

## **Copeland Local Plan 2021-2038**

### **Statement of Common Ground between Copeland Borough Council and Natural England**

#### **Introduction**

This Statement of Common Ground has been prepared jointly between Copeland Borough Council (CBC) and Natural England (NE). NE are the Government's advisor for the natural environment in England, responsible for protecting, enhancing and restoring the natural world.

The purpose of a Statement of Common Ground is to set out the confirmed agreements and disagreements with regard to strategic cross-boundary issues surrounding the Copeland Local Plan. This is the result of early, meaningful and continuous engagement between the Local Planning Authority and statutory consultees and key stakeholders in the Local Plan process.

The statement is intended to assist the Inspectors during the examination of the Copeland Local Plan to show where effective co-operation and agreement on key issues has taken place. For more information on how Copeland Borough Council has engaged with key stakeholders throughout the Local Plan preparation process, please see the Duty to Co-operate statement.

Appendix A provides a full breakdown of Natural England's response to the Copeland Local Plan Publication Draft consultation and CBC's response to this. This approach has been agreed by the two organisations.

#### **Copeland Borough Council and Natural England agree the following:**

1. Consultation and engagement has been undertaken in accordance with the Statement of Community Involvement and has provided adequate opportunity for Natural England to get involved with the development of the Plan and the Integrated Assessment (incorporating Sustainability Appraisal, Strategic Environmental Assessment and Health Impact Assessment).
2. That it is clear from the Habitats Regulations Assessment and Integrated Assessment documents how each have informed the Local Plan as it has developed.
3. That CBC have a duty to protect and enhance biodiversity as required by the NPPF and the Local Plan makes that duty clear.
4. That the Local Plan makes the mitigation hierarchy clear for developers.
5. That the Local Plan distinguishes between the hierarchy of international, national and locally designated sites.
6. Natural England and Copeland are working together to progress the designation of the St Bees and Whitehaven Heritage Coast and that the area is conserved, protected and enhanced. Joint working will continue to take place between the two organisations to define the Heritage Coast boundary.
7. That Policy N5: Protection of Water Resources, should be amended to address the issue of nutrient neutrality. This issue has been addressed accordingly following the Publication Draft consultation through the production of a Local Plan Addendum

document. Both organisations will continue to work together to identify appropriate mitigation measures where required.

8. Both organisations will continue to work together to deliver biodiversity net gain in the Borough, directing net gain to areas within the Local Nature Recovery Strategy where on site provision is not an option.
9. Both organisations will continue to work together on the production of a Biodiversity Technical Paper to support the Local Plan and a Green Infrastructure Strategy as soon as is practicably possible. The latter may be required to cover a wider area following Local Government Reorganisation.
10. Natural England support the Local Plan policies, particularly those which relate to the natural environment, should the proposed modifications (if accepted by the Planning Inspector) set out in appendix A be taken forward. The appendix also highlights where Natural England have suggested amendments which CBC have not taken forward.

**Copeland Borough Council and Natural England disagree on the following:**

1. Natural England have not been able to agree with the conclusion in the Habitat Regulations Assessment (HRA) that the Local Plan will have no adverse effect on the integrity of National Site Network sites due to air quality concerns. Natural England are continuing to work with Copeland and their air quality consultants to find a solution. The latest response from Natural England to the HRA document (dated 12<sup>th</sup> August 2022) will be sent to the Planning Inspectorate along with the HRA for their consideration during the Local Plan examination process.

**Signed on behalf of Copeland Borough Council**

**Name and Position:** Chris Hoban, Strategic Planning Manager

**Signature:**

**Date:** 28/07/2022

**Signed on behalf of Natural England**

**Name and Position:** Niamh Keddy, Sustainable Development Lead Advisor

**Signature:**

**Date:** 27/09/2022

## Appendix A: CBC response to NE Publication Draft Comments

Please note that whilst CBC can put forward suggested main and minor modifications to policies and sites in the Local Plan Publication Draft at the time it is submitted to the Planning Inspectorate, these may or may not be taken forward by the Inspector. If they are taken forward, they will be subject to a public consultation during the Examination in Public.

Key: Proposed additional wording in bold, proposed deletion in ~~strike through~~, notes in *italics*

Policy/paragraph/allocation	NE Comment	CBC Response
<b>6.8 DS11PU</b>	<p>Natural England support the Council's ambition improve air quality across the borough. In order to strengthen the policy further could the council strive to implement green infrastructure as mitigation in areas that are struggling with poor air quality either for residents or the designated sites in the area.</p> <p>For example, the recommendations set out in paragraph 6.8.4 deal with specifically new development, could these be brought formally into policy DS11PU to strengthen the wording and then also be applied to existing developments across Copeland.</p>	<p><b>Proposed Minor Modification:</b>  <u>6.8.4</u>  <i>Additional sentence after bulletpoints:</i>  <b>Where air quality monitoring identifies a decrease in air quality in residential areas or designated sites the Council will work with partners to mitigate impacts, for example through increasing green infrastructure in those areas where possible and appropriate.</b></p>
<b>7.9.6 E6PU</b>	<p>Natural England would support the removal of the opportunity site OCL01 within Cleator Mills, due to the flood risk and due to the River Ehen SSSI and SAC next to the site. This site will require escalating to Appropriate Assessment stage at both project level and plan level HRA.</p>	<p><i>The site is a previously developed site in a prominent and key location within Cleator Moor. Identifying it as an Opportunity Site will prevent it from coming forward as separate smaller windfall developments as a masterplan will be required for the whole site. The site has been considered through the Local Plan HRA process and paragraph 7.9.5 reminds developers that a project level HRA may be required on Opportunity Sites. No change proposed.</i></p>
<b>15.3.5</b>	<p>The HRA AA will need to ensure that it can conclude no LSE and no AEOL, at the moment it relies on individual developments having project level HRA's without giving the specific potential impacts and mitigation, ensuring they are deliverable at plan level.</p>	<p><i>Habitats Regulations Assessment updated</i></p>

	To ensure that the local plan can conclude no Likely Significant Effects and no Adverse Effects on Integrity of the Site, we have provided advise below on the Habitats Regulations Assessment.	
<b>15.6.1</b>	Impact of Development upon Former Natura 2000 sites  Natural England welcome the inclusion of this section and the necessity for developers to be aware that carrying out HRA screening assessment is required.	<i>Support welcomed</i>
<b>15.7.1</b>	Construction Environmental Management Plans  Natural England welcome the inclusion of the CEMP section in the Local Plan. Noted here is the need for larger residential and commercial development projects to include CEMPs with their planning application. It may be useful to ensure that this is reiterated in the Housing / Site Allocation policies.	<i>Support welcomed. The Local Plan should be read as a whole. Overarching Policy DS6PU relates to all new developments and highlights a need for developers to submit a Sustainable Construction Management Plan to support major developments. Proposed modifications will help reiterate this point and avoid confusion.</i> <i>Proposed Modification (6.4.10):</i> Developers are encouraged, and in some cases will be required, to produce a Sustainable Construction <b>Environmental</b> Management Plan... <i>Proposed Modification (15.6.5 – new paragraph after 15.6.4):</i> <b>The allocations within the Local Plan have been subject to a Plan level HRA and where appropriate AA. The HRA identifies a number of sites where a project HRA will be required and recommends where this should be informed by technical documents such as a Construction Environmental Management Plan or a Drainage Strategy to take into account the effects on particular protected sites and species. Table x below summarises the HRA recommendations with regards to such sites.</b> <i>Appendix G will summarise the findings of the HRA and will identify allocations which will require a project level HRA, what that must include, which National Site Network site (or protected species) is potentially affected and what the identified pathways are.</i>

<b>15.8.4 N1PU</b>	Natural England supports the use of the mitigation hierarchy within this policy and the need for the National Sites Network to be protected.	<i>Support welcomed</i>
<b>15.9 N2PU</b>	<p>Natural England support the inclusion of the LNRS policy within the Local Plan.</p> <p>It may be beneficial to highlight the use of the LNRS mapping to help aid developers in selecting areas for habitat management, enhancement, restoration or creation and how development can contribute to nature recovery.</p>	<p><b>Minor Modification proposed:</b>  <i>Paragraph 15.9.1 (after bulletpoints).</i>  <b>The LNRS Maps should be considered by developers at the earliest stage when determining the best location for off-site biodiversity net gain (see Policy N3PU). Focus should be on those areas identified for habitat management, enhancement, restoration and creation.</b>  <i>Note there is further information in paragraph 15.10.6 and footnote 95 and we will also look at these areas in more detail in the Biodiversity Technical Paper.</i></p>
<b>15.10 N3PU</b>	<p>Natural England support the Biodiversity Net Gain policy and the council's ambition of achieve a minimum of 10% net gain with the encouragement of developers exceeding this.</p> <p>The policy could be strengthened by acknowledging the Irreplaceable Habitats section of the BNG legislation and the development of the Net Gain Register. The secondary legislation consultation is out at the moment and will help to develop a further understanding of BNG.</p>	<p><u>15.10 N3PU</u>  <i>Support welcomed.</i></p> <p><u>Irreplaceable Habitats</u>  <i>Proposed modification: additional paragraph 15.10.13</i>  <b>The following policy does not apply to certain 'irreplaceable habitats' that will be protected from development. These include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen in accordance with the National Planning Policy Framework Glossary and the Conservation of Habitats and Species Regulations (2017).</b>  <u>Net Gain Register</u>  <i>The Net Gains register is already discussed in paragraph 15.10.4. No additional change considered necessary on this point.</i>  <u>Small Sites metric</u>  <i>Proposed modification to Paragraph 15.10.10 (additional sentence)</i>  <b>A simplified Small Sites net gain metric is available. This can be used on the following sites:</b></p>

	<p>The small sites metric is also a useful tool for developers/ residential applicants to be aware of, to encourage a net gain within the boundary of some of the smaller sites.</p> <p>Natural England welcome the emphasis on onsite delivery as a priority for developers and then moving to off-site local delivery. The Local Plan could assist with ensuring there is available net gain sites in the local area to be used by developers when developing the site allocations put forward in this local plan. These net gain sites in the local area will allow developers to select a pre-approved net gain site that will aid habitat creation and enhancement within the Copeland Borough.</p>	<ul style="list-style-type: none"> <li>- residential developments where the number of dwellings to be provided is between one and nine inclusive on a site having an area of less than one hectare;</li> <li>- residential developments where the number of dwellings to be provided is not known the site area is less than 0.5 hectares;</li> <li>- For all other development types where the site area is less than 0.5hectares or less than 5,000sqm.</li> </ul> <p><b>In order to use the small sites metric net gain must be provided on site and there must be no priority habitats present within the development area (excluding hedgerows and arable margins).</b></p> <p><u>Identification of net gain sites</u></p> <p><i>The Council is likely to consider its landholdings as potential net gain sites following local government reorganisation. We will also recommend that the new Council carries out a call for sites to identify available sites for net gain.</i></p>
<p><b>15.12.7 N5PU</b></p>	<p>Natural England support the Protection of Water Resources policy.</p> <p>In light of the recent release of Nutrient Neutrality, the Environmental Section of the local plan should include a policy explaining the necessity to protect water quality and the principles of how Nutrient Neutrality can help to mitigate any potential impacts.</p> <p>Within the Copeland BC border the River Derwent and Bassenthwaite Lake SAC is now within the NN scheme. We have included advice on how to assess the potential impacts of housing for NN in relation to the River Derwent SAC in the HRA section of this</p>	<p><i>This has been addressed by the production of a Local Plan Addendum document that is informed by a focussed HRA and SA. The document proposes revisions to Policy N5 (Water Resources) and the addition of supporting text. The Policy and supporting text have been reviewed by Natural England and have been updated in light of their comments (and in light of the HRA findings). As the Addendum document has been subject to a formal Regulation 19 consultation the amended policy and additional text will not be dealt with as a modification but will be put forward as part of the submitted Local Plan, unless the Regulation 19 consultation identifies further modifications are required to the policy and text. CBC thanks NE for their contributions to the policy and text.</i></p>

	<p>letter.</p> <p>The policy should include a brief description of what NN is, its implications for housing apps within the boundary of the catchment, including the use of the calculator to create a nutrient budget. The policy should also cover how developers will have to secure mitigation as part of their development within the NN catchment. For further information about NN please see the letter and supporting documents there were sent out on the 16<sup>th</sup> of March, as well as the section on NN in the HRA section of this letter.</p>	
<b>15.13.11 N7PU</b>	<p>St Bees and Whitehaven Heritage Coast</p> <p>Natural England support the policy which aims to ‘conserve, protect and enhance’ the Heritage Coast but note that as the extension has not been defined the heritage coast in Copeland is still called the St Bees Heritage Coast.</p>	<p><i>Support welcomed. Previous comments received on the Local Plan from National Trust recommended that the full title of the heritage coast (following its forthcoming extension) was used. The Plan covers a 15 year period and it is hoped that the Heritage Coast will be extended early on in the plan period if not before its adoption. The Council therefore feels it is more appropriate to use the new name given that a commitment had already been made by the Council to its formal definition and work is ongoing with Natural England to complete the definition process.</i></p>
<b>15.14.3 N8PU</b>	<p>Natural England support the Undeveloped Coast policy, it could also be possible for sections of this land to be used as Biodiversity net gain sites, which would restore the habitat there to a better condition than it is in now.</p>	<p><i>Support welcomed and comments noted. This can be considered when reviewing land as discussed above, although most of the area is within private ownership. Also concerns about whether the land is appropriate in the longer term given climate change and potential erosion of parts of the coastline in this area.</i></p>
<b>15.15.5 N9PU</b>	<p>Natural England support all of the Green Infrastructure policies and are encouraged by the Council’s production of a Green Infrastructure Strategy.</p> <p>Biodiversity Net Gain investment from off-site net gain sites can also help to fund green infrastructure implementation and</p>	<p><i>Support welcomed and comments noted. The Council will take the NE Standards document into consideration when producing the GI Strategy and when working with developers on masterplans for sites etc.</i></p>

	<p>wider GI outcomes across the borough.</p> <p>Natural England has produced the GI Standards, which can help to produce a certain set of objectives and help towards producing design codes for the borough.</p>	
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Note: Comments received from NE on HRA and Marine Conservation Assessment have been considered by the consultants producing the document and have informed the final HRA/MCA which will be submitted alongside the Local Plan and Addendum Document.



