

**Local Planning Authority Appeal Statement**

**Appeal by: Mr B Atkinson**

**Appeal Reference: APP/Z0923/W/22/3296195**

**Local Planning Authority Reference: 4/21/2458/001**

**Proposal: Outline planning permission (with all matters reserved) for redevelopment of builders yard to residential – Amended scheme for previous application 4/20/2461/001**

**Site Address: Weston, Beckermat**

## **Decision of Local Planning Authority**

On the 16<sup>th</sup> December 2021, outline planning permission was refused by Members of the Council's Planning Panel for the following reason:

The application site is located within the Hamlet of Oaklands, which is identified as open countryside. The proposed development seeks to develop the existing brownfield site for residential purposes, however a need for a development of this nature to be located outside of the Borough's recognised settlements has not been demonstrated. Access to community facilities in the vicinity of the site area is limited. Access to key services from the site is also limited and there are no footways directly linking the application site to the available services. Given the spread of the services and facilities, and lack of sustainable transport links the development is likely to rely on the need to travel by private car. The proposal is therefore contrary to Policies ST1, ST2, SS3 of the Copeland Local Plan, and Paragraphs 8, 9, 11, 79, and Part 9 of the National Planning Policy Framework.

## **Statement of Case**

The main issue raised by this application is whether the application site forms a sustainable location for residential development having regard to the national and local planning policy.

## **Principle of Development**

The principle of new housing is supported in the Copeland Local Plan through strategic policies ST1 and ST2 along with policies SS1, SS2 and SS3. These policies seek to promote sustainable development to meet the needs and aspirations of the Boroughs housing market, as well as having consideration for the requirements of smaller settlements within the Borough, which respect their scale and function.

The application site is located within a small Hamlet, known as Oaklands. Policy ST2 of the Copeland Local Plan identifies Oaklands as 'outside settlement boundaries', and is therefore considered to be within open countryside. Policy ST2 of the Copeland Local Plan states that outside of the defined settlement boundaries, development is restricted 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 Copeland Local Plan have not been achieved with this application.

Policy SS3 of the Copeland Local Plan also states that the Council will continue to operate a Rural Exception policy approach in rural areas outside the Key Service Centres and Local Centres to provide affordable housing that meets an identified local need. This application does not demonstrate that the proposal meets an affordable housing need, and therefore

the requirements of Policy SS3 of the Copeland Local Plan have not been achieved with this application.

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to the provision of housing where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Out of date includes where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

In 2021, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 5.6 year supply of deliverable housing sites against the emerging housing requirement and a 86 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.

Notwithstanding the above, the policies in the Local Plan must still be considered out of date and only some weight can be given their content as far as they are consistent with the provisions of the NPPF.

Consultation on the Local Plan 2017-2035 Preferred Options Draft (ECLP) ended in December 2020. The ECLP will, once adopted, replace the policies of the adopted Local Plan. 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.

The weight emerging policies can be given, as set out in paragraph 48 of the NPPF, is determined by:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Local Plan is at an advanced stage and all emerging policies are considered by the Council to be consistent with the NPPF unless otherwise stated. The weight policies can be given is therefore dependent upon the significance of objections they have received.

Policy DS4 of the ECLP continues to identify the application site as outside of the settlement boundary and the site is therefore classed as being in an open countryside location. The proposal is therefore contrary to Policy DS4. A number of objections were received to Policy DS4 at Publication Draft stage. However, the Council does not consider the objections to be

significant, nor are the changes which we are proposing to make to the policy. In addition to this, no objections were received in relation to the proposed settlement boundary for Beckermets. Therefore, the policy can be given moderate weight in decision making.

### **Access to Services and Facilities**

Policy ST1 of the Copeland Local Plan 2013 – 2028 outlines the strategic development principles. The policy refers to good access to services and facilities for everyone, encouraging development which minimises carbon emissions, directing development away from greenfield site, minimising the need to travel and prioritising development in the main towns where there is previously developed land and infrastructure capacity.

The site is located within open countryside, with limited access to key services and facilities. The submitted Planning Statement for this application states that the site is located between Thornhill and Beckermets which provide the following facilities: primary school 0.78 miles from site, public house 0.67 miles away, nursery provision 0.58 miles away, village hall 1.02 miles away, church 1.1 miles away and retail located within Egremont 1.87 miles away. There are no facilities located within the immediate vicinity of the application site or within the Hamlet of Oaklands.

The site is positioned off the A595 and does not benefit from a footway. Whilst there are a number of services located within the village of Beckermets, there are no suitable safe walking routes between the village and the application site. The site also lies approximately 0.6 miles from the settlement of Thornhill, which provides a limited number of services, however again there is not a continuous pavement from the site to link the application site to this settlement. The nearest footpath link is located approximately 40m away from the application site on the opposite side of the A595, therefore there is not a safe direct walking link to any nearby settlements and the associated facilities. This footpath link also does not benefit from any street lighting and therefore would only be likely to be used within the daytime. On this basis, it is considered that the residents of the proposed development would be unlikely to walk or cycle to Thornhill or Beckermets, and would instead be likely to drive to larger settlements, such as Egremont where there are a full range of services and facilities available. It is therefore considered that the proposed development would encourage the use of unsustainable transport methods and would be unlikely that the development would contribute to supporting the existing rural services within Beckermets and Thornhill.

The site is therefore not considered to be located within a sustainable location for the purposes of Policy ST1.

Paragraph 79 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 home 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 judgement 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 other dwellings in the vicinity. However, due to the lack of facilities within the immediate locality, the spread of services and facilities around the nearest settlements, and the limited opportunities for travel other than by car, the proposed dwellings would be considered isolated and remote from services and facilities and would therefore not comply with the provisions of the NPPF.

### **Planning Balance**

The application site comprises brownfield land which is located 'outside settlement boundaries' as defined in Policy ST2 of the Copeland Local Plan.

The proposed development is in clear conflict with the provisions of Policy ST2 of the Local Plan with regard to the location of the development 'outside the settlement boundaries'; however, given the importance of this policy to the determination of the application and its level of conformity with the NPPF, only limited weight can be given to this conflict in decision taking.

The ECLP is now at an advanced stage and all emerging policies are considered by the Council to be consistent with the NPPF unless otherwise stated. The weight that policies can be given is therefore dependent upon the significance of objections they have received. Policy DS4 of the ECLP continues to identify the application site as outside of the settlement boundary and the site is therefore classed as being in an open countryside location. The proposal is therefore contrary to Policy DS4. Policy DS4 received a number of objections at Publication Draft stage, however, the Council does not consider the objections to be significant. Under guidance set out in paragraph 48 of the NPPF some weight can be given to the Emerging Copeland Local Plan. In addition to this, no objections were received in relation to the proposed settlement boundary for Beckermest. Therefore, the policy can be given moderate weight in decision making.

Overall, by virtue of its location, the application site is considered to be isolated from services and any sustainable transport links. The development is therefore considered to be located within an unsustainable location in relation to services and its reliance on unsustainable transport methods, would therefore not comply with paragraph 11 of the NPPF.

### **Conclusion**

On this basis of the above the proposal is not considered to be in a suitable location for a residential development when assessed against the policies in the NPPF taken as a whole. On this basis the proposal is considered to be an unacceptable form of unsustainable development.

Should the Inspector choose to allow the appeal then the Local Planning Authority request that the following conditions are attached to any permission:-

### **Conditions**

#### **Standard Conditions**

1. The layout, scale, appearance, access, and landscaping must 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 must be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted must 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. This permission relates to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:-
  - Location Plan (Amended), Scale 1:2500, Dwg No ab2, received by the Local Planning Authority on the 6<sup>th</sup> December 2021.
  - Planning Statement, received by the Local Planning Authority on the 19<sup>th</sup> October 2021.

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. No development must commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme 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;
  - (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); and
  - (iii) A timetable for its implementation.

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

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

#### 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 shall 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 shall 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 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. The plans and particulars for the reserved matters application shall include:
  - a) plan, to a scale and level of accuracy appropriate to the proposal, showing the position of every tree and hedge on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees and hedges are to be removed;
  - b) and in relation to every tree and hedge identified a schedule listing:
    - i. information as specified in section 4.4 of British Standard BS5837 - Trees in relation to design, demolition and construction - Recommendations;
    - ii. Any proposed pruning, felling or other work;
  - c) and in relation to every existing tree and hedge identified to be retained on the plan referred to in (a) above, details of:
    - i. any potentially damaging activities proposed in the vicinity of the trees and hedges, such as, proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area (see paragraph 5.4.2 of British Standard BS5837 - Trees in relation to design, demolition and construction - Recommendations)
    - ii. all appropriate tree and hedge protection measures required before and during the course of development (in accordance with section 5.5 of British Standard BS5837 - Trees in relation to design, demolition and construction - Recommendations).

Reason

To ensure the continuity of amenity in accordance with Policy DM28 of the Copeland Local Plan 2013-2028.

Prior to Occupation Conditions



10. Details showing the provision of a vehicle turning space within the site, which allows vehicles visiting the site to enter and leave the highway in a forward gear, must be submitted to the Local Planning Authority for approval. The development must not be brought into use until any such details have been approved and the turning space constructed. The turning space must not thereafter be used for any other purpose.

Reason

To ensure that provision is made for vehicle turning within the site and in the interests of highway safety.

Other Conditions:

11. This permission gives outline approval for two dwellings only at this site.

Reason

To ensure an appropriate form of development at this site.

12. The dwellings hereby permitted must not exceed one storey in height. This does not preclude the use of the roof space as habitable accommodation.

Reason

To minimise the impact on neighbouring properties of the visual amenities of the area.

13. There must be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning Authority.

Reason

To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety in accordance with Policy T1 and DM22 of the Copeland Local Plan.

14. No drainage from the proposed development shall run off into the trunk road drainage system, nor shall any such new development adversely affect any trunk road drainage. In order to protect the integrity of the National Highways asset by ensuring that any new development adjacent to the SRN does not negatively impact upon the asset.

Reason

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

15. Access gates, if provided, must be hung to open inwards only away from the highway.

Reason

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

16. All matters relating to the layout of the site, parking and turning within the site shall be reserved for approval at the detail planning stage.

Reason

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

17. 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.

**Informative:**

In view of the fact that this application, could increase the number of persons in the area (including trade people) the applicant should liaise with the CCC Resilience Unit office via [emergency.planning@cumbria.gov.uk](mailto:emergency.planning@cumbria.gov.uk) to allow for further discussion to ensure the applicant and their trades people/contractors are aware of the appropriate information and actions to take should there be an incident at the Sellafield site.