related to and directly adjoins **an identified settlement boundary**'*. The remainder of the policy stays the same.
8. The HBF continues to be concerned that the current criteria set out in DS4 are too limited and may not provide the flexibility the Council require to ensure that their housing needs are met and to ensure that sustainable developments come forward. The HBF considers that the limitations proposed are contrary to the Government's objective to significantly boost the supply of homes, to ensure a sufficient amount and variety of land can come forward to meet the needs of groups with specific housing requirements, including those who require affordable housing, families with children and older people¹. And would not promote sustainable development in rural areas where housing should be located to maintain the vitality of rural communities, allowing opportunities for villages to grow and thrive and support local services².
9. The HBF continues to recommend that the policy is amended to state:
'Where the proposal is for housing and;
 i. *the site is well related to ~~and directly adjoins an identified settlement boundary;~~ and*
 ii. *the site is or can be physically connected to the existing settlement by safe pedestrian links;~~;~~ and*
 iii. ~~*the Council is unable to demonstrate a 5 year supply of deliverable housing sites; or*~~
 • ~~*there has been previous under delivery of housing against the requirement for 3 years or more*~~
 • ~~*the proposal is for a specific type of housing supported by Policies H14, H15 or H17.'*~~

MM60: H2PU

10. The Council propose to amend the plan period within this policy to 2039, which leads to an increase in the housing requirement. The HBF considers that the extension to the plan period and the corresponding increase in the housing requirement is appropriate.

MM68: H7PU

11. The Council propose to amend this policy to remove reference to exceptional circumstances in relation to when alternative evidence would be considered in relation to the SHMA or housing needs assessment. The HBF considers this is an appropriate amendment.

MM70: H8PU

12. The Council propose to amend this policy to provide greater clarity in relation to the tenure split between First Homes, discounted market sales and affordable or social rented housing. The HBF considers that this is an appropriate amendment.

¹ NPPF 2021 paragraphs 60-62.

² NPPF 2021 paragraph 79

13. The HBF is concerned however that the policy still refers to exceptional circumstances in relation to a lower proportion of affordable housing being permitted. The HBF continues to consider that the Council's own viability evidence highlights the significant viability challenges in the area, and that the circumstances when a lower figure will be needed are not exceptional.
14. The HBF continues to recommend that the policy is amended as follows:
*"A lower proportion of affordable housing or an alternative tenure split will ~~only~~ be accepted ~~in exceptional circumstances. In such cases~~ **where** 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."*

MM94:N3PU

15. The Council propose to amend policy N3 for clarity.
16. In light of all the new guidance on Biodiversity Net Gain (BNG) that has recently been published, the Council will need to ensure its approach to BNG to ensure it fully reflects all the new legislation, national policy and guidance. The HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time and note the final version of DEFRA BNG Guidance was published on 12th Feb 2024 and the final version of the PPG published on Feb 14th 2024. The HBF understands that both may be further refined once mandatory BNG is working in practice, to reflect any early lessons learnt. The HBF notes that there is a lot of new information for the Council to work through and consider the implications of, in order to ensure that any policy on BNG policy so that it complies with the latest policy and guidance now this has been finalised. It is important that mandatory BNG does not frustrate or delay the delivery of much needed homes.
17. The PPG³ is clear that there is no need for individual Local Plans to repeat national BNG guidance. It is HBF's opinion that the Council should not deviate from the Government's requirement for 10% biodiversity net gain as set out in the Environment Act. There are significant additional costs associated with biodiversity gain, which should be fully accounted for in the Council's viability assessment. Although the national policies requiring 10% BNG cannot be subject to site specific viability discussion, any policy requirements over 10% can be. Any policy seeking more than 10% BNG needs to reflect this position. The PPG⁴ is also clear that plan makers should not seek a higher percentage than the statutory objective for 10% BNG, unless justified. Therefore, the HBF recommends that the policy is amended to state '10%' rather than 'a minimum of 10%'.
18. The HBF notes that BNG has been designed as a post permission matter to ensure that the 10% BNG will be met for the development granted permission. Schedule 14 of the Environment Act sets out that a general condition will be applied to every planning permission (except those exempt from BNG) that a BNG Plan should be submitted and

³ PPG ID: 74-006-20240214

⁴ PPG ID: 74-006-20240214

approved by the LPA before commencement of development. Therefore, the Council cannot require a final BNG Plan to be provided at application stage. This is particularly the case for large sites where development will be phased. The PPG now includes additional Guidance on how phased development should be considered, which the Council will need to consider and accommodate when revising this BNG policy. What would be helpful would be for the Plan to be explicit in its support for BNG considerations to be discussed at the earliest opportunity, including through the pre-application process. The PPG⁵ clearly sets out what information an applicant must submit as part of a planning application, and as planning policy does not need to repeat this guidance, the HBF recommends that this section of the policy be deleted.

19. The HBF notes that the lack of flexibility in the second paragraph and considers that the Council may want to review this, for example it may not be that on-site provision is not appropriate, it may be that not all of the BNG can be delivered on-site. The HBF also considers that it is not appropriate to limit off-site provision to the Local Nature Recovery Network and to sites within Copeland, the HBF considers that the Council will also want to consider the role of the new Cumberland authority area, and the potential for the most appropriate location for certain habitats when off-site may not be within the authority area and may be better suited to an alternate location. This is particularly important as the market for off-site units is still developing. The HBF also considers that it would be appropriate to differentiate between the purchase of off-site units, and purchase of national credits as per the biodiversity gain hierarchy.
20. The HBF notes that the land owner is legally responsible for creating or enhancing habitat, and for managing that habitat for at least 30 years to achieve the target condition for BNG purposes. Where a developer purchases off-site units, they are paying the land manager to manage the land for 30 years to achieve the target condition. Therefore, the HBF considers that this element of the policy should be deleted or amended.
21. The HBF recommends that that Council work closely with the HBF, PAS, DEFRA and others with expertise in BNG to ensure that the policy is amended appropriately to reflect the latest position. The HBF considers that this will be particularly important in this instance as Copeland will be one of the first plans to be adopted after the introduction of BNG.
22. The HBF currently recommends that the policy is amended as follows:

“All development, with the exception of that listed in the Environment Act 2021 and any documents which may supersede it must provide ~~a minimum of~~ 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU.

*Net gain should be delivered on site where possible. Where on-site provision **cannot be achieved in full** ~~is not appropriate~~, provision must be made elsewhere. **This should be provided** in order of the following preference:*

 1. Off site in an area identified as a Local Nature Recovery Network in the Plan area;
 2. Off site on an alternative suitable site within Copeland **or in Cumberland**;

⁵ PPG ID: 74-011-20240214

3. Off site on an alternative suitable site;
4. Through the purchase of off-site biodiversity units on the market;
5. Through the purchase of an appropriate amount of national biodiversity ~~units/credits.~~

~~Planning applications must include a Biodiversity Gain Plan which will identify the merit of onsite habitats both prior to and after development (using the relevant Metric system), set out details to reduce or prevent adverse effects and demonstrate how net gains will be obtained.~~

~~Sites where net gain is provided (on or off site) must be managed and monitored by the **landowner** applicant or an appropriate body funded by the applicant for a minimum period of 30 years. **Where appropriate** applicants should supply a **Habitat Creation Plan** and a **Habitat Management and Monitoring Plan (HMMP)**, which covers this 30-year period. Annual monitoring reports detailing the sites condition post-enhancement must be submitted to the Council each year over this period. Where there is evidence of deliberate neglect or damage to any of the habitats on development sites in order to reduce its biodiversity value their deteriorated condition will not be taken into consideration and previous ecological records of the site and/or the ecological potential of the site will be used to decide the acceptability of any development proposals."~~

MM116: CO7PU

23. The Council propose to remove reference to Electric Vehicles within this policy. The HBF considers that as this element of the policy is now covered by Building Regulations this is an appropriate amendment.

Future Engagement

24. I trust that the Council will find these comments useful as it continues to progress its Local Plan to adoption. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.
25. The HBF would like to be kept informed of the adoption of the Plan, the publication of the Inspector's Report and all forthcoming consultations upon the new Cumberland Local Plan and associated documents. Please use the contact details provided below for future correspondence.

Yours sincerely,

Joanne Harding
Planning Manager – Local Plan (North)



For internal use:

Resp. No. MAIN - 07.....

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

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If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent's Details (if applicable)
Name	David Robinson	Mike O'Brien
Position		
Organisation		
Address		
Postcode		
Telephone		
Email		

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Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	X
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	X

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

The Main Modifications (MM) schedule suggests an amendment to the Local Plan Vision to reflect an extension to the plan period to 2039, rather than 2038. A proposed MM in respect of Policy H2 also reflects this change and identifies an amended housing requirement figure of 2,628 to include the additional monitoring year.

The modification to the plan period is required to meet the requirement of NPPF paragraph 22, which states: *“Strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure”*

Story Homes notes that this modification will still fail to accord with NPPF paragraph 22. This current Main Modifications consultation on the closes on 28 March 2024, and therefore the Local Plan will not be adopted within the 2023/24 monitoring year. The trajectory and plan period for the emerging Local Plan will therefore need to be extended to 2040 to ensure it looks ahead a full

15 year period from adoption (2024/25 – 2039/40).

For the avoidance of doubt, this extension to the plan period should be reflected in the housing requirement at Policy H2 by an overall increase of 292 dwellings (146 dpa for two years) on the Submission Version of the Plan, and result in an overall requirement figure of 2,774 dwellings. Consequently the Plan will need to provide for a minimum of 3,800 dwellings, which is an additional 400 dwellings, also reflected in Policy H2.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

Amend the plan period to 2040 and update the housing requirement to reflect an additional two monitoring years (additional one year from the Council proposed modification).

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

26/03/2024

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Thank you for completing this form



For internal use:

Resp. No. MAIN - 07.....

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

The Copeland Local Plan 2021-2038 Publication Draft and Addendum Document were submitted to the Secretary of State for Public Examination in September 2022. The appointed Planning Inspector has now considered all representations made regarding those documents, and discussed all relevant matters and issues during Hearings in 2023, and has now identified a number of Main Modifications that are required in order to ensure the Local Plan is sound (i.e. positively prepared, justified, effective and consistent with national policy).

These Main Modifications are now subject to a six week public consultation between **Wednesday 14th February and Thursday 28th March 2024**.

This Representation Form provides the opportunity to comment on the proposed Main Modifications Schedule and Appendices documents, as well as Proposals Map Modifications. These documents can be viewed at: <https://www.copeland.gov.uk/content/main-modifications-consultation>. **Please note that representations are only sought on the Main Modifications and changes to the Policies Map, and not the Local Plan as a whole.** Representations should reflect issues of legal compliance and soundness and representations can only be considered on this basis.

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Whitehaven, CA28 7JG

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	Your Details	Agent's Details (if applicable)
Name	David Robinson	Mike O'Brien
Position		
Organisation		
Address		
Postcode		
Telephone		
Email		

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Part B: Your Representation

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MM Number Paragraph Policy Policies Map

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Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	X
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	X

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

The suggested main modification (MM) to the second paragraph of Policy H7 removes reference to “only in exceptional circumstances” when considering schemes that comprise a variation from the identified housing needs and aspirations in the latest Strategic Housing Market Assessment (SHMA).

Whilst Story Homes supports this MM as it reflects the discussion at the relevant Hearing Session, a further modification is required to this section of the Policy to fully comply with the Inspector’s request at the Hearing Session. Our notes of the Hearing Session confirm that the Inspector requested that reference to contributing towards the objective of ‘mixed and balanced communities’ was to be added when proposing a diversion from the SHMA (having regard to paragraph 64 of the NPPF).

Story Homes accepts that the latest SHMA will remain the starting point for establishing housing mix on schemes for new homes and supports the MM in part. However, the MM to Policy H7 must be updated to correctly reflect the discussion at the Hearing Session and the wording “or the

approach contributes to the objective of creating mixed and balanced communities” should be added to the end of the final paragraph of the Policy.

Without this change the policy would not be sound on the basis it is not justified or consistent with national policy.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

The second paragraph of Policy H7 could be modified to:

“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 where:

- *only in exceptional circumstances a developer demonstrates to the Council’s satisfaction that the SHMA and Housing Needs Assessment is out of date **in full or in part; or***
- ***the approach contributes to the objective of creating mixed and balanced communities.***

(Continue on a separate sheet /expand box if necessary)

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Signature:

Date:

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Rep. No.
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Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

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	Your Details	Agent's Details (if applicable)
Name	David Robinson	Mike O'Brien
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2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="checkbox"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input checked="" type="checkbox"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="checkbox"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="checkbox"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

The main modifications (MM) proposed in respect of Policy H8 are not 'sound', and do not fully reflect the discussion at the Hearing Session.

The first paragraph of Policy H8 establishes the affordable housing requirement of 10% on sites of 10 units or more, and Story Homes accepts this policy requirement. However, Story Homes considers the inclusion of "at least 10%" to be unjustified.

It was clear from the discussion at the hearing that Council Officers felt that there are parts of the Plan area that could viably sustain an affordable provision which is more than 10% and this may requested in certain situations. However, the policy does not set out where these areas are or the level of affordable provision that would be requested in such locations. As currently drafted, the policy has no clarity and provides no certainty for developers who may want to deliver much needed new housing in the area. The policy is clearly not sound on the basis it is not positively prepared, justified or effective.

There are many examples of Local Plans that establish a framework for affordable housing provision based on different levels of identified provision in defined areas (usually by a map) which is supported by clear evidence on viability. That is not the case here and “at least” should be removed from the policy.

The final paragraph of Policy H8 states that a lower proportion of affordable housing will only be accepted in “exceptional circumstances”, where developers must demonstrate why meeting the requirements of this policy would render the development unviable.

This wording does not reflect the NPPF, where Paragraph 58 states *inter alia*: “It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.” (emphasis added).

The reference to exceptional circumstances in this instance is not consistent with national policy and is not sound on the basis that it is not justified or effective. It would place unnecessary restrictions beyond that which is required by the NPPF. This should be replaced with “particular circumstances”. Our recollection of the hearing is that this point was discussed and agreed.

The final paragraph of Policy H8 has been amended to include reference to a review mechanism where schemes provide less than policy compliant 10% affordable housing contribution. The modification refers to ‘early’ and ‘late’ reviews.

However, the policy does not define these terms, instead referring to a forthcoming SPD which hasn’t yet been published. As currently drafted, the policy has no clarity and provides no certainty for developers who may want to deliver much needed new housing in the area. The policy is clearly not sound on the basis it is not positively prepared, justified or effective.

The proposed modification should be deleted in full. Developers who secure planning permission should be able to have certainty around what is to be delivered when the decision is made to invest in the area. As discussed at the hearing session, the ‘Finney’ and ‘Hillside’ Judgments present significant legal obstacles in making amendments to approved schemes. This uncertainty could be damaging to the delivery of homes.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

The first paragraph of Policy H8 should be modified as follows:

“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-area74, ~~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* **(or any document superseding it)**”*

The final paragraph of Policy H8 should be modified as follows:

*“A lower proportion of affordable housing or an alternative tenure split will only be accepted in ~~exceptional~~ **particular** 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. ~~Sites of 10 or more residential units that provide less than the policy compliant 10% affordable housing contribution are required to submit a detailed viability assessment and will be subject to early and late review mechanisms to ensure that affordable housing contributions are increased if viability improves over time. If the late stage viability review indicates that the development is capable of delivering more affordable housing than at the time planning permission was granted, payment in lieu of on-site provision may be accepted. Further guidance on the early and late stage review will be provided in the forthcoming “Affordable Housing and Viability SPD”~~”*

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

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Copeland Borough Council
Strategic Planning
Market Hall
Market Place
Whitehaven CA28 7JG
LocalPlanConsultation@cumberland.gov.uk

26/03/2024

BY EMAIL ONLY

RE: Consultation on Copeland Local Plan 2021-2038 Main Modifications

Thank you for the opportunity to comment on the above document. The following representations are submitted by NHS Property Services (NHSPS). These representations follow our comments on the 2021 Pre-Publication consultation and the 2020 Preferred Issues consultation.

NHS Property Services

NHS Property Services (NHSPS) manages, maintains and improves NHS properties and facilities, working in partnership with NHS organisations to create safe, efficient, sustainable and modern healthcare environments. We partner with local NHS Integrated Care Boards (ICBs) and wider NHS organisations to help them plan and manage their estates to unlock greater value and ensure every patient can get the care they need in the right place and space for them. NHSPS is part of the NHS and is wholly owned by the Department of Health and Social Care (DHSC) – all surplus funds are reinvested directly into the NHS to tackle the biggest estates challenges including space utilisation, quality, and access with the core objective to enable excellent patient care.

General Comments on Health Infrastructure to Support Housing Growth

The delivery of new and improved healthcare infrastructure is significantly resource intensive. The NHS as a whole is facing significant constraints in terms of the funding needed to deliver healthcare services, and population growth from new housing development adds further pressure to the system. New development should make a proportionate contribution to funding the healthcare needs arising from new development. Health provision is an integral component of sustainable development – access to essential healthcare services promotes good health outcomes and supports the overall social and economic wellbeing of an area.

Residential developments often have very significant impacts in terms of the need for additional primary healthcare provision for future residents. Given health infrastructure's strategic importance to supporting housing growth and sustainable development, it should be considered at the forefront of priorities for infrastructure delivery. The ability to continually review the healthcare estate, optimise land use, and deliver health services from modern facilities is crucial. The health estate must be supported to develop, modernise, or be protected in line with integrated NHS strategies.



Property Services

Planning policies should enable the delivery of essential healthcare infrastructure and be prepared in consultation with the NHS to ensure they help deliver estate transformation.

Detailed Comments on Draft Local Plan Policies

Our detailed comments set out below are focused on ensuring that the needs of the health service are embedded into the Local Plan in a way that supports sustainable growth. When developing any additional guidance to support implementation of Local Plan policies relevant to health, for example in relation to developer contributions or health impact assessments, we would request the Council engage the NHS in the process as early as possible.

Policy SC5PU [Community Facilities – loss of existing facilities]

Policy SC5PU focuses on the development of new community and cultural facilities as well as protecting the loss of existing community and cultural facilities. NHSPS supports the provision of sufficient, quality community facilities and welcomes the addition of part d) of policy SC5PU.

The NHS requires flexibility with regards to the use of its estate to deliver its core objective of enabling excellent patient care and support key healthcare strategies such as the NHS Long Term Plan. In particular, the disposal of sites and properties which are redundant or no longer suitable for healthcare for best value (open market value) is a critical component in helping to fund new or improved services within a local area. Requiring NHS disposal sites to explore the potential for alternative community uses and/or to retain a substantial proportion of community facility provision adds unjustified delay to vital reinvestment in facilities and services for the community.

All NHS land disposals must follow a rigorous process to ensure that levels of healthcare service provision in the locality of disposals are maintained or enhanced, and proceeds from land sales are re-invested in the provision of healthcare services locally and nationally. The decision about whether a property is surplus to NHS requirements is made by local health commissioners and NHS England. Sites can only be disposed of once the operational health requirement has ceased. This does not mean that the healthcare services are no longer needed in the area, rather it means that there are alternative provisions that are being invested in to modernise services.

Conclusion

NHSPS thank Copeland Borough Council for the opportunity to comment on the Local Plan 2021-2038 Main Modifications consultation. Should you have any queries or require any further information, please do not hesitate to contact me.

Yours faithfully,

Daniel Fleet
Town Planner

For and on behalf of NHS Property Services Ltd



Infrastructure Planning and Transport
Place, Sustainable Growth and Transport
Cumberland Council
Parkhouse Building
Carlisle
CA6 4SJ

Chris Hoban – Strategic Planning Manager
Strategy, Policy and Performance
Cumberland Council
Market Hall
Market Place
Whitehaven
CA28 7JG

27 March 2024

Dear Chris Hoban,

Infrastructure Planning and Transport Team Response to the Copeland Local Plan 2021-2038 Main Modifications Consultation

The Infrastructure Planning and Transport team at Cumberland Council team is supportive of the content and direction of the Copeland Local Plan 2021-2038.

The role of the Infrastructure Planning and Transport Team covers the following areas of highways and transport across Cumberland:

- Active travel: cycling, walking and wheeling;
- Bus transport; and
- Local Road Network (LRN) highways capacity and safety.

Alongside delivery of the Local Transport Plan (LTP), scheme development and informing statutory consultee responses to planning application consultation requests, the team supports local plan making through providing technical advice and input into highways and transport matters including the delivery of transport related evidence-base and policy development.

The team also undertake strategic engagement with stakeholders such as Transport for the North (TfN), National Highways, Department for Levelling Up, Communities and Housing (DLUCH), Northern Rail, Network Rail, Cumbria Local Enterprise Partnership and the nuclear industry.

Prior to Local Government Reform the Infrastructure Planning team's previous representations in response to various iterations of the Copeland Local Plan are aligned with the Cumbria Transport Infrastructure Plan (CTIP), adopted on the 10 February 2022 and

developed with Cumbria Local Enterprise Partnership, to set the policy framework for the role of transport in supporting sustainable and inclusive growth for the period 2022-2037. The Transport Vision for Cumbria within the CTIP is that by 2037 Cumbria will be one of the best connected rural geographies in the UK. Clean growth and decarbonised transport networks will be integral to a growing inclusive economy where our communities will be able to access opportunities, services, education and leisure facilities.

The development and delivery of accessible, sustainable and connected transport networks is necessary to support communities and economic growth. This requires all modes of transport to be integrated effectively with one another and with land uses, in a manner that respects our world-class environment. To support this the CTIP has three Objectives:

1. Clean and Healthy Cumbria: Promoting active travel and digital infrastructure as enablers of inclusive economic growth and supporting the health and well-being of our communities and the decarbonisation of transport networks.
2. Connected Cumbria: Promoting improved transport networks across and into Cumbria to connect our places and support economic growth and opportunities for businesses and communities.
3. Community Cumbria: Promoting integrated approaches to transport that are affordable, safe and meet the access and mobility needs of all, and which support opportunity and renewal within towns and communities across Cumbria with better transport used to improve social inclusion.

To support the development of the Copeland Local Plan, the team used the West Cumbria Transport Model to assess the impact of the proposed site allocations on the highway network. The results of this were used to prepare the Copeland Transport Improvement Study (CTIS) to identify and develop transport interventions that are designed to mitigate the impact of the local plan and support the delivery of the allocated sites. The CTIS linked improvement schemes to site-specific allocations and the requirements for delivery of sites are included within the Copeland Local Plan Infrastructure Delivery Plan (IDP).

The team will continue to work with planning colleagues and the wider development industry to implement the Local Plan on the lead up to adoption and once the local plan is adopted. The Infrastructure Planning and Transport team will also work with planning colleagues in the undertaking of what is set to be an exciting new Local Plan for Cumberland.

Yours sincerely,

G. Innes

Graeme Innes
Senior Manager Infrastructure Planning and Transport



For internal use:

Resp. No. MAIN - 10.....

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

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	Your Details	Agent's Details (if applicable)
Name	Timothy Wolfe	
Position		
Organisation		
Address		
Postcode		
Telephone		
Email		

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Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	x
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	x
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	x

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

The below **highlighted** subtle but wide reaching change to the wording within the Main Modifications schedule does not accord with the proposed housing strategy contained within the Copeland Local Plan 2021-2038: Publication Draft document, which is to achieve its planned housing growth aspirations primarily within its towns and larger villages (Local Service Centres).

It also fails to satisfy Paragraph 15 of the NPPF.

(Reason for change - to address issues raised by Home Builders Federation PU-011).

DS4PU: Settlement Boundaries

To ensure the delivery of allocated sites is not prejudiced, development outside the settlement boundaries will only be accepted in the following cases:

1) Where the proposal is for housing and; **a) The site is well related to and directly adjoins the an identified settlement boundary of town or Local Service Centre; and** etc;

The wording detailed below (5.5.2, & 5.5.8) is Copeland's original rationale for their proposed housing strategy as detailed within the January 2022 Publication Draft. This wording has not been changed or amended in the proposed Main Modification document. As such, I fail to understand why the proposed amendment to DS4PU 1) a, has been made, and suggests that it will be acceptable to develop in open countryside outside of the Settlement Boundaries of Sustainable Rural Villages or Rural Villages as well as the preferred housing locations of towns or Local Service Centres? This is specifically noted (5.5.9) as not being permitted within the Publication Draft original policy wording, as highlighted below, unless it falls within one of the exceptions listed in the "Open Countryside" section of the policy, where I note that no changes are proposed.

Original wording within the January 2022 Publication Draft includes the below:

5.5.2 Identifying settlement boundaries provides an element of certainty for developers and residents and ensures that development is plan-led in accordance with paragraph 15 of the NPPF. They are also a useful means of preventing sprawl, protecting the intrinsic character and beauty of the countryside and maintaining settlement character and form.

5.5.8 Policy DS4PU supports development in principle within the settlement boundaries where it accords with the Development Plan. It also allows for suitable windfall developments to take place on sites directly adjoining and well connected to towns and Local Service Centres, subject to certain criteria. This provides flexibility, as sites within the boundaries may not always come forward as anticipated, whilst ensuring that isolated homes are avoided in line with national planning policy. **It also ensures that important landscapes and the character of settlements are protected.**

5.5.9 Development adjoining lower tier settlements will not be permitted, unless it falls within one of the exceptions listed in the open countryside section of the policy. This is in order to ensure that the needs of these smaller villages are met, without undermining the growth and regeneration aspirations in the towns and larger villages.

This above appears to me to be a well defined plan and one that accords with Paragraph 15 of the NPPF. It also protects sprawl within these small villages and maintains their settlement character and form.

Given this subtle but far reaching "proposed amendment" I recommend that the Strategic Planning Consultants dealing with the main modifications contact all of the Local Parish Councils adversely impacted by this proposed amendment to ensure that they have noted this proposed amendment and are aware of its ramifications for them and their residents. (i.e. all the Parish Councils with Sustainable Village Locations (9) and Rural Villages (7) in Copeland).

I contacted Ennerdale and Kinniside Parish Council to voice my concerns, having read the Main Modifications document, and they confirmed that they would review this as they had failed to appreciate the potential impact of the proposed amendment on the settlement and its residents.

Furthermore has the impact of this proposed Modification on Neighbourhood or Community Plans been fully considered?

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

The wording of Policy DS4PU paragraph 1) a), **should not** be changed as proposed within the proposed Main Modification.

This should be replaced with the wording originally proposed within the Copeland Local Plan 2021-2038: Publication Draft document as follows:

Strategic Policy DS4PU: Settlement Boundaries

Settlement boundaries are identified for all settlements in the hierarchy and are shown on the Local Plan Proposals Map. Development within these boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise.

To ensure the delivery of allocated sites is not prejudiced, development outside the settlement boundaries will only be accepted in the following cases:

1) Where the proposal is for housing and;

a) the site is well related to and directly adjoins the settlement boundary of a town or Local Service Centre; and

b) the site is or can be physically connected to the settlement it adjoins by safe pedestrian routes; and

c) the Council is unable to demonstrate a 5-year supply of deliverable housing sites; or

- there has been previous under-delivery of housing against the requirement for 3 years or more or
- the proposal is for a specific type of housing supported by Policies H15PU, H16PU or H17PU.

2) The proposal is for one of the following types of development and a proven need for an open countryside location has been demonstrated to the satisfaction of the council:

- Nuclear related developments
- Renewable energy proposals, including wind farms
- Essential infrastructure to support energy developments and other infrastructure
- Appropriate rural developments such as agricultural, forestry, farm diversification or tourism proposals which are dependent on ~~require~~ such a location

This would ensure that the Copeland Policy as clearly set out within Section 5.5 – Settlement Boundaries - of the Draft Publication dated January 2022 is not compromised.

Reverting back to the original proposed wording will have minimal impact on the ability of Copeland to achieve its housing delivery strategy. The proposed Local Plan sets a housing requirement of 146 dwellings per annum (over 18 years = 2628 in total) and has allocated 10% of new housing to be within Sustainable Rural Villages and 3% within Rural Villages. These allocations amount to just under 19 (146 x 13%) new houses per annum across the 9 Sustainable Rural Villages or 7 Rural village locations identified.

In simplistic terms, 2 properties per annum across the 16 locations would exceed the Copeland strategy. This should easily be achieved from the 387 potential development plots already identified within the Sustainable Rural Village and Rural Village settlement boundaries and as such there is no perceived need to build outside of the Settlement Boundaries in these locations.

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

21/03/2024

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form



For internal use:

Resp. No. MAIN - 10

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

The Copeland Local Plan 2021-2038 Publication Draft and Addendum Document were submitted to the Secretary of State for Public Examination in September 2022. The appointed Planning Inspector has now considered all representations made regarding those documents, and discussed all relevant matters and issues during Hearings in 2023, and has now identified a number of Main Modifications that are required in order to ensure the Local Plan is sound (i.e. positively prepared, justified, effective and consistent with national policy).

These Main Modifications are now subject to a six week public consultation between **Wednesday 14th February and Thursday 28th March 2024**.

This Representation Form provides the opportunity to comment on the proposed Main Modifications Schedule and Appendices documents, as well as Proposals Map Modifications. These documents can be viewed at: <https://www.copeland.gov.uk/content/main-modifications-consultation>. **Please note that representations are only sought on the Main Modifications and changes to the Policies Map, and not the Local Plan as a whole.** Representations should reflect issues of legal compliance and soundness and representations can only be considered on this basis.

It should be noted that all representations will be published and cannot be treated as confidential, but personal details such as addresses, email addresses and telephone numbers will be removed.

Please complete a separate sheet for each representation you wish to make and return this form **no later than Thursday 28th March 2024** to:

Strategic Planning
Cumberland Council
Market Hall
Market Place
Whitehaven, CA28 7JG

Or email: localplanconsultation@copeland.gov.uk

Part A: Your Details

Please provide your details below. This information will be added into our database so we can contact you when the Inspector’s Report is published and the Adoption of the Local Plan.

All information in the following table will be used solely for this purpose and no identifying information will be used in any future stages of the Local Plan process.

If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent’s Details (if applicable)
Name	Timothy Wolfe	
Position		
Organisation		
Address		
Postcode		
Telephone		
Email		

Privacy Notice

Your personal details will be used solely for the Copeland Local Plan and in line with the Council’s Privacy Statement.

A copy of the Council’s Privacy Statement can be viewed at

https://www.copeland.gov.uk/sites/default/files/attachments/cbc_privacy_statement_29_3_22.pdf.

Further information is also available by contacting the Council’s Data Protection Officer at info3@cumberland.gov.uk or by calling 01946 598300 and asking to speak to the Data Protection Officer.

Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="text"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="text"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="text"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="text"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

Main Modification - Appendix 6 – Relating to Plan Appendix H: HRA Requirements for Allocated Sites (Main Modification MM171). Pages 95 & 96

Inclusion of - River Ehen SAC.

I fully support the inclusion of the River Ehen Special Area of Conservation (SAC) within the new Local Plan Appendix H: HRA Requirements for Allocated Sites (Main Modification MM171).

This SAC is a very important area to protect and for the benefit of Freshwater Pearl Mussel (*Margaritifera margaritifera*) and Atlantic salmon (*Salmo salar*). Its inclusion as a HRA Requirement will assist in helping to restore the favourable condition status of this Special Area of Conservation.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

This proposed change that I consider necessary relates to the Proposed new Local Plan Appendix H: HRA Requirements for Allocated Sites (Main Modification MM171) that now includes the River Ehen SAC.

River Ehen SAC Catchment Boundary

There are several tributaries of The River Ehen and those which discharge within the River Ehen SAC boundary include: Croasdale Beck; Rowland Beck; Banly Ghyll; Red Beck; Hole Beck; Mere Beck; and Roughton Beck.

The **Habitat Regulations Assessment Report** that supports the local plan should be amended to include specific details of the tributaries of the River Ehen that discharge within the SAC boundary.

It should be noted as the – “River Ehen SAC and its tributaries that discharge within the SAC boundary including Croasdale Beck; Rowland Beck; Banly Ghyll; Red Beck; Hole Beck; Mere Beck; and Roughton Beck.”

This should ensure that the HRA requirements for allocated and future development sites that fall within The “River Ehen SAC and its tributaries are fully identified.

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

25/03/24

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form



For internal use:

Resp. No. MAIN - 11.....

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

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These Main Modifications are now subject to a six week public consultation between **Wednesday 14th February and Thursday 28th March 2024**.

This Representation Form provides the opportunity to comment on the proposed Main Modifications Schedule and Appendices documents, as well as Proposals Map Modifications. These documents can be viewed at: <https://www.copeland.gov.uk/content/main-modifications-consultation>. **Please note that representations are only sought on the Main Modifications and changes to the Policies Map, and not the Local Plan as a whole.** Representations should reflect issues of legal compliance and soundness and representations can only be considered on this basis.

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Strategic Planning
Cumberland Council
Market Hall
Market Place
Whitehaven, CA28 7JG

Or email: localplanconsultation@copeland.gov.uk

Part A: Your Details

Please provide your details below. This information will be added into our database so we can contact you when the Inspector's Report is published and the Adoption of the Local Plan.

All information in the following table will be used solely for this purpose and no identifying information will be used in any future stages of the Local Plan process.

If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent's Details (if applicable)
Name	Mrs Melanie Lindsley	
Position		
Organisation		
Address		
Postcode		
Telephone		
Email		

Privacy Notice

Your personal details will be used solely for the Copeland Local Plan and in line with the Council's Privacy Statement.

A copy of the Council's Privacy Statement can be viewed at

https://www.copeland.gov.uk/sites/default/files/attachments/cbc_privacy_statement_29_3_22.pdf.

Further information is also available by contacting the Council's Data Protection Officer at info3@cumberland.gov.uk or by calling 01946 598300 and asking to speak to the Data Protection Officer.

Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="text"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="text"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="text"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="text"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

The Coal Authority are pleased to see that our suggested wording for Policy DS10PU has bene included in the modification proposed.

The Coal Authority support this modification.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

(Continue on a separate sheet /expand box if necessary)

***Please note:** there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.*

Signature:

Date:

27/03/2024

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form

Cumberland Council
Development Control
The Copeland Centre Catherine Street
Whitehaven
Cumbria
CA28 7SJ

Our ref: NO/2015/107685/CS-05/SB1-L01
Your ref: Main Modifications
Date: 27 March 2024

Dear Sir/Madam

Copeland Local Plan 2021-2038 Examination: Main Modifications to the Submission Draft Plan Consultation

Thank you for consulting us on the Copeland Local Plan 2021-2038 Main Modifications.

Environment Agency position

We are pleased to have been involved throughout the development of the Copeland Local Plan and have provided comments on the following consultations:

- Preferred Options Consultation in November 2020, our letter ref: NO/2015/107685/CS-02/PO1-L01
- Additional Focused Pre- Publication Draft Consultation on Potential Changes Consultation in October 2021, our letter ref: NO/2015/107685/CS-03/PO1-L01
- Copeland Local Plan 2021-2038 Publication Draft Consultation in March 2022, our letter ref: NO/2015/107685/CS-04/PO1-L01

We have now reviewed the Main Modifications in so far as they relate to our remit, and would like to make the following comments:

Ref No	Para/Policy /Figure	Publication Plan Page	EA Comments
MM18	DS8PU Reducing Flood Risk	52	We have no objection to the proposed amendments as we are satisfied that they do not conflict with any of our previous advice
MM19	DS9PU Sustainable Drainage	53 / 54	We welcome the inclusion of the texts at these two policies which we suggested in our previous letter (NO/2015/107685/CS-02/PO1-L01). We have no objection to the modifications which provide better clarifications.
MM21	DS10PU Soils, Contamination and Land Stability	54/55	

MM93	N2PU Local Nature Recovery Networks	195/196	We have no objection to the amendments but noticed there is a word duplication in the text after the suggested deletion.
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We are satisfied that our comments have been taken into consideration as the Plan has been developed through this modification.

Yours faithfully

Hui Zhang
Planning Advisor - Sustainable Places



Homes
England

Strategic Planning

The Market Hall
Market Place
Whitehaven
Cumbria, CA28 7JG

By email: LocalPlanConsultation@cumberland.gov.uk cc: Programme.Officer@copeland.gov.uk

26th March 2024

Dear Sir / Madam,

Copeland Local Plan 2021-2038: Examination Consultation on Main Modifications (February - March 2024)

As a prescribed body, Homes England would firstly like to thank Cumberland Council for the opportunity to comment on the Copeland Local Plan 2021-2038: Examination Consultation on Main Modifications.

Homes England is the government's housing and regeneration agency. We drive regeneration and housing delivery to create high-quality homes and thriving places. This will support greater social justice, the levelling up of communities across England and the creation of places people are proud to call home.

Previous Involvement in the Copeland Local Plan Examination

Homes England (Respondent ID81) is the owner of land covered by residential allocation HWH2 (Red Lonning and Harras Moor, Whitehaven) and has previously made submissions to the Copeland Local Plan at Regulation 19 and Regulation 20 stages, including in-person representation at Examination Hearing pertaining to Matters 10, 14, 15 and 19.

Representations to the Proposed Main Modifications Consultation

Following review of the proposed main modifications, Avison Young, on behalf of Homes England has prepared the enclosed representations relevant to Draft Policy N12 (previously N11PU), DS5 (previously DS5PU) and the Maps supporting the Local Plan.

Homes England looks forward to continuing to work with Cumberland Council in support of the emerging Local Plan and bringing forward development at Harras Moor.

Yours faithfully,

Lucinda Taylor

Head of Planning and Enabling – North West

Please send all Local Plan and related consultations to



Copeland Local Plan 2021 – 2038 Examination Consultation on Main Modifications (February - March 2024)

Representations of Homes England

March 2024

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3.	Infrastructure Delivery Plan – Draft Policy DS5 (Previously DS5PU)	14
4.	Main Modifications	16

Prepared By: Craig Alsbury

Status: Final

Draft Date: 27 March 2024

For and on behalf of Avison Young (UK) Limited

1. Introduction and Instructions

- 1.1 Avison Young (“AY”) is town planning adviser to Homes England and is instructed to review and make representations in respect of:
- a) Examination Documents CBC30, and CBC52 - 59, which were produced as a response to submissions made by Homes England prior to¹ and during the EiP Hearing Sessions and in respect of which it was confirmed by the Inspector that Homes England would be given an opportunity to comment during this present round of consultation; and
 - b) relevant Main Modifications that are proposed to be made to the Copeland Local Plan 2021 – 2038 following the conclusion of EiP Hearing Sessions on 9 March 2023.
- 1.2 Homes England owns land at Harras Moor, Whitehaven; referred to in the emerging Local Plan as Site HWH2.
- 1.3 For ease of reference, and consideration by the Council and the Inspector, Homes England’s Representations are structured around two main topics:
- Protected Green Spaces (now Protected Open Spaces Draft Policy N12); and
 - The Infrastructure Delivery Plan and how it is referenced in Draft Policy DS5.
- 1.4 After making further submissions on these matters, Homes England’s Representations then conclude with comments on the proposed Main Modifications.
- 1.5 If the Council wishes to discuss any aspect of these representations, it should contact Craig Alsbury in the first instance, either by email (craig.alsbury@avisonyoung.com) or telephone (07831 106876).

¹ Hearing Statements submitted by Homes England (Respondent ID81) December 2022 in relation to Matters 10, 14, 15 and 19

2. Protected Open Spaces – Draft Policy N12 (Previously N11PU)

Background

- 2.1 Appendix B to the Submission version of the Local Plan contains a series of Settlement Maps. The Settlement Map for Whitehaven is the first to appear in the series. It shows Homes England's land (Site HWH2) allocated for housing development. This is an allocation that Homes England supports and is pleased to see retained, especially considering the recent upheld appeal decision APP/Z0923/W/23/3316104. However, the Settlement Map also shows two parts of Site HWH2 designated as Protected Open Spaces (referred to in the evidence base as Sites 72 and 179).
- 2.2 Alongside a recommendation to remove the Protected Open Spaces designations, Homes England raised the following concerns in its Matter 10 Hearing Statement and orally during the Matter 10 Hearing Session held 1 March 2023 :
- a) **conflict with proposed residential allocation** - the Protected Open Spaces designations conflict with the housing allocation, Homes England's outline plans for residential development of the site and the Council's objective of satisfying its housing needs in the most sustainable locations. Requiring the developer of the site to comply with the provisions of Policy N12 in delivering the Protected Open Spaces would compromise the capacity and or delivery of the site in a material way;
 - b) **application of scoring and weighting criteria** - the only evidence underpinning the Protected Open Space designations is an Open Space Assessment (EB28). Homes England highlighted concerns with the method of assessment contained in EB28, its lack of clarity as to which spaces had been assessed in EB28 and which had not, a lack of transparency in respect of the assessment of sites (proformas were only provided the day before the Matter 10 Hearing Session), its lack of data as regards overall provision by typology at the Borough level and by settlement, and its failure to assess or have any evidence in respect of the prospect of poor quality spaces being enhanced;
 - c) **site specific issues**

Site 72

Part of Site 72 is protected in the current development plan for its landscape value² (along with land to the north which has not been assessed in EB28). There has never before been any suggestion

² without any landscape evidence justifying the designation

that it has value as 'open space'. EB28 increased the extent of the open space to be assessed for protection without explanation. Site 72 is in use as agricultural (grazing) land. It is privately owned by Homes England, not accessible to the public and does not provide any form of recreational resource. However, it is described in EB28 as Amenity Greenspace (AGS). It is not AGS. It does not satisfy the EB28 definition of AGS as it is not available for informal public activity and it cannot be said to be enhancing the appearance of a residential or other area. Indeed, it is no different to the agricultural land north east of HWH2 which is also located within the settlement boundary but has never been considered for protection. EB28 scored the site 19% for quality and 22% for value. The 19% score for quality is significantly below the 40% required to justify protection. The score for value is 2% above the 20% level required for protection. It is not clear how a score of 22% was awarded (see later in these Representations) and Homes England disputed this. Ultimately, protection appears not to have been recommended on the basis of either the quality or value score but on the basis that there is an asserted shortage of AGS within / adjacent to Whitehaven;

Site 179

Site 179 is not protected in the current development plan. It is privately owned. It was once a playing field (football pitch) but has been out of use since at least 2017 when Homes England acquired the site and has not been accessible to the public. The Council itself has assessed the site as disused, not overlooked and having poor accessibility³. Like Site 72, it does not provide an opportunity for informal activity and cannot be said to be enhancing the appearance of a residential or other area. It too, therefore, does not qualify as AGS and should not have been assessed in EB28. EB28 scored the site 25% for quality and 11% for value. Homes England disputes both scores but even on the EB28 assessment Site 179 falls well below the levels required to justify protection. Again, though, and like Site 79, Site 179 has been proposed for protection because of an asserted shortage of AGS in Whitehaven;

- d) **relationship between protected spaces and the settlement hierarchy** – Linked to the above, it is unclear what justification there is for the protection of open spaces that are not contributing materially to an area, in particular Whitehaven, in terms of the quality and value of its open space provision; and
- e) **relationship of the proposed designations with previous sites** - the Assessment neither assesses all the spaces that are shown as 'protected' on the current (adopted) Local Plan Proposals Map, nor confines its assessment to spaces that are protected within the current Plan. The sites

³ CD2 Appendix F

that have been assessed and recommended for protection, including those within HWH2 (sites 72 (Laurel Bank AGS) and 179 (Red Lonning Playing Field)) have no physical or other relationship to sites previously protected.

- 2.3 Since the close of the EiP Hearing Sessions, outline planning permission has been granted at appeal (ref. APP/Z0923/W/23/3316104) for the development of Site HWH2 with up to 370 homes. There are no conditions or obligations included in the permission which restrict where, within the site, new homes may be constructed. Moreover, the illustrative masterplan for the development shows more than half of Site 72 and the whole of Site 179 developed with housing. Whilst layout is a Reserved Matter, the illustrative masterplan was used, by Homes England, the Council and the Inspector at appeal, to assess the capacity of the site and to determine the extent of obligations required in respect of public open space and outdoor sports provision. Homes England is, therefore, fully expecting parts or all of Sites 72 and 179 to be developed with housing in due course.
- 2.4 In the light of the concerns raised by Homes England during the hearing sessions held in February / March 2023, the Inspector set the Council a series of tasks. These were:
- a) Policy N11PU/Open Space Study: Site assessment process: Council to set out the rationale/process for carrying forward identified open spaces into the plan (from the current plan and new sites identified in the Study), taking account of the evidence base (Task 115);
 - b) Check sites protected in current plan for landscape value under Policy DM26, shown on current policies map adjacent to the Loop Road, which appear not to have been carried forward as an allocation. Assessed under Settlement Landscape Character Assessment study [sic]. Clarify any anomalies. Should these sites have been carried forward in publication draft? Which Policy in the publication draft would they 'hook' onto (Task 116/7);
 - c) KKP to clarify how the scores have been arrived at for the site assessment proformas and spreadsheets - maths behind how the overall quality and value scores have been arrived at (Task 118);
 - d) KKP to explain methodology / rational of the overall approach to the setting of quality and value thresholds as the thresholds appear to be low (Task 119);
 - e) KKP to explain why some sites are recommended to be protected even when they may fall short of the quality / value threshold (Task 120);
 - f) KKP to explain approach in areas where a shortfall of a particular typology of open space has been identified, of retaining all open spaces even where the scores of a particular site may be low? Under

these circumstances, has there been any assessment of which of the lower scoring sites has the most potential to be enhanced and hence taken forward as opposed to a more blanket approach (Task 121);

- g) KKP - were site visits undertaken for site 72 and 179 or was it a desk based assessment (Task 122);
- h) Site 72 - check inconsistency of score - Open Space database spread sheet shows a quality score of 19 whilst the site assessment shows quality score of 22 (Task 123); and
- i) Council to review and set out justification for the protection of open spaces 72 and 179 (in the form of a note), bearing in mind the points raised by Homes England (Task 124).

2.5 A number of Notes⁴ have been published by the Council in response to the questions posed by the Inspector and these have been reviewed. Homes England's further observations on these and a continued case against the Protected Open Space in respect of Sites 72 and 179 is set out below.

The Inclusion of Sites 72 and 179 in the Assessment

2.6 CBC52 states that sites were identified for inclusion in the Open Space Assessment on the basis of:

- a) a review of sites protected in the current development plan;
- b) a desk top search and site visits; and
- c) discussions with Town and Parish Councils

2.7 It then states that for sites to be included within the assessment they needed to fall into one or more of seven categories, which it then lists, and then goes on to note that:

"There were a number of sites that are currently protected in the Core Strategy that did not fall into the typologies used, such sites have not been assessed".

2.8 We know from EB28 that both Sites 72 and 179 were included in the assessment because they were deemed to comprise AGS. During the Matter 10 Hearing Session, the Council was asked to explain how that conclusion had been reached, in the light of the information that Homes England had provided on the nature of the Sites and how they are used. The Council's note CBC52 does not provide this explanation, therefore it remains unclear as to why Sites 72 and 179 were included within the assessment.

⁴ CBC30 and CBC52-59

- 2.9 As regards Site 72, CBC30 simply states that it has been identified as AGS because it meets the definition⁵. This is at odds with the Council's own admission in CBC30 that Site 72 has never been visited because it is not accessible. Because it is not accessible, it is not used by members of the public, either formally or informally. It also plays no role in enhancing the appearance of a residential area and, therefore, has been wrongly categorised. It should never have been included in the Open Space Assessment and should instead have been excluded, as was the land to the north, with which it shares key characteristics and which the authors of EB28 concluded does not qualify as AGS. We go on below to identify further issues with the Council's assessment of Site 72 for completeness; the designation should be deleted on the basis that it is not AGS.
- 2.10 The Council states in CBC59 that Site 179 is used for informal recreation and dog walking and this is why it qualifies as AGS. However, KKP have not visited Site 179 since 2019 (see CBC57) and there is no data whatsoever in EB28 which evidences KKP's assertions; the Assessment Proforma for Site 179 records a score of 1 against 'Level of Use' which is the lowest available (above zero) and it is not clear how this score was awarded. The site is (i) privately owned and so if there is any informal use of it, such use is arising from trespass; (ii) it is overgrown; and (iii) there is no evidence that we can see of informal use (e.g. desire lines having been trodden by frequent walking of particular routes across or within the land). Like Site 72, this site also plays no role in enhancing the appearance of a residential or other area. Indeed, the Council's own assessment of the land records it as "inaccessible" and "not overlooked". Therefore, Homes England considers that it too has been wrongly categorised as AGS and it should never have been included in the assessment.
- 2.11 Additional information presented within documents CBC30 and CBC59 does not demonstrate a clear rationale for the inclusion of Sites 72 and 179 within the open space assessment, and the designation of these sites as Protected Open Spaces will present a significant risk to the delivery of residential allocation HWH2 which has still to secure reserved matters approval. It is worth noting also that the outline planning consent ref. 4/18/2287/001 secured by Homes England has a requirement under the Section 106 Agreement to provide a minimum of 7.1ha of open space which will need to be accommodated within the site in response to detailed reserved matters layout. Designation of specific areas of protected open space proposed through the adoption of this policy would severely constrain Homes England's approach to development of the site and the delivery of high-quality, accessible open space.

The Assessment of Sites

⁵ Opportunities for informal activities close to home or work or enhancement of the appearance of residential or other areas

- 2.12 Draft Policy N12 states that the Local Plan Proposals Map identifies Protected Open Spaces which are of high quality and / or value. Accordingly, open spaces that are not of high quality or value should not be protected by Policy N12.
- 2.13 CBC53 confirms that the criteria that have been used to assess the quality and value of each of the sites that are proposed to be protected are based on the topics considered as part of the Green Flag award criteria. Green Flag Awards may only be sought for freely accessible parks or green spaces. Neither Site 72 nor Site 179 are freely accessible parks or green spaces and so the Inspector must question whether it is appropriate to assess the quality and value of these landholdings against criteria that derive from the Green Flag Award process.
- 2.14 Notwithstanding the additional information that has now been provided by KKP and the Council in CBC53, it remains unclear which of the assessment criteria in the Assessment Proforma scores go towards quality and value.
- 2.15 CBC53 confirms that KKP used professional judgement to arrive at quality and value scores, although, as noted above, Site 72 has only been assessed on a desk-top basis. KKP has confirmed that it has never been accessed and inspected and, therefore, we question how robust the assessment of this site has been.
- 2.16 As discussed at the Matter 10 Hearing Session and confirmed in CBC58, KKP has scored Sites 72 and 179 as follows:
- Site 72 – 19% (Quality) and 22% (Value)
 - Site 179 – 25% (Quality) and 11% (Value)
- 2.17 At paragraph 2.4, EB28 states as follows:
- To determine whether sites are high or low quality (as recommended by guidance); the results of the site assessments are colour-coded against a baseline threshold (high being green and low being red). The primary aim of applying a threshold is to identify sites where investment and/or improvements are required. It can also be used to set an aspirational quality standard to be achieved at some point in the future and to inform decisions around the need to further protect sites from future development (particularly when applied with its respective value score in a matrix format). (our emphasis)*
- 2.18 At Table 2.2, EB48 describes the quality and value thresholds that it considers should be applied in Copeland Borough. For AGS, the thresholds were set at 40% for quality and 20% for value.

2.19 However, in CBC54, KKP have stated additionally as follows:

The primary aim of applying a threshold is to distinguish between higher and lower quality sites. It can also inform where investment and/or improvements are required....

A high value site is one deemed to be well used and offering visual, social, physical and/or health benefits.

2.20 As regards the KKP scoring of Sites 72 and 179, there are inconsistencies and errors in some of the scores. The most obvious issues are highlighted as follows:

Site 72

Assessment Criterion	Score Awarded By KKP (1-5, with 5 being the maximum achievable)	Comments
Boundary Fencing	5	KKP has not visited the site. The boundary treatments are mixed. They comprise, walls, fences, and hedges. There are occasional gaps and low points where the boundary is not secure. It is not clear how a maximum score could have been attributed to this Site.
Gradient Value	3	The whole of Site 72 is on a steep slope running down to Loop Road. We would expect a score of 3 to only be achieved by a site that is relatively flat. A score of 1 or at best 2 would be more appropriate.
Personal Security	3	Site 72 is a field. It is not overlooked at all from the north or east and only occasional glimpses into the site are available from the existing housing to the west, from first floor windows. There are a small number of houses that back onto the site from the south, from which only part of the Site can be seen. There is no lighting or CCTV on the site. The site should have been scored 1 at most.

Maintenance	4	Aside from regular checks by Homes England’s estate management team, there is no regular maintenance regime on site. It is a field that is occasionally grazed. It is not clear how KKP awarded a score of 4 for this criterion.
Drainage	4	The site is generally well draining however there are known surface water issues in the lower areas which require on going management. Whilst these will be resolved through the implementation of a site wide drainage strategy through development of the site, it is not clear how KKP awarded a score of 4 given the current site conditions.
Paths	3	There are no paths or public rights of way within / across Site 72. It should score zero against this criterion.

Site 179

Assessment Criterion	Score Awarded By KKP (1-5 with 5 being the maximum achievable)	Comments
Main Entrance	1	There is no main entrance to this Site. It is private land. It should have been scored zero against this criterion.
Personal Security	4	Site 179 is not overlooked at all and there is no lighting or CCTV on site or in the immediate vicinity. The site should have been scored zero against this criterion.
Boundary Fencing	3	There is no boundary fencing around Site 179. The northern, eastern and southern boundaries are marked by dense scrub and the western boundary is open. It is not clear

		how KKP awarded a score of 3 for this criterion.
Controls to Prevent Illegal Use	2	KKP has asserted that there are such controls in place. This is not correct. The site should have been scored zero against this criterion.
Maintenance	1	Aside from regular checks by Homes England’s estate management team, there is no regular maintenance regime on site. It should have been scored zero against this criterion.
Design and Maintenance (Landscape)	2 and 2	It is not clear what is being assessed against these criteria but Site 72 is not in any way ‘designed’. Aside from regular checks by Homes England’s estate management team, there is no regular maintenance regime on site. It should have been scored zero against these criteria.
Paths	1	There are no paths or public rights of way within or across Site 179. It should have been scored zero against this criterion.

2.21 Based on KKPs scoring, both sites fall well short of the threshold for ‘high quality’ and Site 179 also falls well below the threshold for ‘high value’. KKP scores Site 72 slightly above the threshold for ‘high value’ but that cannot be right on the basis of the information above and, in any event, neither site is well used or offers visual, social, physical and/or health benefits to the public. So even on KKPs assessment, neither Site 72 nor Site 179 is of high quality or high value and on a corrected set of scores both would fall even further below the required standards. As a consequence, there is not considered to be any basis for either site to be protected under a Policy that is specifically designed to protect sites if high value or quality.

2.22 As discussed during the Matter 10 Hearing Session, Sites 72 and 179 appear to have been proposed for protection in spite of their low scores because of an asserted deficiency of AGS in Whitehaven and

because they could, in theory, be enhanced in the future, thus improving the level of AGS provision overall. However, there are 5 significant problems with this.

- 2.23 First, Policy N12 says nothing about protecting land to assist with deficiencies in typologies elsewhere in settlements. Its stated purpose is to protect specific sites that are themselves of high quality and / or value.
- 2.24 Secondly, when EB28 talks about whether settlements have adequate provision in terms of Open Spaces, it has not measured provision against Government policy, some form of national standard or even a locally stated requirement but it has simply taken assessed the average level of provision across all settlements in the Borough and then has used this as a benchmark. So when EB28 says that a settlement has insufficient space of one or more types, it is simply saying that the settlement has less than the Borough's average. This is not an appropriate measure of supply or adequacy of supply.
- 2.25 Thirdly, and notwithstanding the way in which provision across settlements has been measured, it is clear from Table 28.1 in EB28 that rather than Whitehaven being short of open space, it actually has above average levels of open space of each typology save spaces for children and young people. Notably, it has 1.77ha of AGS per 1,000 population against a Borough average of 1.58ha.
- 2.26 Fourthly, the assessment of open space provision in Whitehaven excludes the very extensive, publicly accessible spaces that stretch to the north and south of the Town along the coast, and contain the coast path which is very well used for walking and other forms of informal recreation. So, in reality, Whitehaven is better served in terms of open space than even Table 28.1 indicates.
- 2.27 Fifthly, although EB28 talks about the potential for sites like 72 and 179 to be enhanced in the future, and thus may help improve AGS provision going forward, CBC56 admits that there has been no assessment whatsoever of whether there is potential for future enhancement / improvement. The Council is suggesting that concerns about its approach could be addressed by adding the following words to the Plan immediately before Policy N12:

The Open Space Assessment identifies a number of protected open spaces that are of low quality at present. Where new open spaces cant be provided as part of new developments, developer contributions could be spent improving these poor quality spaces where there is a shortage in that particular typology within the settlement. The Council will carry out an assessment of low quality protected open spaces identified in the OSA to ascertain whether there is the potential for improvements, taking into account their availability.

2.28 But this doesn't address the key issue. The Council is suggesting to the Inspector that one of the reasons why low quality or low value spaces should be protected is because they might be enhanced and make a more positive contribution to the stock of open space at some point in the future. But it has not identified whether that is possible or is going to happen, and it has no plan for making it happen. The suggested additional text refers to developer contributions being spent on the improvement of poor quality land yet, in the case of Sites 72 and 179, these are in private ownership and are not publicly available. It is not clear how, in circumstances such as this, developer contributions could make a difference.

Conclusions on Sites 72 and 179

2.29 The additional information that the Council has published in CBC30 and CBC53-59 does not provide quantifiable evidence of the need and justification for the designation of Sites 72 and 179 as Protected Open Spaces.

2.30 Homes England considers that:

- a) neither site is AGS and so neither should have been included in EB28 / proposed for protection;
- b) neither site is high quality or high value and so neither should be protected under Policy N12 (which is only concerned with land that is of high quality or value); and
- c) contrary to what has been asserted as regards open space provision in Whitehaven, the available evidence indicates that the Town has more than enough AGS.

3. Infrastructure Delivery Plan – Draft Policy DS5 (Previously DS5PU)

Background

- 3.1 As noted in Homes England’s Matter 14 Hearing Statement, and the submissions that it made orally during the Matter 14 Hearing Session, its concern about Policy DS5 is its reference to the Infrastructure Delivery Plan and the fact that there are significant issues with that document. These include:
- a) insufficient clarity as regards the roles of the schedule;
 - b) the fact that the infrastructure said to be required in connection with the development of Site HWH2 is not consistent with the infrastructure that has since been deemed as necessary through the appeal process and secured by way of S106 agreement;
 - c) issues as regards the apportionment of bus service costs;
 - d) the absence of timescales for the provision of the infrastructure and how these link to the delivery of planned growth; and
 - e) the lack of clarity as regards the total infrastructure costs linked to proposed housing allocations and evidence as to how these have been factored into the Plan viability assessment.
- 3.2 In the light of the concerns expressed, Homes England suggested that one of three things needed to be undertaken as follows:
- a) amend the IDP to make it clearer and ensure that it reflects what has been agreed through the appeal process for HWH2; or
 - b) deleted from Policy DS5 the reference to the IDP; or
 - c) delete Policy DS5 from the Plan.
- 3.3 As a consequence of the submissions made by Homes England, the Inspector asked the Council to do the following:
- a) clarify that the table in Appendix 2 of the IDP has not been viability tested (Task 136);
 - b) for Site HWH2, consider whether to update the IDP requirements to reflect those negotiated through the planning application for the site (Task 137);

- c) consider refining the timescales and phasing in the IDP schedules to be more precise. Potentially linked to the housing trajectory timescales (Task 138); and
 - d) amend the supporting text to Policy DS5PU to reflect the need to keep the IDP up to date (Task 139).
- 3.4 The Council does not appear to have responded to Tasks 136, 138 or 139 and in its Note on Task 137 states that it would not be appropriate to update the IDP.

Homes England's Response

- 3.5 The analysis undertaken for the purposes of the appeal demonstrates that the IDP does not provide an accurate or robust assessment of the infrastructure that is to support the development of Site HWH2. Moreover, it demonstrates inherent weaknesses in the assessments used to produce the IDP and this casts doubt over its wider applicability.
- 3.6 It is not appropriate for development plan policy to indicate that planning decisions will be taken having regard to material that is demonstrably unsound.
- 3.7 Homes England would have no objection to the IDP being referred to in supporting text, but, as things stand, it should not be referred to in Policy DS5 itself. Instead, the relevant paragraph within Policy DS5 should end at the word 'appropriate'.

4. Main Modifications

4.1 Through the examination of the Local Plan, Homes England sought:

- a) the deletion of the Protected Green Space designations within site HWH2; and
- b) either amendments to the IDP; or the removal of the reference to the IDP in Policy DS5, or the deletion of Policy DS5 from the Plan.

4.2 Neither is proposed in the Main Modifications. However, the additional submissions made in these representations demonstrate that the case for the further changes sought by Homes England is compelling. We ask, therefore, that these alterations are made before the Plan is progressed to adoption. Doing so will require the following:

- a) changes to MM64 to delete the reference to site HWH2 [Note: there is an erroneous reference in MM64 to Local Green Spaces];
- b) remove the two Protected Green Spaces annotations (sites 72 and 179) within Site HWH2 from the Proposals Map;
- c) update the Settlement Map for Whitehaven to show Site WHW2 as a Housing Planning Approvals (over 5 units) site;
- d) delete MM104. The inclusion of this text is not effective or justified and the reference to a shortage of particular typologies is not something that can be appropriately measured on the current evidence; and
- e) amend MM15 by deleting from the second paragraph of DS5 the following text: *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.*



Our Ref: Sellafield & LLWR

28 March 2024

Strategic Planning
The Market Hall
Market Place
Whitehaven
Cumbria
CA28 7JG



Dear Sir/Madam,

**COPELAND LOCAL PLAN 2017 TO 2035 – PUBLICATION DRAFT CONSULTATION
REPRESENTATIONS ON BEHALF OF THE NDA**

We write to you on behalf of the Nuclear Decommissioning Authority ('the NDA'), in respect of the current consultation on the *Copeland Local Plan 2017 – 2035 Main Modifications Consultation*.

Avison Young are the appointed property advisors for the NDA and provide planning advice across the NDA's UK-wide estate. This representation is made in respect of the NDA's assets within Copeland Borough including the Moorside site, Sellafield site, the national Low Level Waste Repository ('LLWR') and the NDA's interests in the Geological Disposal Facility ('GDF').

The NDA have worked jointly with the Council for many years and can appreciate the importance and contribution that the nuclear sector brings to the health of the local economy.

The NDA is the strategic authority responsible for managing the effective and efficient clean-up of the UK's nuclear legacy, which includes the Sellafield site. Sellafield is operated by Sellafield Limited (the Site Licence Company) on the NDA's behalf, in order to carry out the decommissioning of the site (including waste management and where appropriate land remediation). Decommissioning is a lengthy process expected to occur throughout and beyond the plan period. LLW Repository Limited is the Site Licence Company ('SLC'), responsible for operating the LLWR on the NDA's behalf.

Comments

The NDA have reviewed the Main Modifications with Sellafield Ltd and are of the view that all outstanding issues raised during the Examination hearings have been dealt with. We can therefore confirm that we have no further comments to make with regards to the legal compliance or soundness of the Local Plan. This is reflected in our formal response to the consultation.

We have though identified some small wording amendments which we believe would provide an improved level of accuracy and clarity. See below table. We do though appreciate that the main purpose of the consultation is with regards to legal compliance and soundness.

Main Modification	Proposed amendment	Justification
MM39	Under policy NU3, the word 'development' has been replaced with 'projects'. We suggest the word 'development' is more appropriate in the context.	'Development' is a planning term, whereas 'projects' is more vague. Sellafield Ltd carry out many 'projects' which do not have any planning requirements and therefore this amendment would make it clear the policy only relates to planning related development.
MM39	Under Policy NU3(a), the amended wording states that a justification needs to set out why available sites within settlements are not suitable. This wording should be amended to also incorporate employment sites.	This will help to maintain consistency with the requirements of the policy and highlight that development will be prioritised where it is on an allocated employment site.
MM40	Proposed paragraph 10.12.5 highlights the policies which Sellafield Ltd may be exempt from. We would recommend that the policy reference for the landscaping policy is added here.	For ease of cross referencing.
MM40	Proposed paragraph 10.12.5 would benefit from wording which states the development plan will be the first consideration when determining a planning application.	This wording was proposed in the Inspectors post hearing letter, however this has not been incorporated. Adding this wording would provide additional clarity in the instance of Sellafield Ltd requesting an exemption from Local Plan policies.
MM41	Proposed wording amendment at NU4(b): 'Development proposed outside the Sellafield site and not within settlements or an allocated employment site should be accompanied by a justification setting out why it is essential for the development to be on that particular site and why land on the Sellafield site, on allocated employment sites or within settlements available sites within Sellafield and is not suitable'	As above, it should be clear that development will be prioritised where it is on an allocated employment site.



If you require any clarity in respect of the enclosed representation, then please do contact me.

Yours sincerely

Matt Verlander
Director

For and on behalf of Avison Young (UK) Limited



For internal use:

Resp. No. MAIN - 14

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

The Copeland Local Plan 2021-2038 Publication Draft and Addendum Document were submitted to the Secretary of State for Public Examination in September 2022. The appointed Planning Inspector has now considered all representations made regarding those documents, and discussed all relevant matters and issues during Hearings in 2023, and has now identified a number of Main Modifications that are required in order to ensure the Local Plan is sound (i.e. positively prepared, justified, effective and consistent with national policy).

These Main Modifications are now subject to a six week public consultation between **Wednesday 14th February and Thursday 28th March 2024**.

This Representation Form provides the opportunity to comment on the proposed Main Modifications Schedule and Appendices documents, as well as Proposals Map Modifications. These documents can be viewed at: <https://www.copeland.gov.uk/content/main-modifications-consultation>. **Please note that representations are only sought on the Main Modifications and changes to the Policies Map, and not the Local Plan as a whole.** Representations should reflect issues of legal compliance and soundness and representations can only be considered on this basis.

It should be noted that all representations will be published and cannot be treated as confidential, but personal details such as addresses, email addresses and telephone numbers will be removed.

Please complete a separate sheet for each representation you wish to make and return this form **no later than Thursday 28th March 2024** to:

Strategic Planning
Cumberland Council
Market Hall
Market Place
Whitehaven, CA28 7JG

Or email: localplanconsultation@copeland.gov.uk

Part A: Your Details

Please provide your details below. This information will be added into our database so we can contact you when the Inspector's Report is published and the Adoption of the Local Plan.

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If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

Please do not include the names and details of individuals in the public domain

	Your Details	Agent's Details (if applicable)
Name	Nuclear Decommissioning Authority	Matt Verlander
Position		Director
Organisation		Avison Young
Address		
Postcode		
Telephone		
Email		

Privacy Notice

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Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="text"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="text"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="text"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="text"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

The NDA have reviewed the Main Modifications with Sellafield Ltd and are of the view that all outstanding issues raised during the Examination hearings have been dealt with. We can therefore confirm that we have no further comments to make with regards to the legal compliance or soundness of the Local Plan. This is reflected in our formal response to the consultation.

We have though identified some small wording amendments which we believe would provide an improved level of accuracy and clarity. See submitted table with covering letter. We do though appreciate that the main purpose of the consultation is with regards to legal compliance and soundness.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

N/A

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form



For internal use:

Resp. No. MAIN - 15

Rep. No.

Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

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	Your Details	Agent's Details (if applicable)
Name	M Younghusband	
Position		
Organisation		
Address		
Postcode		
Telephone		
Email		

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Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	X
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	X
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	X
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

Ennerdale, along with many others, is a rural village not a sustainable village. We have no public transport – the nearest is approx. 3.5 miles away along a narrow twisting country road with no pavements or street lighting. The nearest shops are also 3.5 miles away. The population and housing of Ennerdale Bridge is also small and should not be put in the same category as 'Towns and Local Services' which cover Whitehaven, Cleator Moor, Egremont, Millom etc.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

Ennerdale Bridge should be in the rural village category.

(Continue on a separate sheet /expand box if necessary)

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MM Number Paragraph Policy Policies Map

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Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	X
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	X
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	X
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

Proposed changes from towns and local services to now include 'identified settlements' is giving developers carte blanche rights to apply for planning any where they wish. This is a gross 'watering down' of the original wording and the proposal appears to be at the behest of the Home Builders Federation.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

Original wording should be maintained to control wholesale planning applications by developers/builders. They are only interested in how much money they can make rather than local need and viability.

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

28 3 2024

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form



For internal use:

Resp. No. **MAIN - 16**.....
Rep. No.
Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

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It should be noted that all representations will be published and cannot be treated as confidential, but personal details such as addresses, email addresses and telephone numbers will be removed.

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Strategic Planning
Cumberland Council
Market Hall
Market Place
Whitehaven, CA28 7JG

Or email: localplanconsultation@cumberland.gov.uk

Part A: Your Details

Please provide your details below. This information will be added into our database so we can contact you when the Inspector’s Report is published and the Adoption of the Local Plan.

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If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent’s Details (if applicable)
Name	BRIAN JONES	
Position		
Organisation		
Address		

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Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

CREATOR MOOR

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="checkbox"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="checkbox"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="checkbox"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="checkbox"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

I SUPPORT THE REVISED SETTLEMENT BOUNDARY.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

BEING THE LAND OWNER I SUPPORT
 THE MODIFICATION OF THE SETTLEMENT
 BOUNDARY.
 MM123

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

29-02-24

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Thank you for completing this form

Dear Sir/Madam

I refer to the above document and the consultation thereon. Thank you for seeking Sport England's views on this matter.

The main modifications are the culmination of sustained close working between the Council and Sport England both in terms of the Plan's evidence base and on policy detail.

We therefore wish to offer our support for the modifications that have result from the SoCG with Sport England and thank the Council for their efforts in this area.

regards

Dave McGuire
Planning Manager



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Rep. No.
Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

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If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent's Details (if applicable)
Name	Michael Priaulx	
Position	Chair	
Organisation		
Address		
Postcode		
Telephone		
Email		

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1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	tick
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	tick

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

Most amendments in MM5 are positive but the final sentence of the first paragraph states: *“all in ways that secure biodiversity net gain and defend against ecological collapse.”*

The addition of “all” rules out habitats that are given no value by the national DEFRA biodiversity net gain methodology, e.g. artificial nest & roost sites in buildings that host bats and nesting birds such as swifts, swallows & barn owls; other artificial nest sites such as bird & bat boxes & sand martin banks; and routes for wildlife such as hedgehog highways.

As biodiversity net gain standards must be met anyway due to national legal requirements, the addition of “all” only rules out such measures which are mentioned in National Planning Policy Guidance 2019 Natural Environment paragraph 023 which states: *“Relatively small features can often achieve important benefits for wildlife, such as incorporating ‘swift bricks’ and bat boxes in developments and providing safe routes for hedgehogs between different areas of habitat.”*

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

Please amend the final sentence of the first paragraph to: ***"including ways that secure biodiversity net gain and defend against ecological collapse."***

(Continue on a separate sheet /expand box if necessary)

Please note: *there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.*

Signature:

Date:

28/03/24

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Thank you for completing this form

Dear Cumberland Council,

Copeland Local Plan 2021-2038 Main Modifications Consultation

Thank you for giving us the opportunity to comment on the Copeland Local Plan 2021-2038 Main Modifications Consultation for Cumberland council.

As the marine planning authority for England, the MMO is responsible for preparing marine plans for English inshore and offshore waters. At its landward extent, the Marine Plan boundaries extend from the mean high water spring tides mark (which includes the tidal extent of any rivers and estuary) to the inshore (up to 12nm) and offshore (12 to 200nm or the Exclusive Economic Zone) waters; there is an overlap with terrestrial plans which generally extend from the mean low water springs mark.

Marine plans will inform and guide decision makers on development in marine and coastal areas. Planning documents for areas with a coastal influence may wish to refer to the MMO's licensing requirements and any relevant marine plans to ensure the necessary considerations are included. It is mentioned in the Habitats regulation Assessment (HRA) of the main modifications, that Policy N4PU (Marine Planning) previously referenced the [North West Marine Plan](#), however this will now be withdrawn, yet it will still underpin the marine plan objectives. We do recommend that the mention of the North West Marine Plan stay within the policy. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the [Marine and Coastal Access Act 2009](#) and any relevant adopted Marine Plan, in this case the [North West Marine Plan](#), or [UK Marine Policy Statement \(MPS\)](#), unless relevant considerations indicate otherwise. Local authorities may also wish to refer to our [online guidance](#), [Explore Marine Plans](#) and the [Planning Advisory Service soundness self-assessment checklist](#). Any other decisions which may impact the marine area must have regard to the marine plan. Working with the MMO can aid the success of the Local Plan and can ensure the policies are aligned with the marine plan policies.

It would be appreciated if you could please provide an explanation for why you plan to withdraw the reference of the plan just in case I am personally misunderstanding the reasoning. I am happy to discuss this on a separate occasion via phone call/video call if you would find this more useful.

I do hope you also received our standard response to your initial email. If not, please see below.

Once again, thank you for providing the opportunity to comment and I look forward to hearing from you.

Kind regards,

Chloe Boyle, MSc (She/Her) | Marine Planner | Marine Management Organisation

By email only: Localplanconsultation@cumberland.gov.uk

Strategic Planning Team
Cumberland Council
The Market Hall
Market Place
Whitehaven
Cumbria
CA28 7JG

Your ref:
Our ref:
Date: 28-MAR-24

Dear Sir / Madam

COPELAND LOCAL PLAN 2021-2038 MAIN MODIFICATIONS CONSULTATION

This statement is submitted on behalf of United Utilities Water Limited (UUW) in response to the consultation on the Main Modifications to the Copeland Local Plan 2021-2038. The response principally relates to the question of whether there is sufficient justification to implement the optional standard for water efficiency in the construction of new dwellings of 110 litres per person per day (l/p/d).

Background

UUW notes Main Modification MM16. It includes the following amendment to criterion p) of Policy DS6.

'The Council will expect all new development to meet high-quality standards of design standards which contribute positively to the health and well-being of occupiers residents. This means that development must:

p) Include water efficiency measures such as rainwater recycling measures, green roofs and water butts where possible and appropriate'

This contrasts with the position at an earlier stage of the examination which suggested a main modification to the Plan (see Core Document 14) which proposed to introduce a new criterion after bullet 5 of Policy DS2PU. The proposed criterion stated:

'Incorporate the higher National Housing Standard for water consumption of 110 litres per person per day in new housing developments and achieve a BREEAM rating of excellent in new non-domestic buildings.'

The associated justification for the proposed main modification stated:

'UU have submitted evidence that would support the inclusion of this criteria which will help mitigate the effects of climate change.'

Subsequent to the examination hearings, the Council has now produced the following statement in response to Matter 3, Action 5. This confirms the Council's intention to not implement the tighter optional standard for water efficiency. The statement of the Council is set out in full below.

'Matter 3, Action 5

Policy DS2PU/MA-LP14 – review the evidence to support the higher National Housing Standard for water consumption, particularly in light of EA's 2021 Assessment of Water Stress Areas Update.

United Utilities provided additional information in a letter dated 24th February together with their response to the Inspector's MIQs for Matter 14 in support of their original request for the higher National Water Standard for water consumption to be included in policy.

The Council has reflected on this and while we think it provides a rationale for water consumption in the longer term over United Utilities' area it does not make a compelling case for doing so in Copeland at this time.

This is because the pressure on water usage is associated with high population growth, but this will be most prevalent in places like Greater Manchester and Merseyside rather than Copeland. The water supply pressure for west Cumbria has diminished with the completion of the West Cumbria Pipeline connecting this area to the wider network at Thirlmere.

Also, the pressure is likely to come towards the end of the Plan period, so it is felt that it is better to keep the position under review and potentially introduce the higher requirement at a Plan review stage, especially given the relatively marginal viability on sites.

The Council feels that the criteria that encourage and enable water efficiency measures within Policy DS6 (Actions 140 and 141) are a more appropriate measure at this time.'

The Position of U UW

U UW wishes to **OBJECT** to the position that has now been adopted by the Council. Our reasons for this are set out below. We have not chosen to repeat the detail of our previous submissions to the examination but rather address the points set out in the above statement of the Council.

We have broken down the position of the Council based on the following points.

- 1) Although the evidence provides a rationale for the implementation of the optional target for water efficiency in the longer term in United Utilities' area, it does not make a compelling case for doing so in Copeland at this time.
- 2) Pressure on water usage is associated with population growth but will be most prevalent in Greater Manchester and Merseyside.

- 3) The water supply pressure for West Cumbria has diminished with the completion of the West Cumbria Pipeline connecting this area to the wider network at Thirlmere.
- 4) The pressure on water supply is likely to come at the end of the Plan period, so it is felt that it is better to keep the position under review and potentially introduce the higher requirement at a Plan review stage, especially given the marginal viability on sites.

Each is addressed in turn.

- 1) *Although the evidence provides a rationale for the implementation of the optional target for water efficiency in the longer term in United Utilities' area, it does not make a compelling case for doing so in Copeland at this time.*

The Planning Practice Guidance is clear that there are a range of pieces of evidence that can be submitted to justify the implementation of the optional standard for water efficiency. It is clear that the water stress classification is not the only piece of evidence that can be used to justify the optional standard for water efficiency. It specifically references river basin management plans and water resource management plans as primary sources of evidence (see paragraph: 016 Reference ID: 56-016-20150327). These primary sources of evidence were specifically addressed in our statements to the examination and were initially accepted as providing sufficient evidence to justify the implementation of the standard. Given the decision to not implement the optional standard for water efficiency, we wish to expand on the detail of these primary sources of evidence, in particular, the emerging Water Resource Management Plan (WRMP) for UUW.

WRMPs must be prepared to comply with the latest regulatory guidance. Reflecting the challenges presented by climate change, a key change to the regulatory guidance since our previous WRMP is the requirement to demonstrate resilience to 1 in 500 year droughts by 2039. Previously the requirement was to be resilient to a 1 in 200 year drought. The Environment Agency's Water Resources Planning Guidelines state that WRMPs should consider the supply-demand balance at times when a company's supplies are low, and demand is high. The baseline scenario to be adopted for companies in England should be the Dry Year Annual Average scenario.

The WRMPs of water companies are also expected to take account of government spirations for leakage reductions and reductions in per capita consumption (PCC) in their final plans. These are set out in the National Framework for Water Resources (2020) in which the government set out ambitious targets for the industry to reduce water consumption to 110 litres of water person per day and halve rates of leakage by 2050. This strategic choice is effectively, therefore, a regulatory expectation.

WRMPs must also align with the relevant regional plan. For UUW, this is the regional plan developed by the Water Resources West regional group. The Water Resources West Draft Regional Plan (Autumn 2022)¹ and associated evidence recommends the implementation of the optional standard for water efficiency in the Water Resources West Region.

UUW supplies water to four separate water resource zones. These include the Strategic Resource Zone (*the SRZ*), which serves in excess of seven million people and covers the vast majority of the North West. West Cumbria was previously served by the West Cumbria Resource Zone. As a result of the construction of the West Cumbria pipeline, the former West Cumbria Resource Zone, which includes the borough of Copeland, is now part of the SRZ.

¹ [Water Resource West Draft Regional Plan Autumn 2022 page 49.](#)

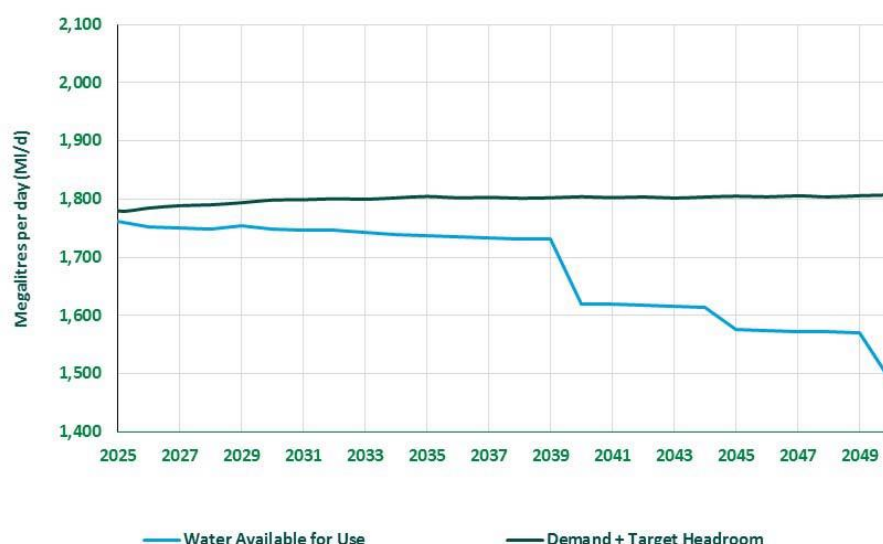
UWU published a Revised Draft Water Resource Management Plan 2024 in June 2023 (*‘the draft revised WRMP’*) for the period 2025-2050. This sets out the baseline supply-demand balance for water resources, i.e., the difference between the water demanded and the water that can be supplied within the SRZ. It shows that without the drought supply and demand measures included in our drought plan, there is a potential deficit in the SRZ, of 32.7 mega litres per day (ML/d) in 2025/26 and without new interventions this rises to 318.5 ML/d by 2049/50. This deficit is illustrated in the below table and figure, which are extracted from our draft revised WRMP.

Table 14 Summary of baseline dry year annual average supply-demand balance by resource zone²

Dry Year Annual Average Supply-Demand Balance (ML/d) for year:

Resource Zone	2025/26	2030/31	2035/36	2040/41	2045/46	2049/50
Strategic	-32.7	-51.9	-67.3	-183.6	-229.8	-318.5

Figure 22 Strategic Resource Zone – Dry Year Annual Average Supply-Demand Balance²



The baseline supply-demand balance shown in Table 14 and Figure 22 of the revised draft WRMP confirms that without any interventions, the SRZ faces a deficit such that available supplies are insufficient to meet demand plus target headroom from 2025 onwards. It is a deficit that covers the remainder of the development plan period for Copeland and increases over time.

The supply-demand balance deficit is not a longer term problem. It is an immediate problem, which needs to be addressed through a range of interventions. Without interventions, which include a reduction in leakage and the construction of new dwellings to the tighter optional standard for water efficiency, the supply-demand balance deficit will worsen and the pressures on the environment will increase.

Based on our commitments to reduce demand for water, to support water resources resilience and reduce our impact on the environment, the draft revised WRMP requests that all local authorities in our supply area adopt the optional minimum building standard of 110 litres of water used per person per day in all new build dwellings. As noted above, this is similarly stated in the Water Resources West Draft Regional Plan (Autumn 2022).

² [Revised Draft Water Resource Management Plan 2024 Main Report 2023 \(page 60\)](#)

Importantly, these interventions will increase resilience to climate change, reduce pressure to find new sources of water supply and reduce pressure on the environment. Changes to the flow and level of our water bodies are a water management issue and a key issue to consider in how we respond to the supply and demand deficit. In this context, it is relevant to note that the North West River Basin Management Plan identifies a high percentage of water bodies as not achieving good ecological status or potential.

On the basis of the above, UUW considers there to be compelling evidence to justify the implementation of the tighter optional water efficiency standard now.

- 2) Pressure on water usage is associated with population growth but will be most prevalent in Greater Manchester and Merseyside.*

Since the construction of the West Cumbria pipeline, the former West Cumbria Resource Zone, which served Copeland, is integrated with the SRZ. As explained in detail above, the SRZ has a supply-demand balance deficit. This deficit relates to the entirety of the SRZ. In response, there is a need for to make strategic interventions to respond to the deficit.

It is natural that the growth in Greater Manchester and Merseyside will be proportionately greater than the growth in other areas of the SRZ, which also covers Cheshire, Lancashire and parts of Cumbria. However, the deficit relates to the whole of the SRZ. As such, the demand management measures that are required in response to the supply-demand deficit and climate change pressures should be applicable to the whole of the SRZ. It is wholly illogical to conclude that areas where growth is proportionately the lowest do not have to implement the same demand management measures as the wider SRZ. The requirement relates to the entirety of the SRZ and is applicable to each new dwelling constructed. As such, it is a requirement which is proportionately applied to each local authority in the SRZ.

- 3) The water supply pressure for West Cumbria has diminished with the completion of the West Cumbria Pipeline connecting this area to the wider network at Thirlmere.*

Prior to the construction of the West Cumbria pipeline, water for approximately 80,000 homes and businesses in and around the towns of Egremont, Cockermouth and Whitehaven came from local sources. There was a requirement to reduce the amount of water taken from these sources as a result of an adverse impact on protected species. As such there was a need to find alternative sources of water to protect the habitats and meet the demands of future population growth. UUW worked with environmental stakeholders including the Environment Agency and Natural England and agreed to stop using Ennerdale as a source of water by the end of 2022 when the abstraction licence for Ennerdale, Crummock Water, Overwater, Chapel House reservoir and other small local sources was permanently withdrawn. Therefore a key driver for the construction of the West Cumbria pipeline was to reduce pressures on the environment, specifically, adverse impacts on protected species.

The construction of the West Cumbria pipeline now allows this area to be served by the SRZ that also supplies water to the wider region. Importantly construction of the West Cumbria Pipeline does not remove the pressure on water resources as illustrated by the above data which clearly demonstrates an increasing supply-demand deficit if interventions are not implemented. The pressure on water supply in the former Copeland Borough has not diminished. Indeed, it will increase if interventions are not taken now in response to the forecasted deficit.

- 4) The pressure on water supply is likely to come at the end of the Plan period, so it is felt that it is better to keep the position under review and potentially introduce the higher requirement at a Plan review stage, especially given the marginal viability on sites.*

The pressure on water supplies in the SRZ exist now and will significantly increase over the development plan period if no interventions are made. This is clearly illustrated by the above data. As such, the draft revised WRMP of UUW requests that all local authorities implement the optional standard for water efficiency when reviewing their local plans. This is consistent with the position of Water Resources West and the national position set out in the National Framework for Water Resources, which UUW is expected to have regard to when preparing the draft revised WRMP.

UUW notes the Council's concerns relating to viability. Our evidence to the Examination demonstrated that the cost of implementing the optional standard is negligible when considered against the overall cost of a dwelling. The full detail is set out in our previous statement. Based on up-to-date inflationary allowances, the cost of implementing the optional standard is less than £12 for a 4-bed dwelling. Having regard to the overall cost of constructing a dwelling, this figure is clearly immaterial.

UUW does not consider that the implementation of the optional standard for water efficiency will affect viability or the supply of housing land in the former Copeland Borough even on marginal sites.

The Position of the Environment Agency

Reflecting the guidance in the Planning Practice Guidance, we have enclosed a supporting statement from the Environment Agency relating to the implementation of the optional standard for water efficiency in the former Copeland Borough. The Environment Agency is supportive of the position adopted by UUW as part of this submission.

Conclusion

In conclusion, UUW has presented definitive evidence, which demonstrates:

- 1) there is a water resource supply-demand deficit in the SRZ, which justifies a need to implement interventions to manage water demand now in Copeland. It is not a longer term problem;
- 2) the supply-demand deficit is a challenge that affects the entire SRZ. Therefore, any demand interventions should equally relate to all local authorities in the SRZ;
- 3) the cost of implementing the tighter standard for water efficiency is negligible. It will not affect the viability of housing sites;
- 4) the evidence presented is consistent with the Planning Practice Guidance. This notes a range of sources of evidence that can be used to justify the implementation of the standard. Primary sources of evidence include a water company WRMP and the relevant river basin management plan. We have also presented wider regional and national evidence to justify the position;
- 5) the implementation of the optional standard for water efficiency is supported by the Environment Agency. Consultation with the Environment Agency is a key requirement of the Planning Practice Guidance; and
- 6) any delay to implementing the tighter standard for water efficiency until a future local plan review would increase pressure on the environment; would be inconsistent with the evidence presented; and would be inconsistent with national and regional positions. It would be contrary

to paragraph 158 of the NPPF, which requires plans to *'take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply (UU emphasis), biodiversity and landscapes, and the risk of overheating from rising temperatures'* in line with the objectives and provisions of the Climate Change Act 2008.

On this basis, there is substantial and compelling evidence to justify the implementation of the tighter standard for water efficiency now and without delay in the former borough of Copeland.

Other Issues – Sewer Flood Risk

In our submission to the Examination, U UW highlighted the risk of flooding from the public sewer for various sites. We note that our recommendations have not been included in the proposed Main Modifications. Notwithstanding this, we continue to urge you to reference the risk of flooding from the public sewer in the site profiles and within an update to the Strategic Flood Risk Assessment.

If you have any queries regarding the above statement, please do not hesitate to contact me at planning.liaison@uuplc.co.uk.

Yours faithfully

Andrew Leysens
Planning, Landscape and Ecology
United Utilities Water Limited

Enc. Email dated 27 March 2023 from Hui Zhang, Planning Advisor, Environment Agency



For internal use:

Resp. No. MAIN - 20
.....
Rep. No.
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If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent's Details (if applicable)
Name	Andrew Leyssens	
Position	Planning Manager	
Organisation		
Address		
Postcode		
Telephone		
Email		

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MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="checkbox"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="checkbox"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="checkbox"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="checkbox"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

See supporting statement.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

See supporting statement.

(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form



For internal use:

Resp. No. MAIN - 21
.....
Rep. No.
Date Rec.

Copeland Local Plan 2021- 2038

Main Modifications Consultation

Modifications Schedule Response Form

The Copeland Local Plan 2021-2038 Publication Draft and Addendum Document were submitted to the Secretary of State for Public Examination in September 2022. The appointed Planning Inspector has now considered all representations made regarding those documents, and discussed all relevant matters and issues during Hearings in 2023, and has now identified a number of Main Modifications that are required in order to ensure the Local Plan is sound (i.e. positively prepared, justified, effective and consistent with national policy).

These Main Modifications are now subject to a six week public consultation between **Wednesday 14th February and Thursday 28th March 2024**.

This Representation Form provides the opportunity to comment on the proposed Main Modifications Schedule and Appendices documents, as well as Proposals Map Modifications. These documents can be viewed at: <https://www.copeland.gov.uk/content/main-modifications-consultation>. **Please note that representations are only sought on the Main Modifications and changes to the Policies Map, and not the Local Plan as a whole.** Representations should reflect issues of legal compliance and soundness and representations can only be considered on this basis.

It should be noted that all representations will be published and cannot be treated as confidential, but personal details such as addresses, email addresses and telephone numbers will be removed.

Please complete a separate sheet for each representation you wish to make and return this form **no later than Thursday 28th March 2024** to:

Strategic Planning
Cumberland Council
Market Hall
Market Place
Whitehaven, CA28 7JG

Or email: localplanconsultation@copeland.gov.uk

Part A: Your Details

Please provide your details below. This information will be added into our database so we can contact you when the Inspector's Report is published and the Adoption of the Local Plan.

All information in the following table will be used solely for this purpose and no identifying information will be used in any future stages of the Local Plan process.

If you **do not** wish for your details to be held in our consultation database, please tick here

If an agent is appointed you must complete details for both parties, but we will use the agent details as our primary contact.

	Your Details	Agent's Details (if applicable)
Name	Sandra Guise	N/a
Position	Householder, local resident	
Organisation		
Address		
Postcode		
Telephone		
Email		

Privacy Notice

Your personal details will be used solely for the Copeland Local Plan and in line with the Council's Privacy Statement.

A copy of the Council's Privacy Statement can be viewed at

https://www.copeland.gov.uk/sites/default/files/attachments/cbc_privacy_statement_29_3_22.pdf.

Further information is also available by contacting the Council's Data Protection Officer at info3@cumberland.gov.uk or by calling 01946 598300 and asking to speak to the Data Protection Officer.

Part B: Your Representation

1. To which proposed change (Main Modification) does this representation relate?

MM Number Paragraph Policy Policies Map

2. Do you consider the Main Modification makes the Local Plan legally compliant?

Yes No

3. Do you consider the Main Modification makes the Local Plan sound? (Please tick as appropriate)

Yes No

4. If you selected 'No', do you consider: (Please tick as appropriate)

(a) it has not been positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements	<input type="text"/>
(b) it is not justified – the plan should be an appropriate strategy, when considered against the reasonable alternatives and based on proportionate evidence.	<input type="text"/>
(c) it is not effective – the plan should be deliverable over the Plan period and based on effective joint working on cross-boundary strategic priorities.	<input type="text"/>
(d) it is not consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the NPPF.	<input type="text"/>

5. Please give details of why you consider it to be unsound, not legally compliant, or why you support it.

I object to the suggested amendments in MM14 DS4PU 39/40

Note5.5 - Settlement Boundaries in the Copeland Publication Draft is main reason for my objection to the suggested amendment DS4PU. Note 5.5 gives clear reasoning behind Copelands decision for excluding Sustainable Rural Villages and Rural Villages from DS4PU, and nothing has changed.

5.5.2 also confirms that the chosen strategy is in accordance with paragraph 15 of NPPF

(Continue on a separate sheet /expand box if necessary)

6. Please set out the changes you consider necessary to make the modification legally compliant or sound. Please be as precise as possible and succinctly provide all the evidence and supporting information necessary to support your representation and your suggested modification(s).

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(Continue on a separate sheet /expand box if necessary)

Please note: there is a separate representation form for any comments on the Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications.

Signature:

Date:

28th March 2024

Please use a separate form for each site you wish to comment on and return this form **no later than 5pm on Thursday 28th March 2024**. We are unable to consider any responses received after this date.

Thank you for completing this form

The Planning Bureau Limited

Bournemouth • Coventry • Hatfield • Manchester • Ringwood • Woking • York

Strategic Planning
The Market Hall
Market Place
Whitehaven
Cumbria,
CA28 7JG

28th March 2024

Via email: LocalPlanConsultation@cumberland.gov.uk

Dear Sir/Madam

MCCARTHY AND STONE RESPONSE TO COPELAND MAIN MODIFICATIONS CONSULTATION

MM69, MM70 and MM118

MM69 and MM70 introduces an affordable housing review mechanism through introducing new paragraphs 13.11.18, 13.11.19, 13.11.20 and amending policy H8. The introduction of para 13.11.20 confirms that the Council intend to introduce the detail of the review mechanism through an 'Affordable Housing and Viability SPD'.

Housing for older people, being specialist in nature as defined by Paragraph: 010 Reference ID: 63-010-20190626 of the PPG on Housing for Older and Disabled people, is often delivered on small brownfield sites separate to housing allocations or other development sites of around 0.5 hectares. Schemes tend to be high-density flatted developments located near town centres and recently have been around 35 to 40 units for retirement/sheltered housing and 55 units for extra care accommodation though providers presently seek higher unit numbers to be able to further spread service charges in response to the cost of living crisis. They tend to be delivered as a single phase. Sheltered housing and extra care development differ from mainstream housing and there are a number of key variables that affect viability. These include unit size, unit numbers and GIA, non-saleable communal space, empty property costs, external build cost, sales values, build costs, marketing costs and sales periods.

Once planning permission for specialist housing for older people is granted given the small size and single phase of schemes the objective is to commence the build and complete all units within one single phase. The build period usually takes around 18 months. Older person's housing, given its specialist nature and being built in one phase, then has a much longer sales period often up to 36 Months with 50% of the scheme often not being sold until year 2 of sales, despite being completed some years earlier. Given the completion of the whole scheme on the first flat occupation, empty property costs are then charged on properties that have not yet sold, this includes costs such as council tax and service charges.

In order to introduce such a mechanism, there must be a clear and specific policy basis for any review mechanism being imposed in line with PPG Viability para 009 Reference ID: 10-009-20190509. A significant number of recent Planning Appeals and case law have reinforced this point. A review mechanism that sits within a planning obligation also needs to be fully considered and assessed through the Local Plan process.

Paragraph: 009 Reference ID: 10-009-20190509 of the government guidance on Viability states the following:

'Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. Policy compliant means development which fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.'

With respect to planning obligations or s106, Para 57 of NPPF states *'Planning obligations must only be sought where they meet all of the following tests ²⁶:*

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development'

Para 004 Reference ID: 23b-004-20190901 of the PPG on Planning Obligations identifies where policies on seeking planning obligations should be set out and states:

'Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land'.

And

'It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination.'

There must therefore be a reasonable justification for imposing such a review mechanism. A review mechanism and any detail that will form part of it and sits within a planning obligation therefore needs to be considered fully and assessed through the Local Plan process not within an SPD as implied by MM70. This should include the consideration of variables such as trigger points, costs, land values, how surplus is split and other definitions.

In addition, for a large or multi-phase development which will be delivered over a long period it makes sense to check whether the scheme's viability has changed with market movements. However, for a small single phased site, such as an older persons scheme described above, the Inspectorate have repeatedly noted that review mechanisms are unnecessary. For example, under Appeal decision reference APP/C4235/W/120/3256972 dated 1st April 2021, the Inspector noted in paragraph 17 that *'as the development would almost certainly be completed in a single phase with an estimated build time of 12-18 months, it is not the sort of large multi-phased scheme where stronger arguments for a review/clawback mechanism may otherwise exist'.*

Therefore, main modification MM69, MM70 and MM118 should not be accepted in order for the plan to be consistent with national policy and justified. If the main modification is accepted, contrary to national policy, the wording should be modified to exempt single phased schemes from the review mechanism given appeal and case law.

Recommendation:

Main modification MM69, MM70 and MM118 should therefore not be accepted as the detail of the review mechanism cannot be dealt with through a SPD and the introduction of the main modification is therefore not consistent with national policy or justified.

Thank you for having the opportunity to comment.

Yours faithfully

Natasha Styles
Group Planning Associate

At a meeting of Ennerdale & Kinniside Parish Council on 19th March 2024, it was resolved to lodge an objection to one of the proposed modifications.

Ref MM13, Policy DS4PU

The Council considered that the change from "adjoins the settlement boundary of town or local service centre" to "adjoins an identified settlement boundary" to be unacceptable.

The concern is that this broadens the scope of areas that may be included far beyond what would be deemed acceptable, allowing for even the smallest of hamlets to be considered an "identified settlement", and thereby running the risk of unsympathetic development affecting rural villages.

The Council asks that this modification be withdrawn and the original wording left unchanged.

Regards

--

Jane Coltman

Hello Chris

The Council considered the amendments to the Draft Local Plan on 28th March 2024 and it was resolved that these be noted.

Regards

Marlene
Whitehaven Town Council

Dear Sir/Madam

Our Ref: 467215

Copeland Local Plan 2021-2038 - Main Modifications

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England does not consider that these main modifications pose any likely risk or opportunity in relation to our statutory purpose, and so does not wish to comment on this consultation.

The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may wish to make comments that might help the Local Planning Authority (LPA) to fully take account of any environmental risks and opportunities relating to this document.

If you disagree with our assessment of this proposal as low risk, or should the proposal be amended in a way which significantly affects its impact on the natural environment, then in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, please consult Natural England again.

Yours faithfully

Dominic Rogers
Consultations Team