

Local Planning Authority Statement of Case

Appeal By:

Sunshine Properties West Coast Ltd

Appeal Reference:

APP/Z0923/W/22/3304774

Local Planning Authority Reference:

4/22/2070/001

Proposal:

Outline application (with all matters reserved) for residential development

Site Address:

Land to the North of Station Road, Drigg, Holmrook

1. Introduction

The Site

This appeal relates to a broadly square 0.71 hectare parcel of land located within a prominent position along the western edge of Drigg.

The land is in agricultural use and is therefore greenfield in character/nature.

The topography of the land is generally flat up to the road frontage but raises slightly to the north. It is contained by hedgerows and post and wire fences to all sides.

The site is bounded to the south by the B344, to the east by an access track, and to the west and north by open countryside. The site is detached from the existing building form of Drigg.

Proposal

The submitted planning application seeks outline permission with all matters reserved for a residential development of up to 9 dwellings.

Whilst details of access are reserved for subsequent approval the current application indicates that the site would be access from, and have a frontage onto, the B5244.

The application is also supported by a drainage strategy which indicates that the surface water from the development will drain to the existing culverted outfall to a watercourse to the southern boundary of the site. This strategy also indicates that the site will benefit from a new package treatment plant.

Whilst not forming part of the formal application, an indicative layout plan has been prepared and submitted which details how a scheme of 9 dwellings could be accommodated on the application site.

2. Scope of Statement of Case

The submitted appeal is against non-determination of planning application ref: 4/22/2070/001 under Section 78(2) of the Town and Country Planning Act 1990 (as amended).

Under the Constitution of Copeland Borough Council, Planning Application Ref. 4/19/2233/001 is required to be determined by Members of the Planning Panel (Planning Committee).

To date an Officer Report to Planning Panel has not been prepared and the application has not been the subject of consideration by Members of the Planning Panel. As such, there is no formal decision or minded to decision from the Members of the Planning Panel.

There is no clear and defined authority within the Constitution of Copeland Borough Council that provides delegated authority to Officers to prepare a Statement of Case that addresses the issues raised by an appeal without a formal or reasonably a minded to decision from Members of the Planning Panel that would determine the stance to be adopted in any Statement of Case.

On the 24th November 2022, formal confirmation was sought from the appointed Planning Inspector as to whether they wished for Officers to seek a minded to decision from Members of the Planning Panel, which would enable the preparation of a Statement of Case that addresses the issues raised by the Appellant; and, if they would be willing to agree an extension to the appeal timetable to enable the minded to decision to be secured.

On the 13th December 2022, the appointed Planning Inspector confirmed that it would not be reasonable to extend the appeal timetable to enable a minded to decision from the Planning Panel given the delay in the appeal process that may result and that based on the appeal documentation currently submitted, they were satisfied that they will be able to establish the main issues of relevance to the appeal.

A copy of the letter to the Planning Inspector of the 24th November 2022 and the email response of the 13th December 2022 are contained at Annex A to this Statement of Case.

In the context of the above, it is confirmed that this Statement of Case has been prepared on the basis that the authors (Officers of Copeland Borough Council) are not the decision maker and that Members of the Copeland Planning Panel have not made a formal or minded to decision in relation to this Outline Planning Application.

The Appeal Statement is therefore limited to the following:

- a brief timeline of the Outline Planning Application;
- identification of the relevant policies of the Development Plan;
- identification of the relevant material planning considerations;
- identification of the key issues without narrative or argument regarding the acceptability of the scheme; and,
- a draft list of planning conditions for use should the Planning Appeal be allowed.

3. Relevant Policies of the Development Plan

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough’s Landscape

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM12 – Standards for New Residential Developments

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements

Proposals Map including settlement boundaries

4. Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide (NDG)

The Conservation of Habitats and Species Regulations 2017 (CHSR)

Cumbria Development Design Guide (CDDG)

Cumbria Landscape Character Guidance and Toolkit

Strategic Housing Market Assessment (SHMA) Update 2021

Strategic Housing Land Availability Assessment (SHLAA) September 2022

5 Year Housing Land Supply – September 2022

Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector. Examination in Public is due to take place at the end of January 2023.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS2PU: Reducing the impacts of development on Climate Change

Strategic Policy DS3PU: Settlement Hierarchy

Strategic Policy DS4PU: Settlement Boundaries

Strategic Policy DS5PU: Planning Obligations

Policy DS6PU: Design and Development Standards

Policy DS7PU: Hard and Soft Landscaping

Strategic Policy DS8PU: Reducing Flood Risk

Policy DS9PU: Sustainable Drainage

Strategic Policy H1PU: Improving the Housing Offer

Strategic Policy H2PU: Housing Requirement

Strategic Policy H3PU: Housing delivery

Strategic Policy H4PU: Distribution of Housing

Strategic Policy H5PU: Housing Allocations

Policy H6PU: New Housing Development

Policy H7PU: Housing Density and Mix Strategic

Policy H8PU: Affordable Housing

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N2PU: Local Nature Recovery Networks

Strategic Policy N3PU: Biodiversity Net Gain

Strategic Policy N6PU: Landscape Protection

It is highlighted that the Appeal Site is not located within the proposed settlement boundary for Drigg and is not proposed for allocation for residential development in the ECLP.

The Copeland Settlement Landscape Character Assessment published in 2020 and was prepared to form part of the evidence base for the ECLP and to assist in the determination of planning applications. This was not included within the original list of documents submitted by the LPA therefore details can be found at the following link: [Copeland Settlement Landscape Character Assessment 2020 | Copeland Borough Council](#).

The following documents were also not mentioned in the original list of documents submitted by the LPA, details can be found at the following links:

- Strategic Housing Market Assessment (SHMA) Update 2021- [Microsoft Word - Revised FINAL COPELAND SHMA update October2021 Clean](#)
- Strategic Housing Land Availability Assessment (SHLAA) September 2022 - [shlaa_assessment_sept_2022.pdf \(copeland.gov.uk\)](#)
- 5 Year Housing Land Supply – September 2022 - [5_year_housing_land_supply.pdf \(copeland.gov.uk\)](#)

5. Key Issues

The key issues relating to the proposed development are considered to comprise the following:

- if the principle of proposed residential development is acceptable;
- whether there are any circumstances which would provide a justification for housing on this greenfield site which is located outside the built form of the village;
- if unacceptable impacts upon the safe operation of public highways will occur;
- if sufficient information has been submitted and if the development can be adequately drained without increased flood risk on or off the Application Site;
- if unacceptable adverse impacts upon the character of the local landscape or unacceptable visual impacts will occur;
- Whether the scale and form of development would have an adverse impact on the settlement character of the village;
- if sufficient information has been submitted and if unacceptable impacts will occur in respect of ecology.

6. Planning Conditions

Conditions

1. The layout, scale, appearance, access, and landscaping shall be as may be approved by the Local Planning Authority.

Reason

To comply with Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Detailed plans and drawings with respect to the matters reserved for subsequent approval shall be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted shall be commenced not later than the later of the following dates:-

a) The expiration of THREE years from the date of this permission

Or

b) The expiration of TWO years from the final approval of the reserved matters

or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -
 - Site Location Plan, Scale 1:1250, Drawing No 002, Revision A, received by the Local Planning Authority on the 16th February 2022.
 - Outline Landscape Statement (Amended), Prepared by Westwood Landscape January 2022, received by the Local Planning Authority on the 13th May 2022.
 - Planning Statement (Amended), received by the Local Planning Authority on the 13th May 2022.
 - Preliminary Ecological Appraisal, Report 0422/1, Prepared by South Lakes Ecology April 2022, received by the Local Planning Authority on the 13th May 2022.
 - Drainage Strategy Report, Ref 22-C-16573, Prepared by A L Daines & Partners April 2022, received by the Local Planning Authority on the 13th May 2022.

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

Pre-Commencement Conditions:

4. Before development commences full details of the foul and surface water drainage scheme must be submitted to and approved in writing by the Local Planning Authority. The approved scheme must become operational before the development is brought into use and must be so maintained thereafter.

Reason

To ensure the provision of a satisfactory drainage scheme in accordance with the provision of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013 – 2028.

5. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme must be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
 - i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation

- shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
 - iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
 - iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
 - v) Foul and surface water shall drain on separate systems.

The approved schemes must also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes must be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provision of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013 – 2028.

6. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway must be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works must be implemented prior to the development being completed and must be maintained operational thereafter.

Reason

In the interests of highway safety and environmental management in accordance with Policy T1 and DM22 of the Copeland Local Plan.

7. No development will take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These works must include hard surfacing, means of enclosure, finished levels or contours etc. Landscaping must be carried out in accordance with the approved details and retained at all times thereafter.

Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with ENV5 and DM10 of the Copeland Local Plan.

8. No development will take place until a schedule of landscape maintenance has been submitted to and approved in writing by the Local Planning Authority. The schedule must include details for its implementation. Development must be carried out and retained in accordance with the approved schedule.

Reason

To ensure the implementation of a satisfactory landscaping scheme in accordance with ENV5 and DM10 of the Copeland Local Plan

9. No development will commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP must include details of:
 - Pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
 - Retained areas for formation of the construction compound and access tracks and any areas of hard standing for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
 - Cleaning of site entrances and the adjacent public highway;
 - Details of proposed wheel washing facilities;
 - The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
 - Construction vehicle routing;
 - Details of any proposed temporary access points (vehicular/pedestrian)
 - Consideration of road conditions due to winter weather and how it may affect access to the site.

The development must be completed in accordance with the approved details.

Reason

In the interests of highway safety and environmental management in accordance with Policy T1 and DM22 of the Copeland Local Plan.

10. Prior to the commencement of any development at this site, the required dye testing or CCTV inspections of the culvert, as detailed within the approved document 'Drainage Strategy Report, Ref 22-C-16573, Prepared by A L Daines & Partners April 2022, received by the Local Planning Authority on the 13th May 2022', must be carried out. Should the surveys find any damage or defects within the existing culvert, they must be repaired prior to the construction of the dwellings in accordance with a scheme submitted to and approved by the Local Planning Authority. The findings from these investigations must be submitted in writing and

approved by the Local Planning Authority prior to the commencement of any development at this site.

Reason

To ensure the provision of a satisfactory drainage scheme in accordance with the provision of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013 – 2028.

Prior to Occupation Conditions

11. Prior to the first occupation of the dwellings hereby approved, footways must be provided that link continuously and conveniently to the nearest existing footway. Pedestrian walkways to and from the site shall be provided that are convenient to use details of which must be submitted to and approved in writing by the Local Planning Authority. The footways must be retained as such at all times thereafter.

Reason

In the interests of highway safety

Other Conditions:

12. This permission gives outline approval for nine dwellings only at this site.

Reason

To ensure an appropriate form of development at this site.

13. The development must be carried out in accordance with and implement all of the mitigation measure and biodiversity enhancements set out in the approved document 'Preliminary Ecological Appraisal, Report 0422/1, Prepared by South Lakes Ecology April 2022, received by the Local Planning Authority on the 13th May 2022'.

Reasons

To protect the ecological interests evident on the site.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the dwellings / buildings, nor shall any detached building, enclosure, domestic fuel containers, pool or hardstandings be constructed within the curtilage other than those expressly authorised by this permission.

Reason

To safeguard the character and appearance of the development in the interests of visual amenity.

Annex A

Correspondence with Planning Inspectorate



Proud of our past. Energised for our future.

Copeland Borough Council
The Copeland Centre,
Catherine Street, Whitehaven,
Cumbria CA28 7SJ

tel: 01946 59 83 00
email: info@copeland.gov.uk
web: www.copeland.gov.uk
twitter: @copelandbc

Kate Moody
Room 3N
Temple Quay House
2 The Square
Bristol
BS1 6PN

Please Contact: Nick Hayhurst
Officer Tel No: 01946 598331
My Ref: 4/22/2070/001
Date: 24 November 2022

north2@planninginspectorate.gov.uk

Dear Kate,

**TOWN AND COUNTY PLANNING ACT 1990
APPEAL BY SUNSHINE PROPERTIES WEST COAST LTD
SITE ADDRESS: LAND TO THE NORTH OF STATION ROAD, DRIGG, HOLMROOK
APPEAL REF: APP/Z0923/W/22/3304774**

I write with reference to the above planning appeal for which you are the case officer.

The submitted appeal is against non-determination of Planning Application Ref. 4/22/2070/001 under Section 78(2) of the Town and County Planning Act 1990 (as amended).

The Start Letter issued requires Copeland Borough Council to prepare their Statement of Case prior to the 15th December 2022.

Under the Constitution of Copeland Borough Council, Planning Application Ref: 4/22/2070/001 is required to be determined by Members of the Planning Panel (Planning Committee).

To date an Officer Report to Planning Panel has not been prepared and the application has not been the subject of consideration by Members of the Planning Panel. As such, there is no formal decision or minded to decision from the Members of the Planning Panel.

There is no clear and defined authority within the Constitution of Copeland Borough Council that provided delegated authority to Officers to prepare a Statement of Case that addresses the issues raised by an Appellant without a formal or reasonably a minded to decision from Members of the Planning Panel that would determine the stance to be adopted in any Statement of Case.

In the context of the above, please can you advise regarding the following:

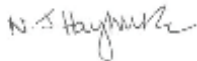
www.Copeland.gov.uk



- i. if the Planning Inspector wishes for Officers to seek a minded to decision from Members of the Planning Panel to establish the position of Copeland Borough Council and would enable the preparation of a Statement of Case that addresses the issues by the Appellant; and,
- ii. if the Planning Inspector would be willing to agree an extension to the appeal timetable to enable the completion of i. above.

I trust that the above is both clear and acceptable; however, if you have any queries, please do not hesitate to contact me.

Yours sincerely



Nick Hayhurst
Head of Planning and Place

Christie Burns

From: North2 <north2@planninginspectorate.gov.uk>
Sent: 13 December 2022 16:42
To: Christie Burns
Subject: RE: Appeal Ref: APP/Z0923/W/22/3304774 - Land to the North of Station Road, Drigg, Holmrook

CAUTION: External email, think before you click!
Please report any suspicious email to our [IT Helpdesk](#)

Dear Christie

I have spoken to my line manager who has confirmed that the decision on whether to take the appeal to panel is one for the LPA to make however, in this instance doing so would delay the appeal and an extension until 18th January 2023 wouldn't be appropriate. Therefore you will need to submit your statement without the case going before the planning committee.

Kind regards

Kate

From: Christie Burns <Christie.Burns@copeland.gov.uk>
Sent: 12 December 2022 08:59
To: North2 <north2@planninginspectorate.gov.uk>
Cc: Moody, Kate <KATE.MOODY@planninginspectorate.gov.uk>
Subject: FW: Appeal Ref: APP/Z0923/W/22/3304774 - Land to the North of Station Road, Drigg, Holmrook

Good morning Kate,

Are you able to provide a response to my email below and confirm how you wish for the LPA to progress this appeal? I am conscious that the current deadline for submitted our statement of case is Thursday this week.

Please note that the advice in this email is given in good faith on the basis of the information available at the present time. The advice may be subject to revision following further examination or consultation, or where additional information comes to light, and is therefore not binding on any future recommendation which may be made to the Council or any formal decision by the Council.

Kind Regards,

Christie Burns
Planning Officer
Development Management
Copeland Borough Council

Tel: 01946 598422
Mobile: 07799131879
Email: Christie.Burns@copeland.gov.uk

Copeland Borough Council, The Market Hall, Market Place, Whitehaven, CA28 7JG. Tel: 01946 598300.
www.copeland.gov.uk, info@copeland.gov.uk



Working to improve lives, communities and the prosperity of Copeland

From: Christie Burns

Sent: 05 December 2022 10:47

To: North2 <north2@planninginspectorate.gov.uk>

Subject: RE: Appeal Ref: APP/Z0923/W/22/3304774 - Land to the North of Station Road, Drigg, Holmrook

Hi Kate,

Sorry for the delay in my response I have been away on annual leave.

The LPA have recently dealt with an appeal against non-determination ref: APP/Z0923/W/21/3277409, where the Inspector concluded that the appeal did not need to be taken to panel. The following link provides a copy of the Statement of Case for this appeal and correspondence from the Inspector confirming this:
[lpa final appeal statement of case - eliz. cres. 03.11.2021.pdf \(copeland.gov.uk\)](#).

If we need to take the application to panel the next available date would be the 18th January 2023, so we would probably need an extension of time to sort a statement of case until the end of January.

I would be grateful if you could let me know how you wish me to progress.

Please note that the advice in this email is given in good faith on the basis of the information available at the present time. The advice may be subject to revision following further examination or consultation, or where additional information comes to light, and is therefore not binding on any future recommendation which may be made to the Council or any formal decision by the Council.

Kind Regards,

Christie Burns
Planning Officer
Development Management
Copeland Borough Council

Tel: 01946 598422

Mobile: 07799131879

Email: Christie.Burns@copeland.gov.uk

Copeland Borough Council, The Market Hall, Market Place, Whitehaven, CA28 7JG. Tel: 01946 598300.
www.copeland.gov.uk, info@copeland.gov.uk



Working to improve lives, communities and the prosperity of Copeland

From: North2 <north2@planninginspectorate.gov.uk>
Sent: 29 November 2022 11:09
To: Christie Burns <Christie.Burns@copeland.gov.uk>
Subject: RE: Appeal Ref: APP/Z0923/W/22/3304774 - Land to the North of Station Road, Drigg, Holmrook

CAUTION: External email, think before you click!
Please report any suspicious email to our [IT Helpdesk](#)

Dear Christie

Thank you for your e-mail.

Please can you confirm how long an extension you would like.

Kind regards

Kate

From: Christie Burns <Christie.Burns@copeland.gov.uk>
Sent: 24 November 2022 15:13
To: North2 <north2@planninginspectorate.gov.uk>
Cc: Nick Hayhurst <Nick.Hayhurst@copeland.gov.uk>
Subject: Appeal Ref: APP/Z0923/W/22/3304774 - Land to the North of Station Road, Drigg, Holmrook

Dear Kate Moody,

I write with reference to the above Planning Appeal for which the Appeal Questionnaire etc. has recently been submitted to the Planning Inspectorate.

Please find attached a letter which seeks clarity from the allocated Planning Inspector regarding two issues pertinent to the Planning Appeal.

My sincere thanks in anticipation

Please note that the advice in this email is given in good faith on the basis of the information available at the present time. The advice may be subject to revision following further examination or consultation, or where additional information comes to light, and is therefore not binding on any future recommendation which may be made to the Council or any formal decision by the Council.

Kind Regards,

Christie Burns
Planning Officer
Development Management
Copeland Borough Council

Tel: 01946 598422
Mobile: 07799131879
Email: Christie.Burns@copeland.gov.uk

Copeland Borough Council, The Market Hall, Market Place, Whitehaven, CA28 7JG. Tel: 01946 598300.
www.copeland.gov.uk, info@copeland.gov.uk