



**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/20/2377/0B1
2.	Proposed Development:	VARIATION OF CONDITION 1 OF 4/19/2238/0B1 (SITE PLAN AND AMENDED AND NEW DWELLING TYPES)
3.	Location:	FORMER CUMBERLAND COLD STORAGE LTD, HENSINGHAM, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	<p>ASC;Adverts - ASC;Adverts,</p> <p>Safeguard Zone - Safeguard Zone,</p> <p>TPO - TPO,</p> <p>Coal - Development Referral Area - Data Subject to Change,</p> <p>Coal - Standing Advice - Data Subject To Change,</p> <p>Preferred Route Corridor - Within Preferred Route Corridor</p>
6.	Publicity Representations &Policy	See report.
7.	<p>Report:</p> <p>Site and Location:</p> <p>The Application Site comprises the property previously known as Cumberland Cold Storage Ltd, Hensingham, Whitehaven.</p> <p>The Site extends to c.2 hectares in area.</p> <p>The Site was formerly occupied by a fish-processing factory constructed in the late 1970s.</p> <p>The trees to the east of the Application Site are the subject of a Tree Preservation Order - Ref. 35.</p> <p>Direct Planning Application History</p> <p>4/14/2176/001 – Outline for 34no. dwellings. Approve subject to planning conditions and S106.</p>	

4/14/2177/0F1 – Demolition of vacant former fish factory and erection of 1,521 sqm of B1 and B2 commercial development with associated landscaping and access. Approved subject to planning conditions.

4/16/2433/0R1 – Reserved Matters for 25no. dwellings. Approved subject to planning conditions.

4/19/2238/0B1 – Variation of Condition 2 (site plan) of planning permission 4/16/2433/0R1 (Reserved matters for 25 dwellings). Approved subject to planning conditions.

The development is currently under construction.

Proposal:

This application seeks to vary Planning Condition 2 attached to planning application ref. 4/19/2238/0B1.

The proposed revisions comprise the removal of 1no. dwelling; the revision of the plot layouts; the revision of the approved house types; and, the removal of the existing trees and their replacement with a comprehensive site wide scheme of landscaping.

No revisions are proposed to the approved external finishes.

Minor revisions are proposed to the design/specification of the highway and drainage infrastructure to accommodate the proposed revisions.

During the course of the planning application, a revised landscaping scheme and revised Preliminary Environmental Assessment was submitted.

Consultee:	Nature of Response:
Town Council	No comments.
Cumbria County Council – Highways and LLFA	21 st October 2020 There is no objection to the proposed variation of condition 2 subject to previous conditions that have not been discharged being included in any approval your authority may grant.
Arboricultural Consultant	There are a couple of issues here that need to be weighed in the planning balance, these are; <ul style="list-style-type: none">• Retention of mature trees in private gardens• Loss of TPO trees

		<ul style="list-style-type: none"> Does the proposed replacement trees/landscaping provide adequate compensation. <p>Large mature trees have taken time to grow and provide significant amenity. Small newly planted trees provide little amenity and may, or may not, reach maturity in due course. Therefore, it is always best where possible to keep mature trees. The approved plans seek to retain the trees within the rear gardens of the properties. It is best to keep large trees in public space, once they are incorporated into private gardens future occupants often see them as a problem. In such circumstances it is difficult to prevent removal of the trees, even when subject of a TPO. It is often the case that appeals against refusal are frequently upheld in these circumstances. Future problems are hinted at as the approved plan includes a note that the trees are to be crown lifted.</p> <p>The trees do provide separation between the housing development and adjacent site, and make a contribution to the character of the area, but how long that can be retained once the properties are occupied is open to debate.</p> <p>All the tree groups have been categorised as 'C' trees. These are trees of low quality and are ones that should not stand in the way of development. A good landscaping scheme could help mitigate the loss of these trees.</p> <p>The trees do have some merit however, the approved development places them in rear gardens and they are likely to require pruning works on a regular basis. They are all, apart from one category 'B' tree, classed as category 'C' trees which shouldn't stand in the way of development. The proposed landscaping scheme does include some large growing species which could in due course provide significant amenity. Although protected this won't prevent their removal once the dwellings are occupied and an Inspector takes a different view to an Officer.</p> <p>On this occasion I would consider that the proposal is acceptable, but the landscaping scheme must be implemented and maintained to ensure the replacement trees have the best chance of growing to maturity.</p>
	Environmental Protection – Thom Greer	<p>The additional Ground Gas Report is reasonable.</p> <p>A full set of ground gas monitoring was carried out over the site and the results indicate that no gas protection measures will be required.</p>
	Neighbour Responses:	
	The application has been advertised by way of a planning application site notice and neighbour	

notification letters issued to 8no. neighbouring dwellings.

No written representations have been received in respect of the proposals.

Development plan policies:

Development Plan:

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

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

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy T1 – Improving Accessibility and Transport

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 DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

National Design Guide (NDG).

National Planning Practice Guidance (NPPG).

Cumbria Development Design Guide (CDDG).

Emerging Copeland Local Plan (ECLP).

The emerging Copeland Local Plan 2017-2035 was recently 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

Outline Planning Permission was approved and Reserved Matters Approval subsequently approved for the erection of 34 dwellings under planning application ref. 4/14/2176/001 and planning application ref. 4/16/2433/0R1 respectively.

The variation of Planning Condition 2 of planning application ref. 4/16/2433/0R1 was approved under application ref. 4/19/2238/0B1.

The relevant pre-commencement planning conditions have been approved/discharged and the development has been commenced. As such it remains an extant planning permission.

Design and Landscape Impact

The dwelling to be removed is located to the north of the Application Site. The removal of the dwelling does not adversely impact upon the layout of the development, delivering an improvement of the composition of the street scene through the additional spacing created between the dwellings.

The revised house types proposed are consistent in overall scale, form and design to the dwellings approved on the remainder of the development.

Highways Impacts

Minor revisions are proposed to the design/specification of the highway. These relate to the positions of dropped crossings of the footways only and do not materially impact the highway layout etc..

Drainage

It remains proposed to dispose of foul water to the existing mains drainage system and surface water to an existing watercourse as per the approved drainage scheme.

Minor revisions are proposed to the design/specification of the drainage infrastructure. The revisions relate to the connections from the plots to the primary drainage infrastructure only.

Landscaping

A revised scheme of landscaping is proposed.

The group of trees located to the southeast of the Application Site which were the subject of a Tree Preservation Order – Ref. 35 have been removed without the consent of Copeland Borough Council. Potential exists to require the replacement of these trees under the existing Tree Preservation Order.

It is proposed to replace the removed trees with new planting to the east site boundary; introduce additional tree planting to the other site boundaries; and, introduce additional tree planting within the street scenes.

The trees the subject of Tree Preservation Order – Ref. 35 provided screening of the proposed development within the landscape; however, the trees were not high quality, principally comprising Class C Sycamore trees. Their value was principally derived from their grouping.

The proposed planting principally comprises native species including a combination of Field Maple, Norway Maple, Sweet Chestnut, Spanish Oak, English Oak, Horse Chestnut, Chinese Birch, Western Red Cedar and Bird Cherry.

The loss of the existing trees will result in a reduction in screening in the short term; however, the proposed planting comprise large growing species and will result in improved screening in the medium to longer term. The proposed landscaping given its location are less likely to cause amenity issues for the proposed dwellings and with that are less likely to be removed than the trees that have been removed.

The retention/maintenance of the proposed trees will be secured via planning condition for the period of five years and a Tree Preservation Order can then be imposed on the trees once established to ensure their retention long term and that they continue to fulfil their intention i.e. screening/softening of the development.

Ground Conditions/Contamination

Application Ref. 4/14/2176/001 was approved subject to a planning condition requiring the submission of a ground investigation relating the contamination risks on the Application Site.

A ground investigation report and remediation strategy were submitted in approved in 2018 – Report Ref. 2016-2053 prepared by Geo Environmental Engineering.

The Applicant has now submitted a revised ground investigation report and remediation strategy - Report Ref. 2018-3413 prepared by Geo Environmental Engineering which was completed in late 2018/early 2019. This report confirms there are now no mitigation measures required and therefore no remediation strategy or validation report is needed.

Thom Greer – Environmental Protection has been consulted and has confirmed that the conclusions and provisions of Report Ref. 2018-3413 prepared by Geo Environmental Engineering are acceptable.

Planning Condition 6 is therefore to be amended to require completion in accordance with the provisions of Report Ref. 2018-3413 prepared by Geo Environmental Engineering and remove the requirement for a validation report.

Planning Condition Revisions/Reconciliation

Planning Condition	Comments
1. Approved Plans	Retain – Revise to reflect to the amended plans and details and landscape scheme.
2. No dwelling hereby approved shall be occupied until foul and surface water infrastructure to serve that dwelling has been completed in accordance with the approved details. The foul and surface water infrastructure shall be retained, maintained and managed in accordance with the approved details.	Retain.
3. No dwelling hereby approved shall be occupied until the highway required to serve that dwelling has been constructed to a minimum of base course level.	Retain.
4. No dwelling hereby approved shall be occupied until the access and parking facilities to serve that dwelling have been constructed in accordance with the approved details. The access and parking facilities shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local	Retain.

	Planning Authority.	
	5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting season following completion of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority prior to any development commencing. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.	Retain.
	6. The development hereby approved shall be completed in accordance with the Remediation Strategy – Report Ref. 2016-2053 prepared by Geo Environmental Engineering received 2 nd July 2018. Within 6 months of the completion of measures identified in the approved remediation scheme, the required validation report must be submitted to the Local Planning Authority. Any changes to these components requires the express written consent of the Local Planning Authority.	Amend to refer to revised Report Ref. 2018-3413 prepared by Geo Environmental Engineering.
	7. The development hereby approved shall be completed in accordance with the provisions of the Flood Risk Assessment (FRA) Former Fish Factory, Moresby Road, Whitehaven – produced by Fairhurst and dated 28 th March 2014	Remove – Approved details secured by Planning Condition 1 and implementation secured by Planning Condition 2.

	<p>and the following mitigation measures details within the FRA.</p> <p>Surface water discharge will be limited to 5l/s as requested by United Utilities as outlined in Section 6.2 of the Flood Risk Assessment.</p> <p>As per Section 6.3 Paragraph 4 of the Flood Risk Assessment, for the 100 year return period plus an allowance for climate change, it is estimated that a total volume of up to 882m³ attenuated discharge to the limit set by United Utilities. To ensure that discharge rates are controlled, a flow control device will be installed upstream of the offsite drainage connection. This could take the form of an orifice plate, 'vortex' flow control device or similar.</p> <p>The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the local planning authority.</p>	
	<p><u>Conclusion</u></p> <p>The principle of the development has previously been established.</p> <p>The proposed revisions to the layout and scheme of landscaping are appropriate to the development.</p> <p>No issues are arising in respect of residential amenity, highway safety and drainage.</p> <p>The proposed scheme of landscaping is acceptable in relation to the proposed development.</p>	
8.	<p>Recommendation:</p> <p>Approve</p>	

9.	<p>Conditions:</p> <p>1. Permission shall relate the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:</p> <p>Site Location Plan – Drawing No. 13/07/805-01 received 9th December 2016</p> <p>Site Plan – Drawing No. 13/07/69a) received 10th May 2021</p> <p>Dwelling Type A Plans and Elevations – Drawing No. 13/07/805-22 scale 1:100 received 9th December 2016</p> <p>Dwelling Type B Plans and Elevations – Drawing No. 13/07/805-23 scale 1:100 received 9th December 2016</p> <p>Dwelling Type C Plans and Elevations – Drawing No. 13/07/805-24 scale 1:100 received 9th December 2016</p> <p>Dwelling Type D Plans and Elevations – Drawing No. 13/07/805-25 scale 1:100 received 9th December 2016</p> <p>Dwelling Type E Plans and Elevations – Drawing No. 13/07/805-23 scale 1:100 received 9th December 2016</p> <p>Dwelling Type C1 Plans – Drawing No. 13/07/805-71 scale 1:100 received 29th September 2020</p> <p>Dwelling Type C1 Elevations – Drawing No. 13/07/805-73 scale 1:100 received 29th September 2020</p> <p>Dwelling Type C2 Plans – Drawing No. 13/07/805-74 scale 1:100 received 29th September 2020</p> <p>Dwelling Type C2 Plans – Drawing No. 13/07/805-76 scale 1:100 received 29th September 2020</p> <p>Dwelling Type F Plans – Drawing No. 13/07/805-78 scale 1:100 received 29th September 2020</p> <p>Dwelling Type F Plans – Drawing No. 13/07/805-80 scale 1:100 received 29th September 2020</p> <p>Design and Access Statement prepared by MJN Associated dated December 2016</p> <p>Residential Site Manhole Schedule – Drawing No. 104264/2036 Rev. B received 10th May 2021</p> <p>Residential Site Road and Drainage Long Section – Drawing No. 104264/2035 Rev. A received 10th May 2021</p> <p>Engineering Layout – Drawing No. 104264/2040 Rev. A received 10th May 2021</p> <p>Residential Site Construction Details Sheet 1 – Drawing No. 104264/2037 Rev. D received 10th May 2021</p> <p>Residential Site Construction Details Sheet 2 – Drawing No. 104264/2038 Rev. A received 10th May 2021</p> <p>Residential Site Construction Details Sheet 3 – Drawing No. 104264/2039 Rev. A received 10th May 2021</p> <p>Residential Site Proposed Drainage – Drawing No. 104264/2032 Rev. C received 10th May 2021</p> <p>Residential Site Surface Finishes and Kerb Types – Drawing No. 104264/2030 Rev. C received 10th May 2021</p> <p>Spot Levels and Contours – Drawing No. 104264/2031 Rev. A received 10th May 2021</p>
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Drainage Implementation and Maintenance Strategy Issue 1 – Fairhurst - April 2018 received 4th May 2018
Landscape Layout – Drawing No. M3252-PA-01V2 received 10th May 2021
Schedule of External Finishes received 27th November 2018

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsary Purchase Act 2004.

2. No dwelling hereby approved shall be occupied until foul and surface water infrastructure to serve that dwelling has been completed in accordance with the approved details. The foul and surface water infrastructure shall be retained, maintained and managed in accordance with the approved details.

Reason

For the avoidance of doubt and to secure an appropriate form of drainage in accordance with the provisions of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013-2028.

3. No dwelling hereby approved shall be occupied until the highway required to serve that dwelling has been constructed to a minimum of base course level.

Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.

4. No dwelling hereby approved shall be occupied until the access and parking facilities to serve that dwelling have been constructed in accordance with the approved details. The access and parking facilities shall be retained and capable of use at all times thereafter 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 for the lifetime of the development in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.

5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting season following completion of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority prior to any development commencing. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.

Reason

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with the provisions of Policy DM26 of the Copeland Local Plan 2013-2028.

6. The development hereby approved shall be completed in accordance with the provisions of Report Ref. 2018-3413 prepared by Geo Environmental Engineering received 10th May 2021.

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

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: Chris Harrison	Date : 24.06.2021
Authorising Officer: N.J. Hayhurst	Date : 28/06/2021
Dedicated responses to:- N/A	