

**COPELAND BOROUGH COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/20/2278/OB1
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 2 (SITE ACCESS & LAYOUT) OF PLANNING APPROVAL 4/19/2395/0F1 (ERECTION OF DETACHED DWELLING, GARAGE & AMENDED ACCESS)
3.	<b>Location:</b>	SWALLOWS REST, CROSSFIELD ROAD, CLEATOR MOOR
4.	<b>Parish:</b>	Cleator Moor
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Development Referral Area - Data Subject to Change, 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>	<p>SITE AND LOCATION</p> <p>This application relates to the dwelling known as Swallow’s Rest, recently built on Crossfield Road in Cleator Moor.</p> <p>PROPOSAL</p> <p>This application relates to the previously approved planning permission for the erection of a pair of single dwelling on the site. The application was approved in May 2017 (application reference 4/19/2395/0F1 relates).</p> <p>Planning Permission is sought to vary Condition 2 of application reference 4/19/2395/0F1 to permit an alteration to the siting of the access on the frontage of the plot.</p>

## RELEVANT PLANNING APPLICATION HISTORY

Erection of a detached dwelling and garage, approved in May 2017 (application reference 4/17/2075/0F1 relates);

Erection of detached dwelling and garage (resubmission), approved in December 2019 (application reference 4/19/2395/0F1 relates).

## CONSULTATION RESPONSES

### Consultees

Town Council – No comments received

Cumbria County Highways – No objections, subject to the retention of the conditions imposed on the original permission and the development being carried out in accordance with the approved plans. The applicant will require a permit for the works and should contact Highways to obtain this.

### Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 2 no. properties.

One letter has been received as a result of this advertisement with comments requesting that the wall be built within the properties boundary and that it is constructed from materials which reflect the traditional character of the surroundings.

## 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

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

**Other Material Planning Considerations**

National Planning Policy Framework 2019 (NPPF)

The Planning Practice Guidance (NPPG)

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

**ASSESSMENT**

This application seeks a variation of the condition relating to the submitted plans on the original planning permission in order that the access can be moved to a more centralized location within the plot frontage. The revised access would enable visibility splays of 19.8 x 2.4m to be achieved with the provision of a 750mm high wall on the entrance to the plot.

The Highway Authority have responded to the application and confirmed that the proposed amendment is acceptable from a highway safety point of view. They have requested that the condition relating to access gates be retained on the application and that a permit is required for any works to the highway.

One letter has been received from a neighbouring property requesting that the access be built within the ownership of the dwelling and that the wall be retained with traditional materials. The submitted plans do demonstrate that the access and boundary wall are within the ownership of the applicant and the wall has been agreed to be faced with natural sandstone as part of the previous application which will not be changed by this amendment.

All other details of the previously approved development have remained the same.

**CONCLUSION**

	<p>In my opinion, the revised information which seeks an amendment to the originally approved condition, satisfies the policy criteria and is considered to be in keeping with the surrounding properties and maintains highway safety within the locality. Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPG and the policies within the adopted Local Plan.</p>
8.	<p><b>Recommendation:</b> Approve amendment of condition</p>
9.	<p><b>Condition(s):</b></p> <p>1. 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> <p>Location Plan, scale 1:1250, received 5<sup>th</sup> November 2019;  Proposed Site Plan, scale 1:250, drawing number 156 04003 06, received 24<sup>th</sup> July 2020;  Surface Water Drainage Layout, scale 1:200, drawing number 156 04006 02, received 19<sup>th</sup> December 2019;  Ground Floor Plan, scale 1:100, drawing number 156 04001 06, received 5<sup>th</sup> November 2019;  Proposed Elevations, scale 1:100, drawing number 156 05001 08, received 5<sup>th</sup> November 2019;  Coal Mining Assessment, written by Geo Environmental Engineering, received 5<sup>th</sup> November 2019.</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> <p>2. Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 4.5m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.</p> <p>Reason</p> <p>In the interests of highway safety.</p> <p>3. The access drive shall be surfaced in bituminous or cement bound material, or otherwise bound and shall be constructed and completed before the development is brought into use. The surfacing shall extend for a distance of at least 5.0 metres inside the site, as measured from the carriageway edge of the adjacent highway.</p> <p>Reason</p>

In the interests of highway safety.

### **Informatives**

1) The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) <<http://www.groundstability.com>> or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

2) The Applicant will require a permit from Cumbria County Council Highways Department for the creation of a vehicular access onto the public highway. The applicant should contact Ian Hall to obtain this on email address [ian.hall@cumbria.gov.uk](mailto:ian.hall@cumbria.gov.uk).

**Statement**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant Planning Permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

**Case Officer: Sarah Papaleo**

**Date : 14/09/2020**

**Authorising Officer:**

**Date : 17/09/2020**

**Dedicated responses to:- N/A**