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Dear Planning Policy Team,

COPELAND LOCAL PLAN: MAIN MODIFICATIONS

1. Thank you for consulting with the Home Builders Federation (HBF) on the Copeland Local Plan Main Modifications consultation.
2. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.
3. The HBF would like to comment on a selection of the proposed modifications that are considered to have implications for the home building industry.

MM2: Vision

4. The Council propose to amend the end date of the Plan, so it covers 15 years from adoption, this is an amendment from 2038 to 2039. The HBF considers that this is an appropriate amendment.

MM7 & MM8: DS1PU

5. The Council propose to delete policy DS1PU and to insert text into paragraphs 5.2.3 and 5.2.4 in relation to taking a positive approach to sustainable development, early engagement with developers, and using planning conditions. The HBF considers that this is an appropriate amendment.

MM9 & MM10: DS2PU

6. The Council propose to delete Policy DS2PU this is to be replaced by a table highlighting good practice measures. The HBF considers that the deletion of Policy DS2PU is appropriate. The HBF considers that that the addition of the table setting out good practice measures, may be appropriate, but it is important that this is not seen as policy and is not taken as a requirement for developments.

MM13 DS4PU



7. The Council propose to amend this policy to *'where the proposal is for housing and the site is well related to and directly adjoins **an identified settlement boundary**'*. The remainder of the policy stays the same.
8. The HBF continues to be concerned that the current criteria set out in DS4 are too limited and may not provide the flexibility the Council require to ensure that their housing needs are met and to ensure that sustainable developments come forward. The HBF considers that the limitations proposed are contrary to the Government's objective to significantly boost the supply of homes, to ensure a sufficient amount and variety of land can come forward to meet the needs of groups with specific housing requirements, including those who require affordable housing, families with children and older people¹. And would not promote sustainable development in rural areas where housing should be located to maintain the vitality of rural communities, allowing opportunities for villages to grow and thrive and support local services².
9. The HBF continues to recommend that the policy is amended to state:
'Where the proposal is for housing and;
 i. *the site is well related to ~~and directly adjoins an identified settlement boundary;~~ and*
 ii. *the site is or can be physically connected to the existing settlement by safe pedestrian links;~~;~~ and*
 iii. ~~*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 or more*~~
 • ~~*the proposal is for a specific type of housing supported by Policies H14, H15 or H17.'*~~

MM60: H2PU

10. The Council propose to amend the plan period within this policy to 2039, which leads to an increase in the housing requirement. The HBF considers that the extension to the plan period and the corresponding increase in the housing requirement is appropriate.

MM68: H7PU

11. The Council propose to amend this policy to remove reference to exceptional circumstances in relation to when alternative evidence would be considered in relation to the SHMA or housing needs assessment. The HBF considers this is an appropriate amendment.

MM70: H8PU

12. The Council propose to amend this policy to provide greater clarity in relation to the tenure split between First Homes, discounted market sales and affordable or social rented housing. The HBF considers that this is an appropriate amendment.

¹ NPPF 2021 paragraphs 60-62.

² NPPF 2021 paragraph 79

13. The HBF is concerned however that the policy still refers to exceptional circumstances in relation to a lower proportion of affordable housing being permitted. The HBF continues to consider that the Council's own viability evidence highlights the significant viability challenges in the area, and that the circumstances when a lower figure will be needed are not exceptional.
14. The HBF continues to recommend that the policy is amended as follows:
*"A lower proportion of affordable housing or an alternative tenure split will **only** be accepted ~~in exceptional circumstances. In such cases~~ **where** developers **must** demonstrate, to the Council's satisfaction, why the current site specific circumstances mean that meeting the requirements of this policy would render the development unviable. This should be in the form of a clear, bespoke viability assessment."*

MM94:N3PU

15. The Council propose to amend policy N3 for clarity.
16. In light of all the new guidance on Biodiversity Net Gain (BNG) that has recently been published, the Council will need to ensure its approach to BNG to ensure it fully reflects all the new legislation, national policy and guidance. The HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time and note the final version of DEFRA BNG Guidance was published on 12th Feb 2024 and the final version of the PPG published on Feb 14th 2024. The HBF understands that both may be further refined once mandatory BNG is working in practice, to reflect any early lessons learnt. The HBF notes that there is a lot of new information for the Council to work through and consider the implications of, in order to ensure that any policy on BNG policy so that it complies with the latest policy and guidance now this has been finalised. It is important that mandatory BNG does not frustrate or delay the delivery of much needed homes.
17. The PPG³ is clear that there is no need for individual Local Plans to repeat national BNG guidance. It is HBF's opinion that the Council should not deviate from the Government's requirement for 10% biodiversity net gain as set out in the Environment Act. There are significant additional costs associated with biodiversity gain, which should be fully accounted for in the Council's viability assessment. Although the national policies requiring 10% BNG cannot be subject to site specific viability discussion, any policy requirements over 10% can be. Any policy seeking more than 10% BNG needs to reflect this position. The PPG⁴ is also clear that plan makers should not seek a higher percentage than the statutory objective for 10% BNG, unless justified. Therefore, the HBF recommends that the policy is amended to state '10%' rather than 'a minimum of 10%'.
18. The HBF notes that BNG has been designed as a post permission matter to ensure that the 10% BNG will be met for the development granted permission. Schedule 14 of the Environment Act sets out that a general condition will be applied to every planning permission (except those exempt from BNG) that a BNG Plan should be submitted and

³ PPG ID: 74-006-20240214

⁴ PPG ID: 74-006-20240214

approved by the LPA before commencement of development. Therefore, the Council cannot require a final BNG Plan to be provided at application stage. This is particularly the case for large sites where development will be phased. The PPG now includes additional Guidance on how phased development should be considered, which the Council will need to consider and accommodate when revising this BNG policy. What would be helpful would be for the Plan to be explicit in its support for BNG considerations to be discussed at the earliest opportunity, including through the pre-application process. The PPG⁵ clearly sets out what information an applicant must submit as part of a planning application, and as planning policy does not need to repeat this guidance, the HBF recommends that this section of the policy be deleted.

19. The HBF notes that the lack of flexibility in the second paragraph and considers that the Council may want to review this, for example it may not be that on-site provision is not appropriate, it may be that not all of the BNG can be delivered on-site. The HBF also considers that it is not appropriate to limit off-site provision to the Local Nature Recovery Network and to sites within Copeland, the HBF considers that the Council will also want to consider the role of the new Cumberland authority area, and the potential for the most appropriate location for certain habitats when off-site may not be within the authority area and may be better suited to an alternate location. This is particularly important as the market for off-site units is still developing. The HBF also considers that it would be appropriate to differentiate between the purchase of off-site units, and purchase of national credits as per the biodiversity gain hierarchy.
20. The HBF notes that the land owner is legally responsible for creating or enhancing habitat, and for managing that habitat for at least 30 years to achieve the target condition for BNG purposes. Where a developer purchases off-site units, they are paying the land manager to manage the land for 30 years to achieve the target condition. Therefore, the HBF considers that this element of the policy should be deleted or amended.
21. The HBF recommends that that Council work closely with the HBF, PAS, DEFRA and others with expertise in BNG to ensure that the policy is amended appropriately to reflect the latest position. The HBF considers that this will be particularly important in this instance as Copeland will be one of the first plans to be adopted after the introduction of BNG.
22. The HBF currently recommends that the policy is amended as follows:
“All development, with the exception of that listed in the Environment Act 2021 and any documents which may supersede it must provide ~~a minimum of~~ 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU.

*Net gain should be delivered on site where possible. Where on-site provision **cannot be achieved in full is not appropriate**, provision must be made elsewhere. **This should be provided** in order of the following preference:*
 1. Off site in an area identified as a Local Nature Recovery Network in the Plan area;
 2. Off site on an alternative suitable site within Copeland **or in Cumberland**;

⁵ PPG ID: 74-011-20240214

3. **Off site on an alternative suitable site;**
4. **Through the purchase of off-site biodiversity units on the market;**
5. Through the purchase of an appropriate amount of national biodiversity ~~units~~/credits.

~~Planning applications must include a Biodiversity Gain Plan which will identify the merit of onsite habitats both prior to and after development (using the relevant Metric system), set out details to reduce or prevent adverse effects and demonstrate how net gains will be obtained.~~

~~Sites where net gain is provided (on or off site) must be managed and monitored by the **landowner** applicant or an appropriate body funded by the applicant for a minimum period of 30 years. **Where appropriate** applicants should supply a **Habitat Creation Plan** and a **Habitat Management and Monitoring Plan (HMMP)**, which covers this 30-year period. Annual monitoring reports detailing the sites condition post-enhancement must be submitted to the Council each year over this period. Where there is evidence of deliberate neglect or damage to any of the habitats on development sites in order to reduce its biodiversity value their deteriorated condition will not be taken into consideration and previous ecological records of the site and/or the ecological potential of the site will be used to decide the acceptability of any development proposals.~~

MM116: CO7PU

23. The Council propose to remove reference to Electric Vehicles within this policy. The HBF considers that as this element of the policy is now covered by Building Regulations this is an appropriate amendment.

Future Engagement

24. I trust that the Council will find these comments useful as it continues to progress its Local Plan to adoption. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.
25. The HBF would like to be kept informed of the adoption of the Plan, the publication of the Inspector's Report and all forthcoming consultations upon the new Cumberland Local Plan and associated documents. Please use the contact details provided below for future correspondence.

Yours sincerely,



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