

EXAMINATION OF THE ALLITHWAITE AND CARTMEL NEIGHBOURHOOD DEVELOPMENT PLAN 2020-2032

Submission Version – October 2022

Examiner's initial comments and questions for clarification

I have completed my initial appraisal of the submitted Neighbourhood Development Plan for Allithwaite and Cartmel (the A&CNDP) and supporting documents. I have also read the written representations made in response to the Regulation 16 consultation.

This note sets out a number of questions which arise from this appraisal in relation to the basic conditions. The questions are intended primarily to clarify the position of the Allithwaite and Cartmel Parish Council (the ACPC), as the Qualifying Body (QB) for the preparation of the plan, on certain aspects of policy implementation and, where necessary, to obtain additional information relevant to those issues which arise. In some instances it may also be appropriate for the Westmorland and Furness Council, as Local Planning Authority (LPA), to amplify certain aspects of the development plan context and evidence base.

I set out the background considerations leading to my questions by the use of *italic script*. This may give an indication of my initial thoughts on an issue which may result in a recommendation that the plan be modified in order that it fully satisfies the basic conditions. The ACPC, or the LPA if appropriate, may respond as they see fit. I consider it important that any recommendation I make should not come as a surprise to the plan-makers.

The responses received to these questions will assist me in reaching my conclusions and recommendations to be set out in the formal report to be delivered at the end of the examination to the ACPC and LPA. It is important that the examination is undertaken in an open and fair manner. To that end, any important documents, including this note and copies of any relevant email correspondence, should be made available on the web page for this NDP.

The legislation provides that, as a general rule, the examination is to take the form of the consideration of written representations but an examiner must cause a hearing to be held should it be considered necessary to ensure adequate examination of an issue. I am reserving my position on this matter pending receipt of responses to the questions I pose in this paper.

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Examiner

2 May 2023

Need for update to refer to the change of local government administration which took place on 1st April 2023

I am sure it will be clear to all concerned that the references in the plan to the South Lakeland District Council ('the SLDC') will need to be changed to that of the new unitary council for Westmorland and Furness ('the WFC'). I will treat this in general terms as an 'error' and make a recommendation for correction along with other minor errors in the text.

Approach to policy wording

National Planning Policy Guidance (NPPG) in paragraph ref. 41-041-20140306 states that a policy in neighbourhood plan should be clear and unambiguous and that a policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.

There is recognition in the implementation section of the plan that the policies in the plan will be delivered through decisions on planning applications by the LPA. However, policies AC1, AC7, AC8 and AC9 are phrased in terms of development being 'supported' or 'not supported', as the case may be.

Q1. In what way is it intended that development will, or will not, be 'supported' and how should such wording be interpreted by the Local Planning Authority? Does 'supported' mean that planning permission should be granted and the converse for 'not supported'? Would the Parish Council wish to suggest alternative wording?

NPPG paragraph 41 also indicates that Neighbourhood Plan policies should be locally distinctive reflecting the unique characteristics of the area. In that context:

Q2. What is the justification for the inclusion, as policy, of a statement that national or local planning policy applies, for example in Policies AC2 and AC10? Bearing in mind that the Development Plan is to be read as a whole, would cross-references to national policies or to policies in the South Lakeland Local Plan policy be better contained in the supporting text?

Comments and questions on individual plan policies

Policy AC1

Q3. If the word 'supported' is interpreted as indicated in the light of Q1 might this policy be considered as too widely drawn? Does it mean that a development should only be approved if ALL of the criteria are met? (*each one is linked by 'and'*). Should the words 'where relevant' be added?

Q4. *The policy refers to 'all development'. Is that intended to apply to minor developments? Should a distinction be made? For example, Design and Access Statements are required only for 'major development' outside 'designated areas', which include conservation areas.*

Q5. *The first paragraph in this policy refers to the 'key attributes' of the parish. Is that term sufficiently clear? Should it be more specifically defined in the plan text?*

Q6. *The policy refers to 'detrimental' impact to the character of the area. Is that too strict a test given the national policy emphasis on taking a positive approach to development? Would the terms 'adverse' or 'significantly harmful' more closely reflect national policy?*

Q7. *Criterion E. The first part of this criterion requires that (presumably an application) 'demonstrates that consideration has been given to the amenities of occupiers of neighbouring properties.' What are those 'amenities' and does giving consideration to something necessarily result in minimising unacceptable harm to any such amenity? The second part of the criterion does not then clearly relate to the first part. Should the criterion be split?*

Q8. *Criterion F. This overlaps and largely duplicates Policy AC7. Are both needed? How is an applicant, or the Local Planning Authority, to know where any future proposals for footpath links are likely to arise? Might this not result in the unjustifiable blighting of land?*

Policy AC2

Q9. *In the second line of this policy the use of the word 'maintain' could be interpreted as applying a stricter test than in national policy which refers to 'conserve' as does Core Strategy policy CS8.6. Is there a justification for this?*

Q10. *As the areas referenced in the last part of this policy are clearly identified on the Local Plan Policies Map as either Public Open Space or Amenity Open Space and are safeguarded by Policy L1.10 in the Land Allocations DPD, what is the purpose of including this in the neighbourhood plan? Is it not unnecessary duplication?*

Policy AC3

Q11. *There is an error in the first line of the second paragraph in this policy viz. 'takes preserves'. To require development to 'preserve' landscape features and the village settings appears to be an unduly negative approach which goes beyond national policy and the approach taken in Core Strategy Policy CS8.2. A representation suggests the use of the word 'respects'. What is the Parish Council's view on such, or similar, re-wording?*

Q12. *The Friends of the Lake District refer to the fact that the parish is within the setting of the Lake District National Park and to the legal duty to conserve and enhance that setting. Does that warrant specific mention within the policy or plan text?*

Q13. *Paragraph 4. 'Outside the village ...' The wording that 'the dispersed settlement pattern should be maintained' could be interpreted as permissive in respect of new housing outside the village settlement boundaries, which would conflict with Core Strategy Policy CS4 and Development Management Policies DM14 and DM15. The words between the two commas do not appear to serve any useful purpose in policy terms and could cause uncertainty in decision-making. Might those words be deleted or the sentence re-worded?*

Q14. *List of views, Cartmel, Map 4B. As a general rule, it should be possible for the plan-user to understand the meaning of policies without a need to look at other documents. In this case there is a link to the Townscape Features Map in the Cartmel Conservation Area Appraisal which could easily be reproduced in the Neighbourhood Plan especially as the policy cross-references to text paragraph 2.1.22 (which might be better placed to precede Policy AC3). What methodology has been used to identify additional views to those identified in the Conservation Area appraisal? What is the justification for including such additional areas? As a representation suggests additional views, have they been assessed against set criteria? Should the Townscape Features Map be included in the NP itself for ease of reference?*

Q15. *The last section of the policy refers to dry stone walls as well as hedgerows. Should the requirements of landscape schemes also cover the re-building of walls?*

Policy AC4

The inclusion of cross-references to the NPPF and to specific paragraph numbers within it is best avoided because the national policy context might well change during the lifetime of the plan, necessitating revision. In most cases, if such references are essential to the interpretation of policy they are better included in the accompanying text.

Q16. Is it accepted that the references to the NPPF should be omitted from the policy itself? Why is there a reference to the plans in the Local Green Space Assessment when they show the same areas as Maps 5 and 6 in the NP? Might the policy read simply 'The areas of land shown in green on maps 5 and 6 are designated as Local Green Spaces'

Q17. *As currently worded the policy is not entirely consistent with national green belt policy as stated in paragraphs 147-150 in the NPPF because no reference is made to certain forms of development being 'not inappropriate'. In particular, the exception given in paragraph 149(b) might well apply. Does the Parish Council accept that the word 'Inappropriate' should be inserted before 'new' in the penultimate paragraph and in the final paragraph, second line, that the words 'by reason of inappropriateness and any other harm' should be inserted before 'caused by new development'?*

Policy AC5

Q18. Is it considered that adequate regard has been had to national policy as in paragraph 174 of the NPPF, in particular whether the requirement to 'avoid any' impact is too strict a test, rather than to 'minimise' such impact?

Q19. Should criterion A also include reference to the siting of new development?

Policy AC6

Q20. *The second paragraph in this policy largely repeats, but with more detail, criterion A in the first paragraph.* Would the Parish Council wish to delete criterion A or replace it by the text in the second paragraph of the Policy?

Q21. *The second sentence in criterion B is an informative rather than policy as such.* Is it agreed that this would be better placed in the supporting text?

Q22. *Similarly, the final sentence is a statement rather than policy.* Is there a policy intention behind it?

The Parish Council is invited to comment further on the detailed points made by The Friends of the Lake District in their Regulation 16 representation on this policy.

Policy AC7

For the most part this reads as a community aspiration rather than a land use policy which can be delivered by means of decisions on planning applications. The improvement and enhancement of existing footpath and cycle links, where they are on highway land will not require planning permission. Also, where a footpath link crosses private land its enhancement could only be achieved if it could be conditioned (within the ownership and control of the applicant), by agreement with the landowner or by the use of Highways Act powers.

Q23. In the light of the above how is it intended that this policy be implemented? Also, see question 6 above with regard to criterion B.

Q24. *The spending of CIL money is not an appropriate matter for inclusion in land-use policy.* Is it agreed that the second paragraph in this policy would be more appropriately included in the implementation section of the plan?

Policy AC8

The Parish Council will be aware that a robust justification is required for a restrictive policy of this kind.

Q25. What is the date for the information included in Table 4 and how have these statistics changed in recent years?

Q26. *As this policy applies only to new build in Cartmel plus a 200 m. buffer zone, it will affect the two sites allocated for housing in the Local Plan (Policy L1.3) for a total of 54 dwellings plus any infill within settlement boundary. Has planning permission been granted on either of the allocated sites and is there as estimated capacity for infill?*

Q27. What is the justification for identifying an approximate 200 m. zone (Map 7) beyond the Cartmel settlement boundary within which the policy would apply? Why 200 m. rather than any other distance and what difference would it make to the statistics in Table 4 if it were not to be included?

Q28. If the policy is applied to the allocated sites what are the implications for the ability of the LPA to deliver the strategic housing requirements of the current Local Development Framework.

Q29. Has there been any assessment of the effect of applying this policy on the viability of development on the allocated sites?

Q30. What would be the effect of the application of this policy on the provision of affordable housing on the allocated sites under the provisions of Core Strategy Policy CS6.3?

Q31. Given the nature of 'Parish Aspiration 2' is there any recent survey information available on the nature and scale of any affordable housing requirement for the parish?

Q32. *The use of dwellings as holiday lets is shown in Table 4 as those which are claimed as business premises for council tax purposes. Holiday lets are part of the local tourism trade. Is policy AC8 regarded as being compatible with Objective 11 for tourism development? Is there any evidence to show what effect the policy may have on local businesses?*

Q33. Is it considered that the imposition of a planning condition or obtaining a planning obligation, not necessarily an agreement under s106, would accord with the requirements of paragraphs 55 to 57 of the NPPF?

Q34. Are the detailed provisions for any planning condition or obligation, as set out in the box at the top of page 44 in the plan, considered to be sufficiently enforceable by the Local Planning Authority? Would they be reasonable, bearing in mind that it is not mandatory to register on the electoral role, nor might children attend local schools, especially as secondary level and health services may not be available within the parish?

Policy AC9.

Q35. *Bourne Leisure make representation against the reference in paragraph 2.4.11 of the plan text to this policy taking a 'restrictive' approach which they state is in conflict with Core Strategy policy for tourism related development and does not have regard to national policy.* Is it considered that it is correct to refer to the policy as 'restrictive' in general terms rather than primarily dealing with landscape impact? Should there be more explicit reference in policy to mitigation measures?

Q36. Many of the criteria in the policy are the same as in Local Plan Policy DM18. Is the duplication necessary?

Q37. Having regard to national policy is it considered that the adjective 'adverse' should be qualified by 'significantly'?

Q38. Does criterion E, as drafted, have adequate regard to the approach in paragraph 111 of the PPG?

Policy AC10

In most cases, the provision of telecommunications infrastructure is 'permitted development' as provided for in the General Permitted Development Order.

Q40. In the circumstances, how is it expected that this policy is to be implemented?

As indicated in Question 2 above, the last part of this policy merely repeats local plan policy which already applies, which is unnecessary.

Q41. *The wording of this policy refers to 'developers' rather than setting criteria for assessing planning applications for development.* Does criterion A add anything to Local Plan Policy DM8? Is it intended to apply to all developments or only to larger sites, for example those allocated in Site Allocations DPD?

Q42. What actions are expected to be taken by developers to comply with criterion B, especially for smaller developments? Is it reasonable to require this for areas beyond the control of the developer such as health care provision?