

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

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| 1. | Reference No: | 4/20/2310/OF1 | |
| 2. | Proposed Development: | CREATE A NEW VEHICLE ACCESS TO HALLSENNA BARN | |
| 3. | Location: | HALLSENNA BARN, HALLSENNA, HOLMROOK | |
| 4. | Parish: | Gosforth | |
| 5. | Constraints: | ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, DEPZ Zone - DEPZ Zone | |
| 6. | Publicity Representations & Policy | Neighbour Notification Letter | Yes |
| | | Site Notice | Yes |
| | | Press Notice | No |
| | | Consultation Responses | See Report |
| | | Relevant Policies | See Report |
| 7. | Report: | <p>Site and Location</p> <p>This application relates to the semi-detached property, known as Hallsenna Barn, located to the south of Hallsenna. The property is the last dwelling located at the end of the single access track which serves the existing dwellings within this area. The dwelling currently shares an access with the adjacent dwelling.</p> <p>Planning History</p> <p>4/12/2304/OF1 – Proposed outbuilding consisting garage, boat shed & workshop – Approved.</p> <p>Proposal</p> <p>This application seeks permission to create a new vehicle access to Hallsenna Barn.</p> | |

Currently the dwelling is access via a shared access which runs through the front garden of the attached property, Hallsenna House. As part of the application it is proposed to construct a new access to the south of this property. The proposed new access will run from the existing access lane alongside the boundary of Hallsenna House and Hallsenna Barn, and will be 5m wide to the south of the site and 8m wide to the west. Part of the proposal will be constructed over an existing footpath/bridleway, therefore this part of the site will be surfaced to comply with bridleway regulations, and the rest of the site will be finished with hardcore and gravel. The proposed access will be enclosed by rylock fencing and will include an access gate to ensure continued use of the existing footpath/bridleway.

Consultation Responses

Parish Council

No objections.

Cumbria County Council – Cumbria Highways & Lead Local Flood Authority

No objections to the proposal.

Natural England

Natural England have advise that due to the proximity of the track to Hallsenna Moor SSSI they advise that a Drainage Plan is submitted to support this application.

Cumbria County Council – Footpaths Officer

The County Council's Footpaths Officer stated that the proposal appears to affect Public Bridleway 409048, if the Bridleway is to be surfaced then detail of the proposed surfacing will be required and a temporary Closure will be required to allow such works. There is a 14 week lead in time for this process, for further information please contact Sandra.smith@cumbria.gov.uk .

It is noted that gates are proposed, if additional gates are to be installed then a S.147 agreement is required with the County Council, additional gates can only be installed for the ingress or egress of livestock on the Public Bridleway and to a certain specification.

Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to one property. One letter of objection have been received raising the following concerns with this application:

- The property already has an access though the grounds of Hallsenna House and has rights of access written into the deeds of both house.
- Section 13a of the application form has been filled in incorrectly. The application has

previously raised objection to a previous planning application due to presence of Greater Crested Newts in both properties gardens.

- The applicant is now lying and making false claims.
- From prior works to address these concern it was made clear to the objector that the areas of best habitat are the areas to the front of their property where the development is proposed.
- No ecologist would agree to support the works proposed without a full mitigation licence in place.
- The area is likely to be classes as an important habitat or other biodiversity feature due to the presence of English bluebells and general wildlife in the area, therefore part 13b of the application form is also incorrect.
- There is no dormant season for Great Crested Newts therefore it is impossible to carry out works as stated.
- Question 15 should have been answered yes.
- The land is mature woodland and its removal would certainly alter the landscape character.
- There are 5 mature trees in the vicinity of this development and the road would encroach into the trees root protection area.
- The works will kill these five trees.
- A tree survey should be required.
- The west boundary of Hallsenna House also feature a number of mature trees.
- It is stated that the road will be constructed from hand and will avoid using large vehicles or machinery.
- The lack of detail regarding construction should be questioned how the road will be a standard for the vehicles.
- The layout of this road is unlikely to give access to large vehicles.
- The development is within the SSSI. Confirmation should be sought from Natural England that this development does not adversely affect Hallsenna Moor and not rely on the claims of the applicant in this case given prior false claims identified.

- The development damages area of land with significant biodiversity and protected species and removes a large number of trees.
- The road will not be adequate for all vehicle therefore the current access will also have to be retained. This is confirmed by the applicant not getting their deeds changed prior to the submission of the application.
- The planning department should be insisting upon a full mitigation license from Natural England to protect the newts at this site and a tree survey.
- The application should be rejected until details of the road construction based on current ground conditions are provided.
- The development will create flood risk in the objector's gardens.
- The works will require a significant removal of soil to achieve a suitable road.
- The applicant has already made changes within their garden making the ground wetter.
- Planning departments have the right to refuse to process application with clear faults or omissions.
- The development will reduce privacy and independence.
- Access to the existing footpath will be limited.

Consultation Responses to Amended Plans

Following amended plans/additional detail being submitted for this application including detail of surfacing, drainage, and proposed gates, the following comments were received in relation to this application.

Parish Council

Gosforth Parish Council originally responded with no objections to the above planning application, however, the Parish Council has recently been approached by a local resident with concerns about the development which raise significant issues regarding environmental impact and the veracity of Section 13 of the application form. An objection to a previous planning application points out the presence of Great Crested Newts in the gardens of both Hallsenna House and Hallsenna Barn which appears to be from the applicant. Gosforth Parish Council would strongly recommend that an investigation into the environmental impact of this development be carried out prior to making a decision on this application.

Cumbria County Council – Cumbria Highways & Lead Local Flood Authority

No further comments to make, previous comments still apply.

Natural England

Natural England have no objections to the planning permission being granted based on the additional information that has been submitted. Natural England have also confirmed that due to the scale of the proposed works and the method of works an ecology survey will not be required to support this application.

Cumbria County Council – Footpaths Officer

It is noted that the Bridleway will be kept available at all times, if large machinery is to be used then a temporary closure will be required, as previously mentioned, any tree planting must not obstruct the public Bridleway.

Arboricultural Officer – Capita

The trees comprise a group of sycamore trees of modest quality and size, typical of self-seeded sycamores in this area. The Officer would not describe them as a woodland, or part of a woodland. Whilst woodland is not defined in law, it is more than a group of several trees. There are a number of features on the trees, particularly the tight V-shaped unions with included bark, which can be weak and prone to failure. The trees have grown in proximity to each other, some are multi stemmed and as a result have poor form. Due to their location the trees are clearly visible to the public from the footpath.

The proposed access is likely to have an impact on these trees, and one is shown to be removed. The removal of the one tree will not have any significant on the visual amenity provided by the wider group, which will remain. However, the construction of the access could adversely affect the long-term prospects of the retained trees. The extent of any harm is difficult to assess as there is no arboricultural information to support the application. However, if due consideration is given to the retained trees during construction any harm should be minimised.

The Officer undertook a Tree Evaluation Method for Preservation Orders, (TEMPO), assessment of the trees to provide an indication if the trees merited statutory protection by means of a Tree Preservation Order. Their assessment indicated that the trees did not merit a Tree Preservation Order.

Public Representation

One letter of objection have been received to the amended information for this application which raises the following concerns with this application:

- The planning department are dismissing claims with little or no evidence to support its

position.

- Matters still need to be resolved.
- The works will impact Greater Crested Newts and their habitat.
- The applicant has previously stated that they are present on this land.
- The applicant's claims are false and misleading.
- There is no ecological evidence provided with this application, therefore the works will harm the newt and break the law.
- The applicant maintains the works will only impact on a single tree, this is false.
- The road will impact several trees and should be assessed by a professional. It is not acceptable for a planning authority to accept the applicant's uninformed application that would result in damage to trees on our land and others.
- The additional detail on road construction does not address prior concerns.
- A lot of this soil has vegetation and tree roots which will not be feasible to remove by hand using garden tools.
- The road layout is inadequate for an access to the property as has been stated prior and give there is no change to the layout it is still inadequate.
- B5 of the building regulations regarding fire appliance access requirements. Should the road be constructed then the applicant would require a fire appliance to access this road to get within 45m of all points within the dwelling house.
- The fire department would have to negotiate 3 90 degrees bends.
- The applicant has stated that they intend to rescind their access across the current driveway therefore this cannot be guaranteed to be available.
- The road proposed will be restrictive to anything larger than a van.
- The road shown is a double camber road where half the water would be returned onto the objector's boundary. There is no drainage shown and therefore this will lead to flooding of their garden. It is also elevated from the surrounding ground level which will act as a barrier preventing water from draining to the lower Southern area from our property.

- The proposed drainage pipe is inadequate.
- The development should not damage the water isolation points for each dwelling.
- The proposed entrance would conflict with the objectors existing gate, which is being changed to an automated gate. The proposed road would impact the existing gate swing and is required to be moved to the West along the road to prevent this.
- It should be noted that this section of road is a public bridleway and the current owners of the land adjoining this road do not own the road and therefore the applicant has no claim on this area.
- This application is a speculative exercise to gain ownership of the land which will then be used as a secondary access and not the primary access.
- The applicant is following the route of minimum cost, maximum environmental damage, and all for what is still a secondary access from the details provided.

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy T1 – Improving Accessibility and Transport

ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscape

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Development

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 - Landscaping

Other Material Planning Considerations

National Planning Policy Framework (2019)

Wildlife and Countryside Act 1981.

Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2035 has recently been 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 of Development

Policy ST2 of the Local Plan supports development outside of settlement, which have a proven requirement for such location. This is application seeks permission to create a new access to the property known as Hallsenna Barn. The property is currently access via a shared access which runs through the front garden of the attached property, Hallsenna House. The proposed new access will run along the boundary to the south of these two properties on existing agricultural land.

Impact of Development

Policy ST1, DM10 and section 12 of the NPPF seeks protection of residential amenity, a high standard of design, fostering of quality places, and proposals, which respond to the character of the site.

The proposed development will create a new access to the property, Hallsenna Barn, which currently shares the existing access driveway with the adjoining property. The proposal will mean that the owners of Hallsenna Barn will not have to drive through the front garden of the neighbouring property. The new access is located adjacent to the boundary of these residential properties, however the access is well screened by the existing well established vegetation at the boundary for both sites, therefore the development is not considered to have a significant impact on the neighbouring dwelling.

On the basis of the above it is considered that the proposal complies with ST1 and DM10 of the Local Plan and section 12 of the NPPF.

Highway Safety

Policy DM22 of the Copeland Local Plan requires developments to be accessible to all users and to meet adopted car parking standards, which reflect the needs of the Borough in its rural context. Section 9 of the NPPF promotes sustainable transport. Paragraph 102 states that transport issue should be considered from the earliest stages of development proposals, so that the potential impacts of development on transport networks can be assessed, opportunities to promote walking, cycling and public transport are identified and pursued, environmental impact of traffic can be

identified, and patterns of movement, street and parking are integral to design of schemes, and contribute to making high quality places.

The property is currently accessed via a shared access road which runs through the front garden of the adjoining neighbouring property. The proposed access is to run along the south of these semi-detached property. The applicant has indicated that they will close their existing access, the objector has raised concerns with regard to this and is concerned that the property will have two access points, however this is a legal matter rather than a planning issue. The Highway Authority have raised no objections to this proposal.

Part of the proposal will be constructed over an existing footpath/bridleway, therefore the County Council's Footpath Officer has been consulted upon this application. The Officer initially stated that the proposal appears to affect Public Bridleway 409048, therefore requested additional information on this application. The applicant has been in discussion with the Footpath Officer and has submitted additional information to support this application, which includes details of the proposed surfacing and reducing the number of gates to access the footpath. Based on this information the Footpath Officer has offered no objections to the proposal but has stated that the Bridleway should will be kept available at all times.

On this basis, it is considered that the development would be in accordance with the aims and objectives of both the adopted Copeland Local Plan and the NPPF.

Ecology

Policies ST1, ENV3 and DM25 of the Copeland Local Plan and section 15 of the NPPF outline how the Council will protect and enhance the biodiversity and geodiversity within the Borough. These policies set out the approach towards managing development proposal that are likely to have an effect on nature conservation sites, habitats and protected species.

The application site is located near to the SSSI boundary of Hallsenna Moor. Natural England have therefore been consulted upon this application. Initially, Natural England requested a drainage plan be submitted for this application, however further to additional information submitted by the applicant they confirmed that they have no objections to the planning permission being granted at this site.

Objections have been received from the neighbouring property regarding the potential negative impact on the ecology within the area, particularly the impact on the development on Greater Crested Newts. The site however is not identified within the Council's GIS as an potential area for protected species, and the development does not meet any of the triggers within the ALGE list which would require a survey of protected species. Given the objection from the neighbouring property the position has been checked with Natural England who have confirmed that due to the scale of and the method of works proposed as part of this development an ecology survey will not be required to

support this application.

On this basis, the proposal is considered to achieve the requirement of Policies ST1, ENV3 and DM25 of the Copeland Local Plan.

Landscape and Visual Impact

Policy ENV5 states that the Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.

The application site lies adjacent to two residential properties on land currently utilised as agricultural land. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within Sub Type 5b 'Lowland – Low Farmland'. The proposal will create a new access to the property, Hallsenna Barn, located adjacent to the existing boundary of the adjacent residential dwellings. The development is to be enclosed with Rylock fencing, and the applicant proposes to introduce additional planting, including grass/wildflower verges and additional trees. The development will have a minimal impact on the landscape and will sit against the existing well-established vegetation at the two residential dwelling, therefore the works are not considered to result in a significant intrusion into the open countryside.

Concerns have been raised with regard to the impact of the development upon the existing trees within the adjacent residential properties. These trees are not protected by TPO and are not located within a Conservation Area. As part of this application process the Council Consultant Arboricultural Officer has stated that the trees adjacent to the site comprise a group of sycamore trees of modest quality and size, which have grown in proximity to each other, some are multi stemmed and as a result have poor form. The Officer confirmed that whilst the proposed access is likely to have an impact on these trees, the removal of one tree will not have any significant impact on visual amenity provided by the wider group which will remain. However the construction of the access could adversely affect the long term prospects of the retained trees, but if consideration is given to the retained trees during construction any harm should be minimised.

As part of this application, the applicant has submitted a statement which sets out the proposed construction methods for this development. Within this document it is confirmed that all works will be undertaken by hand, therefore the works are not considered to have a detrimental impact on the roots of the existing trees. It has been deemed appropriate to secure this detail through an appropriately worded planning condition. A further condition has also been attached to this approved to ensure that any trees which are destroyed as part of this development are replaced in accordance with a scheme submitted to and approved by the Local Planning Authority.

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| | <p>The proposal is therefore considered to comply with policies ST1, ENV5 and DM26 of the Copeland Local Plan and provision of the NPPF.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This application seeks permission to create a new access to Hallsenna Barn. The property is currently accessed via a shared access which runs through the front garden of the attached property. The proposed new access will run along the boundary to the south of these two properties on existing agricultural land. Concerns have been raised with regard to the impact of the development upon existing ecology, particularly Greater Crested Newts. Natural England have confirmed that due to the scale of and the method of works proposed as part of this development an ecology survey will not be required to support this application. Conditions can be attached to the decision notice for this application to restrict the construction methods at this site and also address concerns regarding impact of the development upon existing trees. The proposal is considered to be an acceptable form of sustainable development which is compliant with policies of the Copeland Local Plan and the provisions of the NPPF.</p> |
| 8. | <p>Recommendation:</p> <p>Approve (commence within 3 years)</p> |
| 9. | <p>Condition(s):</p> <ol style="list-style-type: none"> 1. The development hereby permitted must be commenced before the expiration of three years from the date of this permission. <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p> <ol style="list-style-type: none"> 2. This permission relates 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"> - Site Location Plan, Scale 1:25000, received by the Local Planning Authority on the 13th October 2020 - Site Plan, Scale 1:1250, received by the Local Planning Authority on the 13th October 2020 - Land Owned by Walkers Estate, received by the Local Planning Authority on the 13th October 2020. |

- Site Layout Plan (Amended), received by the Local Planning Authority on the 6th November 2020.
- Key, received by the Local Planning Authority on the 6th November 2020.
- Bridlegate (Amended), received by the Local Planning Authority on the 6th November 2020.
- Aggregate Surfaced Path (Amended), received by the Local Planning Authority on the 6th November 2020.
- Additional Information (Amended), received by the Local Planning Authority on the 6th November 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.

3. All development for the access hereby approved must be completed in accordance with the approved document 'Additional Information (Amended), received by the Local Planning Authority on the 6th November 2020', unless agreed in writing with the Local Planning Authority.

Reason

To minimise the impact of the development upon the locality.

4. No trees within or adjacent to the application site shall be cut down, uprooted or destroyed, nor shall any tree be topped or lopped without the prior written consent of the Local Planning Authority. Any trees which are cut down, uprooted or destroyed as part of this development shall be replaced in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. A scheme for protecting the retained trees shall also be submitted to and approved in writing by the Local Planning Authority. The approved protections measures shall be implemented prior to the commencement of works at this site.

Reason

To adequately protect the existing trees within the site.

Informative(s):

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| | <p>1. The proposal appears to affect Public Bridleway 409048, if the Bridleway is to be surfaced then detail of the proposed surfacing will be required and a temporary Closure will be required to allow such works. There is a 14 week lead in time for this process, for further information please contact Sandra.smith@cumbria.gov.uk .</p> <p>2. It is noted that the Bridleway will be kept available at all times, if large machinery is to be used then a temporary closure will be required, as previously mentioned, any tree planting must not obstruct the public Bridleway.</p> <p>Statement:</p> <p>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.</p> |
| Case Officer: C. Burns | Date : 21.01.2021 |
| Authorising Officer: N.J. Hayhurst | Date : 21/01/2021 |
| Dedicated responses to:- Letter to Objector and Parish Council | |