

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/20/2299/OL1
2.	Proposed Development:	LISTED BUILDING CONSENT FOR THE INSTALLATION OF SIDE BOUNDARY FENCING
3.	Location:	LYNDHURST, 3 VICTORIA TERRACE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Listed Building - Listed Building, TPO - TPO, Coal - Development Referral Area - Data Subject to Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: NO Site Notice: YES Press Notice: YES Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>SITE AND LOCATION</p> <p>This application relates to the property known as Lyndhurst at 3 Victoria Terrace, an end of terrace property located in the Corkickle area of Whitehaven. The property is Grade II Listed and situated within the Corkickle Conservation Area.</p> <p>PROPOSAL</p> <p>Listed Building Consent is sought for the installation of a side boundary fence to the south west and north west of the property.</p>

The timber fence will be 0.9m high on top of a 0.4m high wall on the south west boundary and 1.3m high on the north west boundary and fixed to the existing balustrade. The fencing will infill a gap at 1m high towards to the front of the property that is a redundant gateway.

This application has been submitted in tandem with Planning Permission for the same works (application reference 4/20/2298/0F1 relates).

RELEVANT PLANNING APPLICATION HISTORY

Reinstatement of single private dwelling, approved in September 2003 (application reference 4/03/1104/0 relates);

Listed Building Consent for the installation of a wood burning stove in an existing fireplace and the addition of a flue to the roof, approved in November 2011 (application reference 4/11/2471/0L1 relates);

Installation of a flue to the roof, approved in November 2011 (application reference 4/11/2472/0F1 relates);

Listed Building Consent for the erection of a satellite TV dish, approved in January 2012 (application reference 4/11/2541/0L1 relates);

Felling and removal of a dead holly tree situated within a Conservation Area, approved in August 2020 (application reference 4/20/2253/TPO relates).

CONSULTATION RESPONSES

Consultees

Whitehaven Town Council – No objections.

Conservation Officer – Initially raised queries with regards to the following whether the gateway would be used again. Further to a response from the Applicant, the Conservation Officer raised no objections to the proposal.

Cumbria Highways – No objections as it is considered that the proposal does not affect the highway.

Local Lead Flood Authority – No objections as it is considered the proposal does not increase the flood risk on site or elsewhere.

Public Representation

The application has been advertised by way of a site notice and press notice.

No consultation responses have been received as a result of this advertisement.

PLANNING POLICY

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 ENV4 – Heritage Assets

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM27 – Built Heritage and Archaeology

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Conservation Area Design Guide SPD December 2017 (CADG)

Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)

ASSESSMENT

Policies ENV4 and DM27 of the Copeland Local Plan relate to the protection and enhancement of the Conservation Area and Listed Buildings and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DM10 of the local plan requires good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *‘In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses’.*

Section 72 requires that: *‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance’* of a conservation area.

Paragraphs 184 – 202 of the NPPF in respect of heritage include a requirement that when considering the impact of development proposals on designated heritage assets such as listed buildings, great weight should be given to the conservation of the asset’s significance; however, less than significant

	<p>harm should be weighed against the public benefits of a development.</p> <p>The Conservation Officer considered that the fencing onto the existing railing is reasonable as the railing is of no particular quality. The subdivision of the garden is considered to be acceptable as it will not have an effect on the setting of the Listed dwelling.</p> <p>The Conservation Officer originally questioned whether the redundant gateway would be reused as it may be better to fill it with masonry if not. The Applicant responded that there would be an awkward stepped detail if this were to be undertaken and that a more solid gate could be provided, but would require more fixings. The Applicant was of the opinion that the retention of the obvious gateway and addition of a fence would not only secure the boundary but provide a hint between the historic linkage in the area. On receipt of this explanation, the Conservation Officer raised no further concerns and considered that the proposal is justified.</p> <p>No objections have been received to the proposal.</p> <p><u>Conclusion</u></p> <p>Overall the alterations are considered to have a beneficial impact on the Conservation Area and Listed Building and preserve and maintain its character and appearance. The application is considered to be in accordance with the requirements of the Copeland Local Plan and the other material planning considerations.</p>
8.	<p>Recommendation:</p> <p>Approve Listed Building Consent (start within 3yr)</p>
9.	<p>Condition(s):</p> <ol style="list-style-type: none"> 1. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent. <p>Reason</p> <p>To comply with Sections 18 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.</p> <ol style="list-style-type: none"> 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>Site Location Plan, scale 1:1250, received 7th August 2020; Block Plan, scale 1:200, received 7th August 2020; Proposed Plan and Elevations, scale 1:100, received 7th August 2020; Existing Plan and Elevations, scale 1:100, received 7th August 2020;</p>

Design, Access and Heritage Statement, received 7th August 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.

Informative

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>> 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

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 Listed Building Consent in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: Sarah Papaleo

Date : 01/10/2020

Authorising Officer: N.J. Hayhurst

Date : 01/10/2020

Dedicated responses to:- N/A