

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/20/2009/0F1
2.	Proposed Development:	DEMOLITION OF 114 BOWTHORN ROAD AND REPLACEMENT WITH 3 NO. DWELLINGS
3.	Location:	114 BOWTHORN ROAD, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Development Referral Area - Data Subject to Change, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations & Policy	See Report.
7.	Report:	<p>Site and Location:</p> <p>The Application Site comprises the property known as 114 Bowthorn Road, Cleator Moor.</p> <p>The property comprises a two storey semi-detached dwellings finished externally with roughcast render to the elevations and tiles to the roof.</p> <p>The property has an attached garage and a large side garden.</p> <p>Direct Planning Application History</p> <p>None.</p> <p>Proposal:</p> <p>This application seeks Full Planning Permission for the demolition of the existing dwelling and the erection of a terrace of 3no. dwellings of differing designs and forms.</p>

The proposed dwellings are finished externally with a combination of render and brick to the elevations with grey uPVC windows and doors.

On street parking is proposed.

It is proposed to dispose of foul and surface water to the main sewer.

The design of the dwellings has been revised during the course of the planning application.

Consultee:	Nature of Response:
Parish Council	No comments received.
Cumbria County Council – Highways and LLFA	<p>28th January 2020</p> <p><u>Highways response:</u> The proposal to demolish the existing building and replace it 3x dwellings has been submitted along with detailed plans showing that on-site parking will be made available to the residents and that the access will have good visibility splays for both vehicles and pedestrians.</p> <p>The applicant will be responsible for ensuring that the existing dropped kerb is extended so that it accommodates the new access for the parking area and this will be at the expense of the applicant. They will be required to obtain a street works permit before any works are carried out.</p> <p>Overall, I can confirm that the Highway Authority and Lead Local Flood Authority have no objections to this proposal.</p> <p><u>LLFA response:</u> The LLFA surface water map shows flooding to the area and indicates a 0.1% (1 in 1000) chance of occurring each year.</p> <p>28th July 2020</p> <p>Cumbria County Council as the Highways Authority and the Lead Local Flood Authority (LLFA) has reviewed the above planning reference and would inform you there are no objections to the proposal subject to the following conditions being included in any notice of consent that may be issued:-</p> <p>1) Before the dwellings are occupied the existing access to the highway shall be permanently closed and the highway crossing and boundary shall be reinstated in accordance with details which have been submitted to and approved by the Local Planning Authority.</p>

	<p>Reason: To minimise highway danger and the avoidance of doubt. To support Local Transport Plan Policies: LD5, LD7, LD8</p> <p>2) New ground floor windows and doors abutting the highway shall be of a type which cannot open outwards into the highway. Reason: To minimise possible danger to other highway users. To support Local Transport Plan Policies: LD7, LD8</p> <p>It should be noted that there are no off road parking provided as part of this amended development, making the only provision on road, a point you should bear in mind when determining the application.</p>
United Utilities	<p>Request that the following planning conditions be imposed on any approval:</p> <ol style="list-style-type: none"> 1. Submission and approval of surface water drainage scheme. 2. Foul and surface water shall be drained on separate systems. 3. Submission and approval of a sustainable drainage management and maintenance plan.
Neighbour Responses:	
<p>The application has been advertised by way of an application site notice.</p> <p>No representations have been received.</p>	

Development plan policies:

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 DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Policy DM27 – Built Heritage and Archaeology

Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements

Proposals Map including settlement boundaries.

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

Planning Practice Guidance (PPG).

National Design Guide (NDG).

Interim Housing Policy (IHP).

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

Emerging Copeland Local Plan

The emerging Copeland Local Plan 2017-2035 is currently the subject of a Preferred Options Consultation. The Preferred Options Consultation builds upon the completed Issues and Options Consultation, which finished in January 2020. Given the stage of preparation, the emerging Copeland Local Plan 2017-2035 has only limited weight in decision making, but 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.

Assessment:

Principle;

Policy ST2 of the CS identifies Cleator Moor as a Key Service Centre.

Policy ST2 states that Key Service Centres are to support moderate levels of the development reflecting the respective scale and function of these smaller towns and contribute to the regeneration of their town centres. Figure 3.3 of the supporting text to Policy ST2 identifies that Cleator Moor will deliver at least 23 dwellings per annum throughout the plan period based upon an annual housing requirement of 230 dwellings per annum.

The Application Site is located within the defined settlement boundary for Cleator Moor and comprises a infill windfall development as supported by Policy ST2.

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to developments relating to the provision of housing, 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.

Copeland Borough Council is currently unable to demonstrate a five year supply of housing land; therefore, the provisions of the presumption in favour of sustainable development outlined in Paragraph 11 of the NPPF must be applied in the determination of this application.

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.

An Interim Housing Policy (IHP) has been produced by Copeland Borough Council. The policy does not comprise part of the statutory development plan and was prepared under the provisions of the NPPF 2012; however, the policy provides guidance regarding the acceptability of development proposals when applying the presumption in favour of sustainable development and comprises a material planning consideration to be given some weight in decision taking.

In applying the provisions of Paragraph 11:

- the Site would assist in a small way in boosting housing supply to meet the identified need for housing in Cleator Moor and the wider Borough;
- the proposed development is appropriate in scale to the designation of the Cleator Moor as a Key Service Centre in accordance with the spatial objectives of Policy ST2 of the CS and the requirements of Criterion A of the IHC;
- the Site is located in close and convenient proximity to the services and employment opportunities located within Cleator Moor for which the settlement has been designated as a Key Service Centre in Policy ST2 of the CS. The proposed development will support existing services and thus the aspiration of retaining these services and achieves the requirements of Criteria B and D of the IHP; and,

- Sustainable travel options exist within the vicinity of the settlement as per the provisions of Policy DM22 of the DMP.

Housing Need;

Cleator Moor falls within the Whitehaven Housing Market Area (HMA) of the Copeland Strategic Housing Market Assessment (SHMA).

The SHMA suggest a particular focus on the delivery of three bedroom houses, semi-detached and detached houses with four or more bedrooms and bungalows.

The proposed development comprises 3no. three bedroom dwellings and so will assist in providing a greater balance of market housing stock within Cleator Moor in accordance with the provisions of Policy SS3 of CS, Criteria A, H and I of the IHP and Paragraph 61 of the NPPF.

Design, Settlement Character, Landscape Impact and Visual Impact;

Bowthorn Road comprises a linear road that acts as a primary route into Cleator Moor.

Bowthorn Road principally comprises terraced properties to the north with a combination of frontage dwellings and open space to the south. Historic mapping illustrates that terraced properties previously existed to the south of the highway; however, a large section to the south were demolished in the C20th. There is articulation to the eaves and ridge heights of the terraced dwellings to the north. Lesser articulation exists to the ridge and eaves of the two storey elements of the dwellings to the south.

As existing, the Application Site detracts from the character of Bowthorn Road and thus the locality. The renovation or redevelopment of the Application Site has the potential to deliver betterment of the existing situation.

The proposed development is larger in overall scale and massing than the existing dwelling proposed to be replaced; however, presents a form/replication of the dwellings that existed before in this area before their demolition. Eaves and ridge heights consistent with 112 Bowthorn Road are incorporated into the attaching dwelling, with some articulation to the central dwelling as exists along Bowthorn Road.

The design incorporates fenestration comparable in form to that in 112 Bowthorn Road, albeit with differing window designs reflecting the more contemporary overall themes of the development. Whilst vertical alignment of the doors could be argued as preferable, it is not considered necessary given the proposed arrangement is consistent with the prevailing arrangement of the doors within the locality.

The design and arrangement of the rear elevations and fenestration are less successful in design terms; however, these are contained to the rear and so do not cause unacceptable harm in design and settlement character terms.

The proposed materials comprise contemporary iterations of those used within the existing terraced dwellings. A planning condition is proposed to secure details of these materials.

In overall terms, it is considered that the proposed therefore accords with the provisions of Policy ENV5 of CS, Criteria G, K and L of the IHP and Paragraph 170 of the NPPF.

Drainage, United Utilities Infrastructure and Flood Risk;

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.

It is proposed to dispose of surface water and foul water to the public main. Given the existing connection to the public main and that no net additional flows will reasonably be created beyond the existing, the proposed arrangement is considered acceptable.

Ecology;

A Survey for Bats, Barn Owls and Breeding Birds has been prepared in support of this Full Planning Application.

The Survey states that the building had no field signs of barn owls, or other birds and that bat activity was observed around the property but none approached the building. It is stated that there is potential for bats to be present in the areas that were inaccessible to the survey including under any gaps ridge tiles and roof junctions and under slates, behind roof timbers in wall gaps and within adjoining house roof. It is stated that extreme care must be taken when carrying out the demolition especially in these areas and that crevices should be checked with a torch prior to demolition to ensure no bats are killed. It is confirmed that bats can be encouraged on site by allowing them access to the new building post-works, and by erecting bat boxes. It is concluded that provided work is carried out in accordance with the specified mitigation, a European Protected Species Bat Licence should not be required.

In the context of the above, it is not necessary to engage the tests of derogation and a planning condition is proposed to secure completion of the development in accordance with the specified mitigation.

Highways;

Cumbria County Council – Highways have been consulted and raised no objections subject to the imposition of two planning conditions requiring the closure of the highway crossing in accordance with details to be submitted and approved and that windows be of a type that cannot open into the highway.

It is stated that: *“it should be noted that there are no off road parking provided as part of this amended development, making the only provision on road, a point you should bear in mind when determining the application”*. This is noted and understood; however, given the availability of on highway parking spaces in the locality, the availability of alternative transport modes and the short distances to services and employment opportunities, which discourage car use/ownership, the proposed arrangement is considered acceptable.

Residential Amenity;

Given the scale, form and location of the proposed dwellings in relation to the existing dwellings, no adverse impacts upon residential amenity through overlooking, loss of light, overshadowing and overbearing effects will result. Given the location of the Application Site opposite the junction with Border Avenue, the required interface separation distance between the existing and proposed windows is achieved. Given the relationship between the proposed and the dwelling known as No.112 Bowthorn Road, some loss of light and overbearing will result; however, these impacts would not be greater than could result from the Applicant exercising rights under Schedule 2, Part 1 of the GPDO 2015 in relation to the existing dwelling.

A planning condition is proposed to prevent the erection of extensions to the rear elevation or roof of the respective dwellings to prevent harm to the amenity to the adjacent dwellings through loss of light and overbearing etc. through exercise of these rights.

Ground Conditions;

The Application Site comprises previously developed land. Given the previous use as a dwelling, land contamination is not anticipated; however, a planning condition is proposed to control impacts should unexpected land contamination be identified during construction.

The Planning Balance;

Copeland Borough Council is currently unable to demonstrate a five year supply of housing land; therefore, Paragraph 11 of the NPPF must be applied.

Policy ST2 of the CS identifies Cleator Moor as a Key Service Centre.

The Application Site is located within the defined settlement boundary for Cleator Moor and comprises a infill windfall development as supported by Policy ST2.

	<p>The scale, form and design of the proposed dwellings are considered appropriate to the Application Site and will not result in unacceptable harm to the settlement form and character.</p> <p>The development is acceptable in respect of the residential amenity, highway safety, drainage and ecology subject to the planning conditions proposed.</p> <p>In overall terms, the development is considered to be in accordance with the provisions of the Development Plan when taken as a whole.</p>
8.	<p>Recommendation: Approve (commence within 3 years)</p>
9.	<p>Condition(s):</p> <ol style="list-style-type: none"> 1. The development hereby permitted shall begin not later than three years from the date of this decision. <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> 2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:- <p>Planning Application Form received 6th January 2020 Survey For Bats, Barn Owls and Breeding Birds - 114 Bowthorn Road, Bowthorn, Cleator Moor, Cumbria, CA25 5JG received 18th June 2020 Location Plan and Site Plan – Drawing No. 100 Rev. A received 27th August 2020 Proposed Ground Floor Plan – Drawing No. 103 Rev. A received 27th August 2020 Proposed First Floor Plan – Drawing No. 104 Rev. A received 27th August 2020 Proposed Elevations – Drawing No. 103 Rev. A received 27th August 2020</p> <p>Reason</p> <p>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.</p>

Pre-Superstructure and Pre-occupation Conditions

- 3. No superstructure shall be erected until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason

To ensure the development is of a high quality design in accordance with the provisions of Policy DM10 of the Copeland Local Plan 2013-2028.

- 4. Prior to the occupation of any dwelling hereby approved the existing access to the highway shall be permanently closed and the footway crossing shall be removed and the footway reinstated in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason

To minimise highway danger and the avoidance of doubt in accordance with the requirements of Policy T1 of the Copeland Local Plan 2013-2028.

Other Conditions

- 5. New ground floor windows and doors abutting the highway shall be of a type which cannot open outwards into the highway.

Reason

To minimise highway danger and the avoidance of doubt in accordance with the requirements of Policy T1 of the Copeland Local Plan 2013-2028.

- 6. The development shall not proceed except in accordance with the mitigation strategy described in Survey For Bats, Barn Owls and Breeding Birds - 114 Bowthorn Road, Bowthorn, Cleator Moor, Cumbria, CA25 5JG received 18th June 2020.

Reason

For the avoidance of doubt and to prevent harm to protected species in accordance with the

provisions of Policy ENV3 of the Copeland Local Plan 2013-2028.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement to the elevations; no enlargement through construction of additional storeys; and, additions to the roof structures of the dwellinghouses hereby approved shall be developed without the express planning permission of the Local Planning Authority.

Reason

To safeguard the residential amenity of the existing and proposed dwellings in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason:

To prevent harm to human health and the environment in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

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 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Case Officer: Chris Harrison

Date : 09.10.2020

Authorising Officer: N.J. Hayhurst

Date : 12/10/2020

Dedicated responses to:- N/A