

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/20/2283/OB1	
2.	Proposed Development:	S73 APPLICATION TO REVISE APPROVED PLANS FOR A NEW RETAIL STORE BUILDING AND PETROL FILLING STATION AND THE CONVERSION OF THE FORMER SPAR STORE INTO TWO NO. RETAIL UNITS RELATING TO REVISED ELEVATIONS OF THE NEW STORE, CAR PARK LAYOUT, FUEL STATION CANOPY HEIGHT, PLANT AREA, RETAINING WALLS, INSTALLATION OF ROOF MOUNTED SOLAR PANELS AND VARIATION OF CONDITION 16 FOR BOUNDARY TREATMENT DETAILS	
3.	Location:	IVY MILL, MAIN STREET, HENSINGHAM, WHITEHAVEN	
4.	Parish:	Whitehaven	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change	
6.	Publicity Representations &Policy	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report:		
	Site and Location		
	<p>This application relates primarily to the site of the former G & M Suppliers unit at Ivy Mill, Main Street, Hensingham, Whitehaven. The site is currently vacant after the demolition of a single storey building which formally housed a catering and kitchen suppliers business. The site is accessed from Hensingham Main Street. The application site also encompasses the existing Spar retail unit to the south of Ivy Mill, fronting onto Richmond Hill Road, and a smaller derelict site on the junction of Main Street and Richmond Hill, which formally sited two dwellings.</p>		

Planning History

4/18/2313/0F1 – Construction of new Spar convenience store, petrol filling station and car parking together with the conversion of the former spar store into two retail units and garage – Approved 05.10.2018

4/18/2545/0B1 – Variation of condition 10 of planning permission 4/18/2313/0F1 – Approved 05.02.2019

Proposal

In October 2018 planning permission (ref: 4/18/23313/0F1) was granted for the construction of a new convenience store, petrol filling station and car parking together with the conversion of the former spar store into two retail units and garage. In February 2019 permission (4/18/2545/0B1) was granted to amend condition 10 attached to the original planning approval for this site, to ensure the operation of the petrol filling station was not dependent on any part of the scheme for the conversion of the existing spar store to two retail units.

This current application seeks to vary condition 1 and condition 16 attached to planning permission attached to planning permission 4/18/2545/0B1. The proposed changes to this scheme include the following:

- Car park layout changes to side and front of store to accommodate changes from retaining wall and provide improved disabled access into the store;
- Plant area revision;
- Installation of a clear weather screen adjacent to the main entrance;
- New retaining walls and fencing to rear and side of site;
- Minor adjustments to canopy height and levels to suit forecourt levels;
- Installation of roof mounted solar panels for energy.

Consultation Responses

Whitehaven Parish Council

No objections.

Cumbria County Council – Highway Authority & Lead Local Floor Authority

No objections to the S73 application subject to any conditions that have not been discharged being applied to this application.

Copeland Borough Council – Scientific Officer

The Scientific Officer has stated that condition 16 was originally left over from when there were properties on the corner of Main St and Richmond Hill Rd and noise was seen to be a bigger concern. When the boundaries were last changed I didn't object as the nearest residential properties were behind the garage buildings and the noise assessment suggested there was unlikely to be noise issues. The change this time is from a wall that was due to be between 1.1-1.45m high to the hit and miss fence at 1.8m. It should be noted that the original wall was not designed as a sound barrier as no existing residential properties were proposed at the time of the noise assessment and the wall was too low to be an effective barrier. The change to a higher fence would have probably have little impact on the noise levels off site, but the additional height would reduce the visual impact of the garage on new houses. It was suggested by the Officer that a closed boarded fence would be preferable, however the applicant decided to progress with the hit and miss fence. The Officer has confirmed that he doesn't have any objections to this as it is an improvement on the lower wall that had previously been approved.

Public Representation

This application has been advertised by way of site notice. No comments have been received in relation to the statutory notification procedure.

Planning Policy

Planning law requires that 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

Policy ER6 – Location of Employment

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other Service Areas: Roles and Functions

Policy ER9 – The Key Service Centres, Local Centres and other small centres

Policy SS4 – Community and Cultural Facilities and Services

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM22 – Accessible Developments

Other Material Planning Considerations

National Planning Policy Framework (2019)

Assessment

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. 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. The NPPG outlines that 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.

In terms of the conditions attached to the previous decision notice (4/18/2545/0F1) conditions 2, 5, 8, 9, 12, 13, 14, 15, and 18 will be repeated to ensure that works are carried out as per the approved detail and so that these are formally discharged by the applicant. Condition 3 will not be repeated as this has already been discharged. Conditions 4, 6, 7, 10, 11, 17, and 19 will be repeated as they have either only been discharged in part or they have been discharged but require continued compliance.

The current application seeks to vary condition 1 relating to the plans for the previous approval at this site. The application seeks a number of minor material amendments to the previously approved scheme at this site, including amendments to the car park layout, the plant areas and the canopy, the installation of clear weather screens, the installation of roof mounted solar panels, and new retaining walls and fencing. These alterations are considered acceptable in the context of the original approval as the amendments do not result in a scheme which is of a scale or nature substantially different from that previously approved.

Condition 16 has previously been discharged by the applicant. In order to accommodate additional changes to the proposed boundary treatment, the applicant has asked for this condition to be amended to reflect the amended plans for this proposal. The alterations relates to the north east elevation of this site. The previously proposed brick wall will be altered to a stepped hit and miss boundary fence. The Council's Scientific Officer has stated that the change to a higher fence would have little impact on the noise levels off site, but the additional height would reduce the visual impact of the garage on new houses. This is therefore considered a betterment to the previously approved scheme and is considered acceptable in this context.

Cumbria Highways have confirmed that they have no objections to this application subject to any

	conditions that have not been discharged being applied to this application.
8.	<p>Recommendation: Approve</p>
9.	<p>Condition(s):</p> <ol style="list-style-type: none"> 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:- <ul style="list-style-type: none"> - Location Plan 1, Scale 1:1250, received by the Local Planning Authority on the 19th July 2018. - Existing Site Survey, Scale 1:200, Drawing No TRI-0709-01, received by the Local Planning Authority on the 19th July 2018. - Existing Site Plan, Scale 1:200, Drawing No EX-02, received by the Local Planning Authority on the 19th July 2018. - Site Elevations, Scale 1:100, Drawing No PL-103, received by the Local Planning Authority on the 19th July 2018. - Proposed Site Plan, Drawing No BR-100, Rev No C2, received by the Local Planning Authority on the 24th July 2020. - Proposed Alterations to Existing Buildings, Scale 1:100, Drawing No PL-105, received by the Local Planning Authority on the 19th July 2018. - Proposed Canopy Details, Scale 1:100, Drawing No BR-105, Rev No C1, received by the Local Planning Authority on the 24th July 2020. - Proposed Elevations, Scale 1:100, Drawing No BR-002, Rev No C3, received by the Local Planning Authority on the 24th July 2020. - Noise Assessment of Proposed New Service Station, Prepared by AEC Ltd, received by the Local Planning Authority on the 19th July 2018. - Environmental Site Investigation, Prepared by GEO2 Remediation Limited, received by the Local Planning Authority on the 19th July 2018. - Desk Study, Prepared by GEO2 Remediation Limited, received by the Local Planning Authority on the 19th July 2018. - Design and Access Statement, received by the Local Planning Authority on the 19th July 2018. - Kingspan Rooftop Solar Panel Detail, received by the Local Planning on the 6th August

2020.

- Proposed Roof Plan, Scale 1:50, Drawing No BR-009, received by the Local Planning Authority on the 24th July 2020.
- Proposed Boundary Treatment, Scale 1:200, Drawing No Br-109, Rev No C2, received by the Local Planning Authority on the 24th July 2020.
- Free Standing Screen Details, Scale 1:50 & 1:100, Drawing No BR-108, Rev No C1, received by the Local Planning Authority on the 24th July 2020

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.

2. Foul and surface water shall be drained on separate systems.

Reason

To secure proper drainage and to manage the risk of flooding and pollution.

3. The development hereby approved must be carried out in accordance with the surface water drainage proposals approved as part of condition 3 of permission 4/18/2545/0B1, as detailed within correspondence dated 4th August 2020. Only the approved scheme shall be implemented prior to first occupation and thereafter maintained.

Reason

To secure proper drainage and to manage the risk of flooding and pollution.

4. The development hereby approved must be carried out in accordance with the sustainable drainage management and maintenance plan approved as part of condition 4 of permission 4/18/2545/0B1, as detailed within correspondence dated 4th August 2020. The development must subsequently be completed, maintained and managed in accordance with the approved plan.

Reason

To manage flooding and pollution and to ensure that a managing body is in place for the

sustainable drainage system and there is funding and maintenance mechanism for the lifetime of the development.

5. The accesses to the petrol filling station and new store shall be surfaced in bituminous or cement bound materials, or otherwise bound, and shall be constructed and completed before the development is brought into use. The access shall be so maintained thereafter.

Reason

In the interests of highway safety.

6. The development hereby approved must be carried out in accordance with the surface water drainage proposals approved as part of condition 6 of permission 4/18/2545/0B1, as detailed within correspondence dated 4th August 2020. Only the approved scheme shall be implemented prior to the completion of the development and thereafter maintained.

Reason

In the interests of highway safety and environmental management.

7. The development hereby approved must be carried out in accordance with the highway details approved as part of condition 7 of permission 4/18/2545/0B1, as detailed within correspondence dated 4th August 2020. Development must be carried out in accordance with the approved details and must be retained at all times thereafter

Reason

In the interests of road safety

8. Footways must be provided that link continuously and conveniently to the nearest existing highway footway. Pedestrian facilities, within and to and from the site shall be provided so they are convenient to use. The footways (shown on approved plan Proposed Site Plan, Drawing No BR-100, Rev No C2, received by the Local Planning Authority on the 24th July 2020) must be in place prior to the use of the petrol filling station and new store commencing and should remain usable thereafter.

Reason

In the interests of highway safety.

9. The use of the site as a petrol filling station must not be commenced until the access and parking requirements for the petrol filling station and new store have been constructed in accordance with the approved plan. Any such access and parking provision must be retained and be capable of use when the development is completed and shall not be removed or altered without the prior consent of the Local Planning Authority.

Reason

To ensure a minimum standard of access provision when the development is brought into use.

10. Details of the proposed access and parking/turning during construction for the petrol filling station and new store must be carried out in accordance with the details approved as part of condition 10 of permission 4/18/2545/0B1, as detailed within correspondence dated 13th July 2020. Full details of the proposed access and parking during construction for the conversion works for the existing store on site must be submitted to and agreed in writing with the Local Planning Authority prior to development on that phase commencing. This must include work schedule details to ensure the access and parking/turning area for each phase is substantially constructed before any building work commences on site for that phase takes place so that the construction traffic can park and turn clear of the highway.

Reason

In the interests of highway safety.

11. The development hereby approved must be carried out in accordance with the Construction Method Statement approved as part of condition 11 of permission 4/18/2545/0B1, as detailed within correspondence dated 27th November 2019. Full details of a Construction Method Statement for the conversion works for the existing store must be submitted to, and approved in writing by, the Local Planning Authority prior to commencement of works on site. The approved Statement relevant for each phase shall be adhered to throughout the construction period. The Statement shall provide for: the parking of vehicles of site operatives and visitors loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; hours of construction works; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; phasing of the development works, including timing of any demolition works and commencement of the building work and implementation of the access and parking areas during construction.

Reason

To protect the amenity of residents and the appearance of the site during construction.

12. In accordance with AEC's Noise Impact Assessment (dated 28 April 2016) deliveries, to the new convenience store apart from newspapers and fuel, must not take place outside the hours of 7am to 8pm.

Reason

To protect the amenity of nearby residents.

13. In accordance with AEC's Noise Impact Assessment (dated 28 April 2016), the delivery of fuel, the collection of waste and the operation of air/water facilities for vehicles must not take place outside the hours of 7am to 10pm.

Reason

To protect the amenity of nearby residents.

14. Before i) the retail store and/or petrol filling station and ii) the conversion of the existing store to two retail units are first brought into use a Noise Management Plan for each of these phases of the site will be submitted for approval to the Local Planning Authority. The relevant Noise Management Plan(s) should include the details of any new fixed plant (including air conditioning) to be used, noise levels of the plant, predicted external noise levels, design and construction of the sound barriers, and any installation and maintenance schedules.

Reason

To protect the amenity of nearby residents.

15. Any new fixed items of plant (including air conditioning units) and sound barriers must be installed in accordance with the details supplied in relation to the Noise Management Plan for that part of the site and maintained in accordance with those details thereafter to ensure that the noise level from the plant does not exceed 25dB L_{Aeq} , the limit agreed in AEC's Noise Impact Assessment (dated 28 April 2016), at the nearest noise sensitive receptor. If this noise level cannot be met the plant in question must not be used outside the hours of 7am to 11pm.

Reason

To protect the amenity of nearby residents.

16. Before the retail store and/or petrol filling station hereby approved are first brought into use, boundary treatment around the site must be erected in accordance with the approved plan 'Proposed Boundary Treatment, Scale 1:200, Drawing No Br-109, Rev No C2, received by the Local Planning Authority on the 24th July 2020. The boundary treatment and sound barriers so approved must be maintained in accordance with the approved scheme at all times thereafter.

Reason

To ensure that the boundary treatment and sound barriers are appropriately finished in the interests of the appearance of the site and the amenity of nearby residents.

17. The development hereby approved must be carried out in accordance with the external lighting details approved as part of condition 17 of permission 4/18/2545/0B1, as detailed within correspondence dated 9th September 2019, and must be installed and maintained in accordance with the approved details at all times thereafter. No other external lighting shall be erected within the site without the prior written approval of the Local Planning Authority.

Reason

To limit light pollution and protect the amenity of nearby residents.

18. Remediation works must be carried out in full accordance with the submitted Remedial Strategy (Version 4. dated July 2018) relevant to each phase of work, namely i) during the construction of the new retail store and petrol filling station and ii) during the conversion of the existing retail store to two units unless otherwise agreed in writing by the Local Planning Authority. Following completion of the remediation measures for each part of the site, a verification report that demonstrates the effectiveness of the remediation carried out for each phase or part of the site must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised.

19. The development hereby approved for must be carried out in accordance with the materials approved as part of condition 19 of permission 4/18/2545/0B1, as detailed within

correspondence dated 13th July 2020. Prior to the commencement of development on the conversion of the existing retail store to two units representative samples of the materials to be used on the external surfaces of the development hereby permitted must be submitted to and approved in writing by the Local Planning Authority. Development must be carried out in accordance with the approved details and so maintained thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity.

Informatives:

1. As a petrol station is being constructed there will be a risk of the land becoming contaminated. UU need to be sure that any new water services to site are laid in protectaline pipe and any old services are properly disconnected before this change of use. If the applicant intends to obtain a water supply from United Utilities for the proposed development, they strongly recommend they engage with them at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for. To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at DeveloperServicesWater@uuplc.co.uk. Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.
2. Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.
3. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development.
4. A separate metered supply to each unit will be required at the applicant's expense and all internal pipe work must comply with current water supply (water fittings) regulations 1999. The applicant should contact United Utilities on Tel 03456723723 regarding connection to the water mains or public sewers.
5. If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective

proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

Should this planning application be approved the applicant should contact United Utilities regarding a potential water supply or connection to public sewers. Additional information is available on our website <http://www.unitedutilities.com/builders-developers.aspx>.

6. No work for the construction of this development, including demolition, shall take place on site outside of the hours of 8am to 6pm on Monday to Friday and 8am to 1pm on Saturday. In particular, no work shall be carried out on Sundays or officially recognised public holidays without the prior written agreement of the Local Planning Authority.
7. 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
<http://www.gov.uk/government/organisations/the-coal-authority>

8. In line with the original planning approval (4/18/2313/0F1) must be commenced before the 5th October 2021.

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: CBurns

Date : 25.09.2020

Authorising Officer: N.J. Hayhurst

Date : 29/09/2020

Dedicated responses to:-