

## **Local Planning Authority Appeal Statement**

**Appeal By:**

Mr N Amor

**Appeal Reference:**

APP/Z0923/W/22/3305468

**Local Planning Authority Reference:**

4/22/2128/PIP

**Proposal:**

Application for permission in principle for up to five residential dwellings

**Site Address:**

Land adjacent to Spout House Stables, Sandwith

## **1. Decision of Local Planning Authority:**

- 1.1 On the 28<sup>th</sup> July 2022, application reference 4/22/2128/PIP was refused under delegated powers by the Head of Planning and Place for the following reason:

### **Reason for Refusal**

1. The Site is located within Sandwith which is designated as open countryside within Policy ST2 of the Copeland Local Plan 2013- 2028. A need for the dwellings to be located outside of the Borough's recognised settlements has not been demonstrated and development on this site is likely to be detrimental to the character and appearance of the local landscape. Community facilities in the general wider vicinity of the Site are limited. Access to services from the Site is also extremely limited being beyond distances which residents could reasonably be expected to walk or cycle. There are no footways or direct access routes from the Site to the available services. Given the distances involved to the services and facilities, travel by more sustainable methods would be unlikely to offer a feasible alternative to the private vehicle.

The proposal is therefore contrary to policies ST1, ST2, SS3, ENV5 and DM10 of the Copeland Local Plan 2013-2028, and the guidance set out in the National Planning Policy Framework when taken as a whole.

## **2. Statement of Case:**

- 2.1 The case of Copeland Borough Council is detailed in the Officer's Delegated Report.
- 2.2 A copy of the Officer's Delegated Report is contained at Annex A to this Appeal Statement.
- 2.3 This Statement of Case outlines changes in respect of relevant material planning considerations that have occurred since the determination of application reference 4/22/2128/PIP.

### Material Planning Considerations

#### *Emerging Copeland Local Plan 2021-2038 (ECLP)*

- 2.4 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.
- 2.5 The ECLP was subject to public consultation on the Publication Draft from 10<sup>th</sup> January 2022 to 18<sup>th</sup> March 2022.
- 2.5 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.

- 2.6 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.

- 2.7 The ECLP continues to identify the site as open countryside.

- 2.8 As required by Paragraph 48 of the NPPF, in assessing the weight to be given to the ELP, each policy is required to be considered individually against the factors set out in 48a, 48b and 48c. These are considered in turn below:

48a: The ELP is at an advanced stage having been submitted to the Planning Inspectorate in September 2022. This indicates a significant amount of weight should be given to the Plan. The Council now have confirmation that the Plan will be subject to Examination commencing in January 2023.

48b: A small number of objections were received in relation to Policies DS3PU and DS4PU of the ELP. The policies within the emerging local plan can therefore be given limited weight, as set out within the Officer's Delegated Report.

### **3.0 Conclusion**

- 3.1 The Council's case is laid out within the Officer's Delegated Report with no material changes since its date of publish.
- 3.2 The Emerging Copeland Local Plan 2021 – 2038 was submitted to the Planning Inspectorate in September 2022 which is post decision date for the application. In accordance with paragraph 48 of the NPPF some weight can now be attached to the Policies within the ECLP. These policies do not support the development of this site.
- 3.3 In overall terms, it remains that the adverse impacts of the development are considered to significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole. The proposal does not represent an appropriate form of sustainable development.

### **4. Planning Conditions**

- 4.1 The required list of planning condition to which Copeland Borough Council would agree if the appeal were to be allowed is contained at Annex B to this Appeal Statement.

# **Annex A**

## **Officer Delegated Report**

**COPELAND BOROUGH COUNCIL**  
**DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/22/2128/PIP
2.	<b>Proposed Development:</b>	APPLICATION FOR PERMISSION IN PRINCIPLE FOR UP TO FIVE RESIDENTIAL DWELLINGS
3.	<b>Location:</b>	LAND ADJACENT TO SPOUT HOUSE STABLES, SANDWITH, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp;Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>  <b>SITE AND LOCATION</b>  This application relates to a plot of land adjacent to Spout House Stables. It equates to roughly 0.3 hectares and is currently utilised for residential curtilage and agricultural grazing  There are residential dwellings to the north and west, with an access road to the south and agricultural fields beyond and to the east.  <b>PROPOSAL</b>	

This application seeks 'Permission in Principle' for the erection of 3-5 no. dwellings. The application is accompanied by a site location plan, indicative site layout plan, ecological appraisal and planning statement, with all technical details reserved for future approval.

#### **RELEVANT PLANNING APPLICATION HISTORY**

There have been no relevant planning applications on the site.

#### **CONSULTATION RESPONSES**

##### Whitehaven Town Council

No response received.

##### Cumbria Highways

No response received.

##### United Utilities

Should the applicant receive Planning in Principle permission for this proposal, United Utilities will review the drainage element of any application for Technical Detail Consent in line with the surface water hierarchy. United Utilities will request evidence that the drainage hierarchy has been fully investigated and why more sustainable options are not achievable before a surface water connection to the public sewer is acceptable.

##### Natural England

No response received.

##### Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 6 no. properties.

One letter of support has been received as a result of these consultations.

#### **PLANNING POLICIES**

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

##### **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 ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

#### 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

#### Copeland Local Plan 2001-2016 (LP):

Policy TSP8 – Parking Requirements

#### Emerging Copeland Local Plan (ECLP).

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Publication Draft Consultation. The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Given the stage of preparation of the Copeland Local Plan 2017-2035 some weight can be attached to policies within the Publication Draft where no objections have been received. The Publication Draft 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 National Planning Policy Framework.

Policy DS1PU - Presumption in favour of Sustainable Development

Policy DS2PU - Reducing the impacts of development on Climate Change

Policy DS6PU - Design and Development Standards

Policy DS7PU - Hard and Soft Landscaping Strategic

Policy DS8PU - Reducing Flood Risk

Policy DS9PU - Sustainable Drainage

Policy H1PU - Improving the Housing Offer

Policy H6PU - New Housing Development

Policy H7PU - Housing Density and Mix

Policy H11PU - Community-Led, Self-Build and Custom Build Housing

Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity

Policy N3PU - Biodiversity Net Gain

Policy N5PU: Protection of Water Resources

Policy N6PU - Landscape Protection

Policy N13PU: Woodlands, Trees and Hedgerows

Policy CO4PU - Sustainable Travel

Policy CO5PU - Transport Hierarchy

Policy CO6PU - Countryside Access

Policy CO7PU - Parking Standards and Electric Vehicle Charging Infrastructure

#### **Other Material Planning Considerations**

National Planning Policy Framework 2021 (NPPF)

Planning Practice Guidance (PPG).

National Design Guide (NDG).

The Conservation of Habitats and Species Regulations 2017 (CHSR).

Cumbria Development Design Guide (CDDG).

Strategic Housing Market Assessment 2021 (SHMA)  
Village Services Survey 2019  
Five Year Housing Land Supply Statement 2021

## **ASSESSMENT**

This application is seeking 'Permission in Principle' for the erection of 3-5 no. dwellings, therefore the matters for consideration are the location, land use and amount of amount of development only. All other details such as layout, scale, access and appearance are to be considered at the technical details consent stage, should 'Permission in Principle' be approved.

### Principle of Development

The land for development is outside any designated settlement boundary and is therefore considered to be open countryside. As detailed in Policy ST2, this therefore restricts development to that which has a proven requirement for such a location, including... *housing that meets proven specific and local needs including provision for agricultural workers, replacement dwellings, replacement of residential caravans, affordable housing and the conversion of rural buildings to residential use.*

A proven requirement for the proposed development has not been demonstrated therefore the requirements of Policy ST2 of the CS are not achieved.

Policy ST1 outlines the strategic development principles and Policy SS3 seeks to provide a choice of good quality and affordable homes for everyone. The policies refer to good access to services and facilities for everyone, encouraging development which minimizes carbon emissions, minimizing the need to travel and prioritizing development in the main towns where there is previously developed land and infrastructure capacity.

The site is located within Sandwith which is designated as open countryside within the CS and has limited services. The closest place that benefits from a settlement boundary to Sandwith, is Whitehaven located approximately 1300m to the north, with the services it contains significantly further away from the settlement boundary. Main Street, Sandwith leads to High Road to the north and the route does not have a footway for pedestrians. Given the distances involved and the lack of separation of pedestrians and vehicles, travel by foot would be particularly difficult and potentially dangerous, especially as there is no street lighting. Although the road is likely to be suitable for recreational cyclists, the distances involved in reaching the services and facilities required by most households would discourage this mode of transport. The constraints on travel other than by car would be more acute during bad weather or after dark. Given the distance to any services, travel by more sustainable methods would be unlikely to offer a feasible alternative to private car.

The site is not therefore in a sustainable location for the purposes of Policy ST1.

In November 2020, the Council announced that they could demonstrate the provision of a 5 year land supply. This was reaffirmed in 2021. Notwithstanding this Policy ST2 B and C is still considered to be out of date. This is due to the fact that in order to meet the housing targets set out within the SHMA between 2017 and 2035, development will be required outside the settlement boundaries identified in the Core Strategy. This therefore means that Policy ST2 does not accord with the NPPF and therefore the application must be considered against the tilted balance as set out in Paragraph 11 of the NPPF.

Paragraph 11 states that:



In applying the presumption in favour of sustainable development detailed in Paragraph 11, the policies of the Development Plan which are most important for determining the application are to be considered out of date and it required that planning permission be granted unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 80 of the NPPF advises avoidance of isolated homes in the countryside. The word isolated is not defined within the Framework but according to the Court of Appeal “...the word “isolated” in the phrase “isolated homes in the countryside” simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand”. With regard to proximity to other housing, the Site is not isolated as there are a number of other dwellings within the vicinity. However, due to the distance from any recognized settlement and the limited opportunities for travel other than by car, the proposed dwelling would be isolated from services and facilities.

#### Housing Need

Policy SS3 of the Copeland Local Plan requires housing development to demonstrate how proposals will deliver a mix of housing types and tenure, in line with the evidence provided in the SHMA. The supporting text for Policy SS3 says that exceptionally, consent may be given to homes in the open countryside fulfilling the requirements of the rural exceptions policy and where it can be demonstrated that a location outside a settlement is essential.

The application does not include details that an affordable dwelling is proposed, nor is there any indication as to why a location outside of a settlement is essential.

#### Settlement Character, Landscape Impact and Visual Impact

Policy ENV5 seeks that the Borough’s landscapes be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that development does not threaten or detract from the distinctive characteristics of that particular area; where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough’s landscapes.

Policy DM10 seeks that development responds positively to the character of the site and the immediate and wider setting and enhance local distinctiveness including: an appropriate size and arrangement of development plots; the appropriate provision, orientation, proportion, scale and massing of buildings; and, careful attention to the design of spaces between buildings.

The site is located in an area of Sub Type 4, Coastal Sandstone. The Key Characters of Sub Type 4 Coastal Sandstone include coastal sandstone cliffs, sandstone rolling hills and plateaus, large open fields, prominent hedge banks bound pastoral fields, small woodland blocks along valley sides and exposed coastal edge moving to intimate and enclosed farmland inland.

The Guidelines for development include managing, enhancing and restoring the landscape. It is considered that there is likely to be a continued interest in urban development which could erode the undeveloped and rural character of this landscape type if not carried out sensitively. The Cumbria

Landscape Character Toolkit suggests that there should be a strong definition between town and country and that further large-scale developments should be discouraged. Furthermore, traditional farm buildings should be conserved and enhanced with any new buildings having as little impact as possible through careful siting and design.

The site is located to the east of Sandwith, in an area of open countryside and to the east of a residential cluster of dwellings. These dwellings are mostly barn conversions resulting from the original buildings on the farm unit at Spout House and traditional Cumbrian terraces. The development would infill an area of land currently utilised for agricultural purposes and further urbanise this rural area, harming the open countryside and negatively affecting the landscape character with modern properties.

The development is considered to be in conflict with the provisions of Policies ENV5 and DM10 of the Copeland Local Plan and paragraphs 20 and 130 of the NPPF.

#### Flood Risk and Drainage

The Site is located within Flood Zone 1.

The proposed comprises a more vulnerable use and is therefore a compatible use in Flood Zone 1.

The Site is not identified as being at risk from surface water flooding.

Whilst information has not been provided in respect of the disposal of surface water, this falls for consideration at the technical details stage.

#### Ecology

The Site comprises an area of residential curtilage and agricultural hardstanding with one large building. An ecological appraisal was submitted as part of the application which concluded no ecological interest on the site, no requirement for further surveys and no recommended mitigation.

#### Highways

Access to the site is only reasonably achieved via Dalelands Road to the south west. Cumbria County Highways have been consulted, however no comments have been received. As there is an existing access to residential properties on this site, it is unlikely that the addition of further dwellings would have a detrimental impact on the existing highway situation.

#### The Planning Balance

In respect of the provisions of Paragraph 11 of the NPPF:

- Policy ST2 of the Core Strategy identifies the site as 'outside settlement boundaries' in open countryside;
- A proven requirement for the proposed development has not been demonstrated; therefore, the requirements of Policies ST2 and SS3 of the CS are not achieved;
- The site is not in a sustainable location for the purposes of Policy ST1 of the CS and Paragraph 11 of the NPPF;
- The development would further erode the open countryside, having an adverse impact on the character and appearance of the landscape and would result in visual harm on the area.

Any benefits of the development for the modest number of dwellings proposed would be limited to the construction phase only and the unsustainable location of the development in relation to services and the

	adverse impacts of the development on the open countryside would significantly and demonstrably outweigh this benefit, when assessed against the policies in the NPPF when taken as a whole.				
8.	<b>Recommendation:</b>  Refuse				
9.	<b>Reason for Refusal:</b>  1. The Site is located within Sandwith which is designated as open countryside within Policy ST2 of the Copeland Local Plan 2013- 2028. A need for the dwellings to be located outside of the Borough's recognised settlements has not been demonstrated and development on this site is likely to be detrimental to the character and appearance of the local landscape. Community facilities in the general wider vicinity of the Site are limited. Access to services from the Site is also extremely limited being beyond distances which residents could reasonably be expected to walk or cycle. There are no footways or direct access routes from the Site to the available services. Given the distances involved to the services and facilities, travel by more sustainable methods would be unlikely to offer a feasible alternative to the private vehicle.  The proposal is therefore contrary to policies ST1, ST2, SS3, ENV5 and DM10 of the Copeland Local Plan 2013- 2028, and the guidance set out in the National Planning Policy Framework when taken as a whole.  <b>Statement</b>  The Local Planning Authority has acted positively and proactively in accordance with Copeland Local Plan policies and the National Planning Policy Framework in determining this application. In this case it has not been possible to arrive at a satisfactory resolution for the reasons set out in the reason for refusal.				
<table border="1"> <tr> <td>Case Officer: Sarah Papaleo</td><td>Date : 11/07/2022</td></tr> <tr> <td>Authorising Officer: N.J. Hayhurst</td><td>Date : 28/07/2022</td></tr> </table>		Case Officer: Sarah Papaleo	Date : 11/07/2022	Authorising Officer: N.J. Hayhurst	Date : 28/07/2022
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Dedicated responses to:- N/A					

# **Annex B**

## **Conditions**

1. Permission in Principle is granted for up to five residential dwellings on the Application Site shown on Location Plan, scale 1:1250, received on 18<sup>th</sup> May 2022.

#### Reason

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

#### Informative

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com) <<http://www.groundstability.com>>