

Ref: SB/3304774

30 August 2023

Dot Kujawa & Kate Moody
Planning Inspectorate
Via email

Copeland Borough Council Local Plan Status – Appeal - Land to the north of Station Road, Drigg, Holmrook

Dear Ms Kujawa,

Please find below my response to the Council's comments on the Emerging Local Plan Position.

As mentioned in the response from the Council, the consultation on the main modifications is yet to take place and is some way off still. In a letter updating the position dated 9th June, the Inspector commented that "*I emphasise that the Examination is not yet concluded and consultation on proposed Main Modifications is still to take place*". Also attached is the LDS (Local Development Scheme) for the ELP, which details that we are now over 18 months behind in the process as the Local Plan was to be adopted in April 2022. As the Council have stated in the attached either clarification or modification is required with regards to nearly all of the housing relating policies. This includes a modification to DS3PU is proposed, to remove the words 'rounding off' from Rural villages which is relevant to this site. As the document comments "*Rounding off suggests development outside the settlement boundaries would be supported*". Therefore, this is a significant change to the policy wording, and therefore the policy as currently proposed cannot be given significant weight as the Council have suggested.

Again, in the Council's submission, H4PU is suggested to carry significant weight when an important modification is required to ensure that it complies with the NPPF, relating to the two village settlement tiers, so as it is currently drafted it cannot hold significant weight. It states that "*This sentence would potentially prevent development on suitable sites once the target for the tier has been met and is therefore not considered to accord with the NPPF.*"

No further update has been provided from the Inspector since the letter on 9th June, and attached is an appeal decision from two weeks ago. This is another non-determination appeal in the former Copeland borough area running alongside this appeal. The same submitted information from the Council on the Local Plan was made available to the Inspector.

This gives this Inspectors perspective on the current weight to be afforded to the Emerging Local Plan and its policies. This states that limited weight should be given to the proposed settlement boundary policy and the settlement hierarchy policy (DS3PU and DS4PU). For the current adopted Copeland Local Plan, whilst there is conflict with the settlement policies, limited weight is given to them, given the sustainable location of the appeal site and that the policies are deemed out-of-date by reason of paragraph 11(d) being engaged.

This is also in a sustainable location, and given the 'between' plans position, the Inspector clearly feels that the main decision making should at the moment be led by the NPPF (National Planning Policy Framework), as in my opinion this appeal should be. The Emerging Local Plan is not mentioned at all in the summary, of which the conclusion of the appeal decision is below:

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"In conclusion, I find that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies. Whilst the proposal would not be in accordance with LP Policy ST2, the proposed development would provide a suitable location for housing in this instance, and sustainable development in accordance with the NPPF."

This site shares the same characteristics as the appeal decision, as it is undoubtedly a suitable location for housing, well connected to a recognised settlement and is sustainable development, albeit outside of a different ELP proposed settlement boundary.

Therefore, the Emerging Local Plan policies should currently carry limited weight in the decision-making process for residential development applications in the former Copeland borough, in accordance with the current Local Plan position, and the attached appeal decision.

Kind regards,

Simon Blacker MRTPI
SRE Associates



Appeal Decision

Site visit made on 6 June 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/Z0923/W/23/3314416

Beckside Farm, Distington CA14 4QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Keith Adams against Copeland Borough Council.
 - The application Ref 4/22/2274/001, is dated 24 June 2022.
 - The development proposed is described as 'residential development of two dwellings.'
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Decision

1. The appeal is allowed, and outline planning permission is granted for proposed residential development of two dwellings with details of proposed access and all other matters reserved at Beckside Farm, Distington CA14 4QY in accordance with the terms of the application, Ref 4/22/2274/001, dated to 24 June 2022, subject to the conditions in the schedule attached to this decision.

Preliminary Matters

2. The description in the banner heading above is taken from the planning application form. However, the description used by the Council and included on the appeal form states 'outline application for proposed residential development of two dwellings with details of proposed access and all other matters reserved.' As this does not change the development for which planning permission is sought, I have used this revised wording which provides a more accurate description of the proposal.
3. Therefore, based on this description, matters relating to layout, scale, appearance and landscaping are reserved for subsequent approval. A site location plan showing the position of the access with an indicative plan showing the possible layout of two dwellings has been submitted. A plan showing visibility splays was submitted at a later date.
4. The Council has indicated that the emerging Copeland Local Plan, 2017-2038 has been subject to an independent examination by an Inspector. The Local Plan is therefore at an advanced stage and so some weight can be given to the policies.
5. The Council has also stated that from 1 April 2023, Copeland Borough Council ceased to exist, and it is now part of the unitary authority, Cumberland Council. This has no effect, however, on the determination of this appeal.

Main Issues

6. The appeal is against the failure of the Council to determine the planning application. The Council have produced putative reasons for refusal and from these I consider that the main issues are:
- The suitability of the proposal in this location, given policies relating to open countryside and the settlement boundary; and
 - The effect of the proposal on the character and appearance of the site and the surrounding area.

Reasons

Location

7. The appeal site is stated by the parties to be between 160 and 200 metres from the Distington settlement boundary and is therefore classified as being in the open countryside. Distington is defined as a Local Centre in Policy ST2 of the Copeland Local Plan 2013-2028, Core Strategy and Development Management DPD (CS). It is reputed to have a primary school, shops and a public house. A bus stop is close to the site. Therefore, whilst the site is outside the settlement boundary, contrary to Policy ST2, it is in close walking distance along a pavement to the centre of Distington, where there are services and facilities and transport to other centres in the area.
8. The Council produced in 2023 a 5 Year Housing Land Supply Statement which has demonstrated a 7.1 year supply of deliverable housing sites against the emerging housing requirement. However, the Emerging Copeland Local Plan (ECLP) has stated that in order to meet the housing needs identified from the Strategic Housing Market Assessment (SHMA), that development outside the settlement boundaries will be required. Consequently, Policy ST2 is considered out-of-date.
9. Policy DS3PU of the ECLP continues to identify Distington as a local service centre, and the appeal site remains outside the settlement boundary under Policy DS4PU. This policy does however state that in order that allocated sites are not prejudiced, development outside settlement boundaries will only be accepted where: 1) the proposal is for housing and; a) the site is well related and directly adjoins the settlement boundary of a town of local service centre; and b) the site is or can be physically connected to the settlement it adjoins by safe pedestrian routes; and 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. Whilst the policies in the ECLP have only limited weight at this stage, the appeal site, although not directly adjoining the settlement boundary, it is physically connected to it by a safe pedestrian route and is well related to it.
10. The policies in the LP seek to protect the countryside from inappropriate development. Whilst there is conflict with these policies, however, I attribute limited weight given the sustainable location of the appeal site and that the policies are deemed out-of-date by reason of paragraph 11(d) being engaged.

Character and appearance

11. The site is formerly part of Beckside Farm, and there are two properties currently on the site, Beckside, and a detached house under construction between Beckside and the appeal site. To the other side of the site is a detached dwelling, 'Charolais'.
12. The site is located adjacent to a lay-by, separated from the adjacent road by a central, wide, elliptical, grass verge. Beckside, and the dwelling under construction is accessed just over the bridge, close to where the lay-by begins, with the appeal site proposing to use an existing field gate and join the carriageway opposite the entrance to the site. The site is in an area of countryside between the road and Distington Beck.
13. Whilst the proposal is in outline only, with only access to be considered, an indicative block plan has been submitted showing two dwellings, with proposed parking and turning to the front, and the position of the access road. Both parties have commented on the scale of dwellings that may be appropriate, although the position of the existing houses on the site and 'Charolais' to the other side would ensure that the scale would be appropriate to its context.
14. The Council refers to The Cumbria Landscape Character Guidance and Toolkit (CLCT) defining the site as 'Urban fringe' whilst The Copeland Landscape Settlement Study (CLSS) characterises the areas as 5Dii Distington Valley Sides, with the 'intimate valley landscape to the east of Distington is sensitive to development', where the appeal site is located. Notwithstanding this, the proposal is for two dwellings which sit within a former farmstead and are between existing properties. As the topography of the site changes to the rear of the proposal, and the dwellings would be likely set lower than the adjacent road, housing could be designed appropriately that would not harm the character of the site and surrounding landscape.
15. As I saw on my visit, the site has mounds of soil, with stone and materials on it. The site, does, however, have a continuous, high, traditional hedgerow, along the front of the site. As the access point where it adjoins the main road is forward of the entrance to the site, the visibility splay does not include the front boundary of the site. Therefore, the retention of the majority of this hedgerow would appear to be possible which would retain the rural character of the site.
16. Furthermore, as the proposal would be on disturbed ground adjacent to other dwellings, both within the site, and the adjoining 'Charolais', it would not extend development further into the countryside, which would reduce their visual prominence. By retaining the hedgerow and introducing landscaping appropriate for a rural location, the general character of the landscape would not be harmed.
17. Therefore, two dwellings could be located on this site which would not harm the character and appearance of the site and the surrounding area. It would accord with Copeland Local Plan Policy ST1 which amongst many principles seeks to meet the needs and aspirations of the Borough's housing markets; and Policy ENV5 which seeks to protect landscapes from inappropriate change. Furthermore, Policy DM26 ensures that proposals should reinforce landscape character and mitigate against any adverse impact.

Planning Balance

18. The proposal would not harm areas or assets of particular importance and provide a clear reason for refusing the development as set out in paragraph 11d) i of the National Planning Policy Framework (the Framework). Therefore, paragraph 11d) ii of the Framework is relevant in that consideration must be given as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
19. The proposal would be contrary to LP Policy ST2 as it is outside the settlement boundary where the protection of the countryside is sought. However, I attach limited weight to conflict with this policy arising due to the location of development, as the proposal would be in a sustainable location and the policy is deemed out-of-date. The retention of the mature hedgerow would ensure that the character and appearance of the site can be retained, and any initial harm can be overcome by appropriate landscaping.
20. The benefits of the proposal would help the government's objective to boost the supply of homes, and even if it does double the number of houses on this site, small sites can provide a limited but important contribution to meeting the housing needs of an area. The proposal would provide some economic benefits during the construction phase and from spending and support by the occupants contributing to the local community and support services. I attach significant weight to these overall benefits.
21. In conclusion, I find that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies. Whilst the proposal would not be in accordance with LP Policy ST2, the proposed development would provide a suitable location for housing in this instance, and sustainable development in accordance with the NPPF.

Other Matters

22. The site is in flood zone 1 and so a Flood Risk Assessment is not required. Details of how surface or foul water would be discharged has not been provided but the Council consider that a condition would satisfy this issue.
23. The Highway Authority, following the submission of a plan showing the access from the main road and visibility splays has no objection to the proposal. The plan has shown that appropriate access to the site can be achieved which I give significant weight to.

Conditions

24. I have considered the suggested conditions from the Council and where necessary I have made amendments to these in the interests of clarity and precision. I have imposed standard conditions relating to the submission and timing of the reserved matters application(s) and the commencement of development. I have also imposed a condition specifying the relevant plans in the interest of certainty.
25. A condition limiting the development to two houses is considered necessary. As details of the treatment of foul and surface water has not been provided, a condition ensuring that these are on separate systems and a further condition requiring how surface water will be dealt with is relevant and necessary.

26. The surfacing of the driveway to ensure that loose material does not extend onto the adjoining highway is necessary, and whilst there is currently no fence, wall or boundary where the access adjoins the highway, ensuring that there is appropriate visibility is relevant and necessary.

Conclusion

27. Therefore, for the reasons given, and having regard to all other matters raised, I conclude that the appeal is allowed.

M J Francis

INSPECTOR

Schedule of conditions

- 1) Details of the layout, scale, appearance and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Site location plan'; and 'Visibility splays'.
- 5) The site hereby approved for development must not exceed two residential properties.
- 6) Prior to the commencement of development hereby approved, a full surface water drainage scheme, including attenuation measures, 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 shall thereafter be retained for the lifetime of the development.
- 7) The access drive must be surfaced in bituminous or cement bound materials or otherwise bound and must be constructed and complete before the development is brought into use. This surfacing must extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.
- 8) Any existing highway fence/wall boundary must be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved before the development is brought into use and must not be raised to a height exceeding 1.05m thereafter.












- 9) Foul and surface water must be drained on separate systems.

End of conditions

APPENDIX 3: Local Development Scheme Overall Programme (September 2020)

Document Title	2019						2020												2021												2022								
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J			
Copeland Local Plan 2017-2035																							P	P			S		PE										
Shopfront Design Guide SPD																								A															
Proposals Map																																							
Annual Monitoring Report						P												P																					

Key:

	Preparation (inc evidence studies), Consideration, Review & Amendment		Examination Hearing
	Consultation for SPD		Receipt of Inspector's Report
	Preferred Options Consultation		Adoption of DPD/SPD
	Pre-Submission Consultation		Publication of Annual Monitoring Report
	DPD Submission		Revision of Proposals Map
	Pre-Hearing meeting		