



## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/21/2002/OB1
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 6 (CULVERT DETAILS) OF PLANNING APPROVAL 4/18/2292/OF1
3.	<b>Location:</b>	FORMER BUS STATION, BRANSTY ROW, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: NO  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>	<p><b>SITE AND LOCATION</b></p> <p>The application relates to the former bus station site which is located between Bransty Row and Wellington Row. The building is currently being redeveloped in accordance with the planning permission granted in 2018 (application reference 4/18/2292/OF1 relates).</p> <p>To the north and west of the site lies the Tesco supermarket, petrol filling station and car park, with residential development to the south east and commercial development to the south.</p> <p>The site forms a key gateway into the town centre offering views of the harbour and town centre beyond it. It falls within the Conservation Area.</p> <p><b>PROPOSAL</b></p> <p>This variation of condition application seeks to change the wording of a condition originally imposed</p>

for the upgrade of the culvert. The original condition stated:

*“Prior to the first use of the development hereby approved, the existing culvert that runs beneath the former bus station should be replaced/upgraded in order to accommodate the proposed development for the lifetime of the development in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be maintained as such at all times thereafter.*

*Reason*

*To ensure the provision of a satisfactory drainage scheme.”*

Works were undertaken by the developer to upgrade part of the culvert, however the works were not in accordance with the wording of the planning condition.

#### RELEVANT PLANNING APPLICATION HISTORY

Comprehensive redevelopment of the vacant former Whitehaven Bus Station into an innovation and business start-up incubator hub with conference facilities, approved in October 2018 (application reference 4/18/2292/0F1 relates).

#### CONSULTATION RESPONSES

##### Consultees

Local Lead Flood Authority – No objections to the variation of condition as it is considered that the works have been undertaken satisfactorily.

Flood and Coastal Defence Engineer – No objections to the variation of condition.

#### 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 ENV1 – Flood Risk and Risk Management

##### Development Management Policies (DMP)

Policy DM24 – Development Proposals and Flood Risk

## 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

The application seeks to vary the planning condition that relates to the existing culvert on the site. The condition required that the entire culvert be replaced and upgraded in accordance with a scheme approved by the Local Planning Authority. The information submitted by the Applicant has demonstrated that part of the culvert had been repaired and that this was satisfactory to serve the development. It was therefore suggested that the condition be varied in order that the developer is able to comply with it.

Discussions were undertaken with both the Local Lead Flood Authority and the Flood and Coastal Defence Engineer and the following condition was agreed, based on the information submitted by the Applicant.

*“Prior to the first use of the development hereby approved, the culvert must be upgraded in accordance with the details set out in the submitted documents - Site Specific Manholes S1 and S2, drawing number 17T2239-105 C1, Proposed Drainage Details, drawing number 17T2239-104 C2, Proposed Drainage Plan, drawing number 17T2239-101 C7, Culvert Inspection written by Unblock Cumbria Ltd, dated 24th September 2019 and Culvert Repairs written by SK Drainage Solutions Ltd, dated 31st October 2020, all submitted on 12<sup>th</sup> January 2021. The culvert must be maintained as such at all times thereafter.*

### Reason

*In order to ensure satisfactory drainage from the site and in accordance with Policies ENV1 and DM24*

	<p><i>of the Copeland Local Plan.”</i></p> <p>The condition ensures that the development is completed in accordance with the culvert repair details submitted and that it is retained as such in perpetuity.</p> <p>All other details of the previously approved development have remained the same. The original conditions imposed on the planning permission can be varied under this application to reflect the details agreed under subsequent discharge of condition applications.</p> <p>PLANNING BALANCE AND CONCLUSION</p> <p>In my opinion, the revised information which seek to amendment the originally approved condition, satisfy the policy criteria and are considered to be in keeping with the surrounding properties. 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></p> <p>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>Site Location Plan, scale 1:1250, drawing number A10-00-00C, received 6<sup>th</sup> July 2018;  Site – Proposed Plan, scale 1:500, drawing number A10-00-01C, received 6<sup>th</sup> July 2018;  Site – Existing Topographical Survey, scale 1:200, drawing number A10-00-02, received 6<sup>th</sup> July 2018;  Site, scale 1:200, drawing number 2205-LUM-ZZ-05-DR-X-0001 PO1, received 6<sup>th</sup> July 2018;  Level 1, scale 1:50, drawing number 2205-LUM-ZZ-03-DR-X-0001 PO1, received 6<sup>th</sup> July 2018;  Level 2, scale 1:50, drawing number 2205-LUM-ZZ-04-DR-X-0001 PO1, received 6<sup>th</sup> July 2018;  Elevations, scale 1:100, drawing number 2205-LUM-ZZ-06-DR-X-0001 PO1, received 6<sup>th</sup> July 2018;  Sections, scale 1:100, drawing number 2205-LUM-ZZ-07-DR-X-0001, received 6<sup>th</sup> July 2018;  Warehouse GF, scale 1:50, drawing number 2205-LUM-ZZ-02-DR-X-0001 PO1, received 6<sup>th</sup> July 2018;  Level GF, scale 1:50, drawing number 2205-LUM-ZZ-01-DR-X-0001 PO1, received 6<sup>th</sup> July 2018;  GA Sections, scale 1:100, drawing number A32-XX-01, received 6<sup>th</sup> July 2018;  GA Plan – Level 0, scale 1:100, drawing number A20-00-00, received 21<sup>st</sup> August 2018;  GA Plan – Level 1, scale 1:100, drawing number A20-01-01L, received 5<sup>th</sup> November 2020;  GA Plan – Roof, scale 1:100, drawing number A20-02-00, received 6<sup>th</sup> July 2018;  Visualisation – North Entrance, drawing number A05-XX-03, received 6<sup>th</sup> July 2018;  Visualisation – Street Elevation, drawing number A05-XX-04, received 6<sup>th</sup> July 2018;  Visualisation – South Entrance, drawing number A05-XX-01, received 6<sup>th</sup> July 2018;  Visualisation – Bransty Row, drawing number A05-XX-00, received 6<sup>th</sup> July 2018;</p>

Traffic Regulation Orders Proposed TRO's, scale 1:250, drawing number BRN-CAP-LS1-DR-C-2001, received 20<sup>th</sup> September 2018;

Design and Access Statement, written by NORR, received 6<sup>th</sup> July 2018;

Site investigation and updated environmental risk assessment, prepared by Elliott Environmental Surveyors Ltd, project number EES18-029 V2, dated 4<sup>th</sup> May 2018, received 6<sup>th</sup> July 2018;

Coal Mining Risk Assessment Report, prepared by Elliott Environmental Surveyors Ltd, project number EES18-029, dated 4<sup>th</sup> May 2018, received 6<sup>th</sup> July 2018;

Transport Statement, prepared by WYG, project number A093629, dated May 2018, received 6<sup>th</sup> July 2018;

Gas Risk Assessment, prepared by Elliott Environmental Surveyors Ltd, project number EES18-029, dated 4<sup>th</sup> May 2018, received 6<sup>th</sup> July 2018;

Bat Survey Report, prepared by Elliott Environmental Surveyors Ltd, project number EES18-029, dated 3<sup>rd</sup> May 2017, received 6<sup>th</sup> July 2018;

Flood Risk Assessment and SuDS Drainage Strategy, prepared by Morgan Tucker Consulting Engineers, dated February 2016, received 6<sup>th</sup> July 2018;

Culvert Survey, prepared by Morgan Tucker Consulting Engineers, document reference JN2255, received 6<sup>th</sup> July 2018;

Noise Assessment, prepared by WYG, dated May 2018, received 6<sup>th</sup> July 2018;

Preliminary Ecological Appraisal, project number 18-0190.02, issued May 2018, received 6<sup>th</sup> July 2018;

Supporting Statement, reference BUS01, received 6<sup>th</sup> July 2018;

Drainage Philosophy, written by Billingham George and Partners, received 6<sup>th</sup> June 2019;

Culvert Repairs, written by SK Drainage Solutions Ltd, received 6<sup>th</sup> June 2019;

Proposed Drainage Plan, scale 1:200, drawing number 17T2239-101 C7, received 6<sup>th</sup> June 2019;

Proposed Submersible Pump (F8), scale 1:25, drawing number 17T2239-106 P1, received 6<sup>th</sup> June 2019;

Site Specific Manholes S1 and S2, scale 1:25, drawing number 17T2239-105 C1, received 6<sup>th</sup> June 2019;

Proposed Drainage Details, scales 1:10 and 1:20, drawing number 17T2239-104 C2, received 6<sup>th</sup> June 2019;

SuDs Management and Maintenance Plan, written by Billingham George and Partners, received 6<sup>th</sup> June 2019;

Archaeological Evaluation, report number 3818, written by CFA Archaeology, received 6<sup>th</sup> June 2019;

External Material Swatches, drawing number A05-XX-10 A, received 6<sup>th</sup> June 2019;

GA Elevations - Bus Station Office, scale 1:100, drawing number A30-ZZ-10 03, received 5<sup>th</sup> November 2020;

Aluminium Door to Main Entrance, scale 1:2.5 and 1:20, drawing number 19.05A, received 5<sup>th</sup> November 2020;

External Lighting, scale 1:100, drawing number 0002036890-EX-R7-261020, received 5<sup>th</sup>

	<p>November 2020;  Security Layout Ground Floor, scale 1:100, drawing number 1719-68-LAY-03 0, received 5th November 2020;  Security Layout Lower Ground Floor, scale 1:100, drawing number 1719-68-LAY-02 0, received 5th November 2020;  Security Layout Upper Ground Floor, scale 1:100, drawing number 1719-68-LAY-01 0, received 5th November 2020.</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>
2.	<p>Foul and surface water shall be drained on separate systems.</p> <p>Reason</p> <p>To secure proper drainage and to manage the risk of flooding and pollution.</p>
3.	<p>The development hereby approved must be carried out in accordance with the surface water drainage proposals approved as part of condition 4 of permission 4/18/2292/0F1 as detailed within correspondence dated 9<sup>th</sup> September 2019. The development must subsequently be completed, maintained and managed in accordance with the approved plan.</p> <p>Reason</p> <p>To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.</p>
4.	<p>The development hereby approved must be carried out in accordance with the drainage management and maintenance plan approved as part of condition 5 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved plan.</p> <p>Reason</p> <p>To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.</p>
5.	<p>Prior to the first use of the development hereby approved, the culvert must be upgraded in accordance with the details set out in the submitted documents - Site Specific Manholes S1</p>

	<p>and S2, drawing number 17T2239-105 C1, Proposed Drainage Details, drawing number 17T2239-104 C2, Proposed Drainage Plan, drawing number 17T2239-101 C7, Culvert Inspection written by Unblock Cumbria Ltd, dated 24th September 2019 and Culvert Repairs written by SK Drainage Solutions Ltd, dated 31st October 2020, all submitted on 12<sup>th</sup> January 2021. The culvert must be maintained as such at all times thereafter.</p> <p>Reason</p> <p>In order to ensure satisfactory drainage from the site and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.</p>
6.	<p>The development hereby approved must be carried out in accordance with the drainage proposals approved as part of condition 7 of permission 4/18/2292/OF1 as detailed within correspondence dated 9<sup>th</sup> September 2019. The development must subsequently be completed, maintained and managed in accordance with the approved plan.</p> <p>Reason</p> <p>To ensure a satisfactory scheme of surface water disposal from the site.</p>
7.	<p>The development hereby approved must be carried out in accordance with the surface water drainage proposals approved as part of condition 8 of permission 4/18/2292/OF1 as detailed within correspondence dated 2<sup>nd</sup> February 2021. The development must subsequently be completed, maintained and managed in accordance with the approved plan.</p> <p>Reason</p> <p>To manage flood risk within the development that results from surface water to minimise the risk to people and property.</p>
8.	<p>The development hereby approved must be carried out in accordance with the surface water drainage proposals approved as part of condition 9 of permission 4/18/2292/OF1 as detailed within correspondence dated 2<sup>nd</sup> February 2021. The development must subsequently be completed, maintained and managed in accordance with the approved plan.</p> <p>Reason</p> <p>To safeguard against negative impact outside the development boundary to people and property.</p>
9.	<p>The development hereby approved must be carried out in accordance with the archaeological evaluation approved as part of condition 10 of permission 4/18/2292/OF1 as detailed within correspondence dated 9<sup>th</sup> September 2019. The development must subsequently be</p>

	<p>completed, maintained and managed in accordance with the approved document.</p> <p>Reason</p> <p>To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains.</p>
10.	<p>The development hereby approved must be carried out in accordance with the archaeological evaluation approved as part of condition 11 of permission 4/18/2292/0F1 as detailed within correspondence dated 9<sup>th</sup> September 2019. The development must subsequently be completed, maintained and managed in accordance with the approved document.</p> <p>Reason</p> <p>To ensure that a permanent and accessible record by the public is made of the archaeological remains that have been disturbed by the development.</p>
11.	<p>If, during development, contamination not previously identified is found to be present at the site then no development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.</p> <p>Reason</p> <p>To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 109 of the National Planning Policy Framework.</p> <p>To prevent deterioration of a water quality element to a lower status class in the underlying secondary B aquifer.</p>
12.	<p>The development hereby approved must be carried out in accordance with the schedule of materials approved as part of condition 13 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved document.</p> <p>Reason</p> <p>To ensure a satisfactory appearance of the development in the interests of visual amenity.</p>



13. The development hereby approved must be carried out in accordance with the front and rear door details approved as part of condition 14 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved document.

Reason

To ensure reasonable access is provided to the development for all.

14. The parking bays within the courtyard shall be constructed and available for use prior to the first use of the development hereby permitted. The parking bays shall be marked out and suitable for disabled users

Reason

To ensure satisfactory provision for people with disabilities.

15. The development hereby approved must be carried out in accordance with the courtyard surfacing details approved as part of condition 16 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved document.

Reason

In order to ensure that the development can be accessed by all.

16. The development hereby approved must be carried out in accordance with the courtyard ramp details approved as part of condition 17 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved document.

Reason

To enhance that the development can be accessed by all.

17. The development hereby approved must be carried out in accordance with the external lighting information approved as part of condition 18 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved document.

Reason

	<p>To ensure the amenity of the surrounding properties.</p> <p>18. The development hereby approved must be carried out in accordance with the CCTV information approved as part of condition 19 of permission 4/18/2292/0F1 as detailed within correspondence dated 16<sup>th</sup> December 2020. The development must subsequently be completed, maintained and managed in accordance with the approved document.</p> <p>Reason</p> <p>To ensure the amenity of the surrounding properties.</p> <p>19. Car parking to serve the development shall be made available prior to the first use of the building in accordance with the details set out in the letter from WYG, reference A093629, dated 20<sup>th</sup> September 2018. Any change to this parking provision shall be submitted to and approved in writing by the Local Planning Authority prior to its implementation.</p> <p>Reason</p> <p>To ensure a suitable parking provision for the lifetime of the development.</p> <p><b>Informative</b></p> <p>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.</p> <p>Further information is also available on the Coal Authority website at:  <a href="http://www.gov.uk/government/organisations/the-coal-authority">www.gov.uk/government/organisations/the-coal-authority</a></p> <p><b>Statement</b></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>
<b>Case Officer: Sarah Papaleo</b>	<b>Date : 03/03/2021</b>
<b>Authorising Officer: N.J. Hayhurst</b>	<b>Date : 05/03/2021</b>
<b>Dedicated responses to:- N/A</b>	