

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/21/2101/0F1
2.	Proposed Development:	ERECTION OF DWELLING (AMENDMENT TO PREVIOUSLY APPROVED DWELLING)
3.	Location:	PLOT 4, WEST END, RHEDA PARK, FRIZINGTON
4.	Parish:	Arlecdon and Frizington
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See report.
7.	Report: Site and Location: <p>The Application Site comprises the land known as Plot 4 West End, Rheda Park, Frizington.</p> <p>The land was granted Outline Planning Permission for residential development on the 15th February 2017 under planning application ref. 4/16/2393/001.</p> <p>Reserved Matters Permission was approved for a single dwelling on the 27th August 2020 under planning application ref. 4/20/2061/0R1.</p> <p>The land is located on the western end of Rheda Park, which has been developed over several decades to comprise a housing estate of in excess of 60 dwellings.</p> Direct Planning Application History: <p>Application Ref. 4/16/2393/001 – Outline Application For Nine Executive Dwellings With Approval Of Means Of Access, Scale And Layout With Details Of Elevations And Materials Reserved For Future Approval. Approved.</p>	

Application Ref, 4/20/2061/0R1 - Reserved matters for detached dwelling (following planning permission 4/16/2393/001). Approved.

Proposal:

This application seeks Full Planning Permission for the erection of 1no. dwelling with attached annex.

The dwelling and annex are connected via a single storey link comprising a utility room. An internal door is proposed linking to the dwelling and annex.

The dwelling is principally two storeys in height under dual pitched roof structures. Two and single storey gabled projections exist to the front and rear elevations.

It is proposed to finish the dwelling with a combination of slate, render and coloured weather boarding to the elevations with concrete tiles to the roof.

uPVC windows and composite doors are proposed.

The proposals have been amended during the course of application to revise the position of the dwelling within the plot and to provide additional information in respect of drainage and arboriculture.

Consultee:	Nature of Response:
Parish Council	<i>28th March 2021</i> <i>No objections.</i> <i>30th November 2021</i> No comments.
Cumbria County Council – Highways and LLFA	<i>6th April 2021</i> Cumbria County Council as the Highways Authority and the Lead Local Flood Authority (LLFA) has reviewed the above planning reference and our findings are detailed below. Highways response: I refer to the above consultation received on 16 March 2021 and would inform you there are no objections to the proposal from a highway point of view.

		<p>Your authority should consider suitably conditioning the visibility splays to the access and to consider linking occupation of the dwelling to the completion of the roadworks fronting the plot.</p> <p>There are no details of the surface water drainage arrangements, these will need to be offered for approval, for both the site and the estate road.</p> <p>Your authority should ensure that the roadworks are suitably designed, constructed, drained and lit to your authorities satisfaction and their future maintenance arrangements are agreed with the developer.</p> <p>Any gates should open inwards only with any boundary walls, fencing or planting not affecting inter-visibility of the access also the passing place fronting the site should be clearly delineated from the driveway.</p> <p>LLFA response:</p> <p>The LLFA surface water map show flooding to the area and indicate 0.1% (1 in 1000) chance of occurring each year.</p> <p><i>28th July 2021</i></p> <p>Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and our findings are detailed below.</p> <p>I can confirm that the response made to the previously dated 06/04/21 should still apply.</p> <p><i>29th November 2021</i></p> <p>Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) have considered the amended site plan showing proposed barriers to act as tree protection submitted on 16/11/21 (Drawing number 101 Rev F). We can confirm that we have no objection to the proposed amendment should not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.</p>
	Arboriculturalist	<p><i>25th March 2021</i></p> <p>The proposed dwelling is situated within an area of woodland, W1, protected</p>

	<p>by the (Rheda Park, Frizington) Tree Preservation Order 1997.</p> <p>The woodland on this plot comprises an area of young birch with and understory of laurel and bamboo towards the centre and front of the plot. Along the rear boundary of the plots in this area is a line of pine trees. However, there is a gap in this feature at this plot. The proposal will result in all the trees on this plot being removed, apart from the odd tree at the rear where the line of pines stops.</p> <p>The Pre-development arboricultural report provides some 'Recommendations' on tree protection measures. Whilst these are acceptable, they need to be set out in an Arboricultural Method Statement which details what will be done to protect the trees on site during development.</p> <p>There are several landscaping schemes, A – D, recommended for the site which will go some way to mitigating the loss of trees. As a whole they are acceptable, but the landscaping needs to be detailed so that it is clear what exactly will be planted.</p> <p>RECOMMENDATION</p> <p>A condition requiring a detailed landscaping scheme must be attached to the decision letter should the application prove acceptable ensuring that what is recommended is provided.</p> <p>A condition requiring a detailed Arboricultural Method Statement must be attached to the decision letter should the application prove acceptable ensuring that what is recommended is provided.</p> <p><i>7th April 2021</i></p> <p>The Pre-development Arboricultural Report is just that, Pre-development, it is not an Arboricultural Method Statement and is not fit for that purpose. Once the proposal is consented, but before development commences, an Arboricultural Method Statement should be provided if required by condition. This sets out the details of how the development will proceed to minimise harm to the trees. The Pre-development Arboricultural Report suggests/recommends things that the Report author considers the developer might wish to do, but they don't have to. On that basis it would not be enforceable should they choose not to take up the suggestions or choose not to follow the recommendations.</p>
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		<p>If you can draft a condition, that is acceptable to the Councils legal team, and ties the developer into undertaking the works in accordance with the recommendations/suggestions, and it is enforceable if they don't, I would be accepting of that. However, I cannot see that a condition that requires the developer to carry out the works in accordance with suggestions and recommendations as suggested by the Agent would be enforceable.</p> <p>Arboricultural Method Statements are good practice, commonly used by developers and are in accordance with the development process in relation to trees set out in <i>BS5837:2012 Trees in relation to design, demolition and construction – Recommendations</i>.</p> <p>At the end of the day whatever is agreed by way of an Arboricultural Method Statement must be enforceable, and must be drafted using words like; must, will, shall. An Arboricultural Method Statement using words like; could, should, recommend, suggest, might, is not robust as it cannot be enforced.</p>
	<p>Dave Bechelli - Flood and Coastal Defence Engineer</p>	<p><i>17th March 2021</i></p> <p>The application states that the surface water is to be disposed of by means of a sustainable drainage system and a soakaway and the site plan shows the domestic drainage heading to an attenuation crate with a soakaway.</p> <p>Whilst this is an acceptable means of surface water disposal, I do at this stage have some queries, which may have been addressed in the original application, although I don't appear to have been consulted on that.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Following the hierarchy the preferred means of surface water disposal is a soakaway. This just needs to be confirmed as suitable by Building Control. (In terms of size and location etc.) <input type="checkbox"/> The plan shows the diversion of a stream in the adjacent plot, so presumably it will apply to this plot. (Existing ditch removed?) This will need the consent of Cumbria County Council. Although not a planning matter, has this been obtained, as it will be required before work can commence. <input type="checkbox"/> What is the proposal for disposal of surface water from the driveway? <input type="checkbox"/> The foul sewage is shown heading to a pump chamber. Is this to be an adopted pump? If not what arrangements are to be put in place for inspection and maintenance of the pump? (GIS does not show any adopted sewers close to this location.) <p><i>12th November 2021</i></p>

		<p>With regards to the updated information submitted, the new proposal is to discharge surface water into the stream at an attenuated rate, as infiltration is not suitable.</p> <p>This is a suitable method of surface water disposal.</p> <p>However, I am not happy that the diverted stream will be piped and would expect that the LLFA will oppose this.</p> <p>The applicant will need to demonstrate why the diverted stream is to be piped and not retained as an open channel.</p> <p>Any work on the watercourse will require consent prior to works commencing.</p>
	United Utilities	<p><i>31st March 2021</i></p> <p>Further to our review of the submitted As Proposed Site Plan, Dwg No: 04, Rev: C, Dated: 3 March 2021, proposing surface water discharging into soakaway, the plans are acceptable in principle to United Utilities.</p> <p><i>United Utilities will have no objection to the proposed development provided that the following conditions are attached to any approval:</i></p> <p><i>Condition 1 – Surface water</i> <i>Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed in accordance with the approved details. Reason: 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.</i></p> <p><i>Condition 2 – Foul water</i> <i>Foul and surface water shall be drained on separate systems. Reason: To secure proper drainage and to manage the risk of flooding and</i></p>

		<p><i>pollution.</i></p> <p><i>22nd November 2021</i></p> <p>We request the following drainage conditions are attached to any subsequent approval to reflect the above approach:</p> <p><i>Condition 1 – Surface water</i> <i>No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:</i> <i>(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;</i> <i>(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and</i> <i>(iii) A timetable for its implementation. The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.</i> <i>The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.</i></p> <p><i>Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.</i></p> <p><i>Condition 2 – Foul water</i> <i>Foul and surface water shall be drained on separate systems.</i></p> <p><i>Reason: To secure proper drainage and to manage the risk of flooding and pollution.</i></p> <p>A non-return valve should be installed before connecting into the public sewer.</p>
	Environmental Health	<p><i>30th November 2021</i></p> <p>I would once again draw attention to the unsatisfactory provision of foul drainage to the entire West End development, in that sewage effluent is being stored in a large holding tank that has no Building Regulations approval or known specification. This tank is also open to the weather and possible ground</p>

	<p>water ingress. This tank is being emptied every x 4 days by tanker and the sewage removed off site. The new foul manhole to serve 5 West End has, however, been installed without adequate protection against sewage escape and consequently sewage overflows from this point on to the site during times of heavy rainfall when the holding tank becomes full.</p> <p>Summary of response: Neutral</p>
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Neighbour Responses:	
<p>The application has been advertised by way of an application site notice and neighbour notification letters sent to 2no. neighbouring properties</p> <p>No representations have been received.</p>	

Development plan policies:

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

Core Strategy (CS):

Policy ST1 – Strategic Development Principles
 Policy ST2 – Spatial Development Strategy
 Policy SS1 – Improving the Housing Offer
 Policy SS2 – Sustainable Housing Growth
 Policy SS3 – Housing Needs, Mix and Affordability
 Policy T1 – Improving Accessibility and Transport
 Policy ENV1 – Flood Risk and Risk Management
 Policy ENV3 – Biodiversity and Geodiversity
 Policy ENV4 – Heritage Assets
 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 DM24 – Development Proposals and Flood Risk
 Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species
 Policy DM26 – Landscaping
 Policy DM27 – Built Heritage and Archaeology
 Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements

Proposals Map including settlement boundaries.

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

Interim Housing Policy (IHP).

National Design Guide (NDG).

The Conservation of Habitats and Species Regulations 2017 (CHSR).

Cumbria Development Design Guide (CDDG).

Emerging Copeland Local Plan 2017-2035 (ELP).

The emerging Copeland Local Plan 2017-2035 is currently 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 on the 15th February 2017 under planning application ref. 4/16/2393/001 and was implemented following the approval of applications for Approval of Reserved Matters following Outline Approval.

Planning application ref. 4/16/2393/001 was the subject of pre-commencement planning conditions:

- Planning Condition 9 – Geo-environmental – Does not appear to have been discharged in respect of all plots; however, it has been confirmed by the Head of Planning and Place that it was agreed to approve this on a plot by plot basis. As such, this does not run to the heart of this element of planning permission.
- Planning Condition 11 – Arboricultural – Tree Protection – Approved in relation to the plots commenced.

Planning application ref. 4/16/2393/001 was also the subject of pre-occupation planning conditions:

- Planning Condition 5 – Drainage Management – Details approved.
- Planning Condition 6 – Works to improved access before dwelling occupied – In breach.
- Planning Condition 7 – Resurfacing of access within 12 months of commencement on site – In breach.

The breaches are not considered to invalidate the Outline Planning Permission given the plots occupied and enforcement action is being progressed to secure completion with works having

commenced.

Application Ref. 4/20/2014/OR1 was received in a valid form before the 15th February 2020 and was therefore a valid planning application.

The principle of residential development has been established on the Application Site and comprises a fall-back position.

Design and Landscape Impact;

The proposed dwelling is large in scale; however, is comparable to the existing dwellings to the east.

The design of the proposed dwelling differs from other dwellings within the locality; however, the design incorporates design features and external materials consistent with existing dwellings within the locality.

The proposed dwelling is appropriate to the emerging character of the approved development in the locality.

Residential Amenity;

The interface separation distances achieved between the existing/approved dwellings and proposed dwelling on Plot 4 accord with the provisions of Policy DM12.

Given the location, scale, form and design of the proposed dwelling unacceptable adverse impacts upon the existing and other proposed dwellings will not result through overbearing, loss of light, overlooking or overshadowing.

Landscaping and Arboriculture;

The application is supported by a Pre-development Arboricultural Report, including measures to protect the retained trees and a proposed scheme of landscaping.

It is proposed to retain the existing trees that are of value on the Application Site; remove those trees of limited interest; and, introduce a combination of structural and ornamental trees and hedgerows to compensate for the trees to be removed.

The tree protection measures detailed within the Pre-development Arboricultural Report are appropriate and provide protection to the retained trees and the trees located beyond the Application Site.

The Pre-development Arboricultural Report does not definitively detail the proposed measures;

therefore, a separate Arboricultural Method Statement has been prepared which follows the principles outlined in the Pre-development Arboricultural Report. A planning condition is proposed to secure the implementation, maintenance and management of the scheme of landscaping detailed in the Arboricultural Method Statement.

Drainage;

It is proposed to connect foul drainage to a public sewer to the south east of the development, via a small private pumping station, this is the drainage point to which all foul waters from the majority of the site drain as approved under application ref. 4/16/2393/001. An active enforcement case exists in respect of the private pumping station. Enforcement action is to be progressed to secure completion of the required connection and pump.

It is proposed to dispose of surface water from the proposed dwelling to a watercourse via a scheme of attenuation. This arrangement accords with the drainage principles approved under application ref. 4/16/2393/001.

Ecology;

The vegetation on the Application Site requiring removal to facilitate the development has been removed.

A Bat Survey was prepared in support of application ref. 4/16/2393/001. The Bat Survey did not identify potential for bats on Plot 4.

Ground Conditions;

A Phase 1 Preliminary Environmental Risk Assessment was completed in support of application ref. 4/16/2393/001. This assessment concludes that it would be appropriate for the Local Planning Authority to attach appropriate suspensive planning conditions securing Phase 2: Ground Investigation works to any planning permission to ensure the “*geohazards*” identified are appropriately assessed and ensure the suitability of the site for the proposed end use. Such a planning condition was imposed under application ref. 4/16/2393/001 and remains to be discharged in relation to the Application Site.

A revised Preliminary Environment Risk Assessment and UKWIR Water Supply Pipe Risk assessment has been submitted. This does not identify a requirement for Phase 2: Ground Investigation works and recommends that a watching brief and observation technique be applied.

Highways;

Access to the dwelling is proposed via the private access serving the wider Rheda Park development.

	<p>No alterations are proposed to the access as approved under Application ref. 4/16/2393/001 and Application Ref. 4/20/2014/0R1.</p> <p>Works to improve the private access serving the wider Rheda Park development were secured under Planning Condition 6 attached to Application ref. 4/16/2393/001. The development completed to date is in breach of the requirements of Planning Condition 6, which remains lawfully capable of enforcement. These works have been partially completed and enforcement actions are being taken to secure completion.</p> <p>In the context of the above, it is not considered necessary to impose planning conditions preventing the occupation of the proposed dwelling to the completion of the works secured under Planning Condition 6 attached to Application ref. 4/16/2393/001 given its stage of completion etc..</p> <p>The proposed level of off highway parking provision accords with the CDDG.</p> <p>A planning condition is proposed to control any access gates to prevent conflict with the works secured under Planning Condition 6 attached to Application ref. 4/16/2393/001</p> <p><i>Planning Balance;</i></p> <p>The proposed development accords with the provisions of the development plan.</p>
8.	<p>Recommendation:</p> <p>Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. The development hereby permitted shall begin not later than three years from the date of this decision. <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <ol style="list-style-type: none"> 2. The development hereby permitted shall be carried out in accordance with the following approved details:

Site Location Plan – Plot 3 West End, Rheda Park, Frizington received 10th March 2021
As Proposed Site Plan – Drawing No. 1000/3 04 Rev. F received 28th October 2021
As Proposed Ground Floor Plan – Drawing No. 1000/4 100 Rev. E received 10th March 2021
As Proposed First Floor Plan – Drawing No. 1000/4 102 Rev. A received 10th March 2021
As Proposed Elevations – Drawing No. 1000/4 101 Rev. E received 10th March 2021
Rheda Park No 3 – No 4 Pumped Sewer / Pumping Station Statement received 10th March 2021
Proposed Residential Dwellings, Rheda Park, Frizington, Cumbria, Drainage Strategy – September 2021 received 28th October 2021
Phase 1: Desk Top Study Report Preliminary Environmental Risk Assessment & UKWIR Water and Supply Pipe Risk Assessment - Proposed Residential Development of Land at Plots 3, 4 & 5 Rheda Park, Frizington, Cumbria – Ref. 2021-4807 received 13th July 2021
Job No 1000/4 - No 4 Rheda Park, Rheda – Mr & Mrs T Paton - Material Schedule received 20th September 2021
Arboricultural Method Statement To BS 5837:2012 - Rheda Close Plot 4 Frizington Cumbria received 28th October 2021 and as amended by Appendices 1 and 2 and 3 received 6th December 2021
Plot 4 Rheda Park, Frizington Pre-development Arboricultural Report Ref. EJC/61-2017-Plot4 received 28th October 2021

Reason

For the avoidance of doubt and in the interests of proper planning.

Pre-Occupation Conditions

3. The dwelling hereby approved shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and brought into use. The vehicular access/turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered for the lifetime of the development.

Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy T1 and Policy DM22 of the Copeland Local Plan 2013-2028.

Other Planning Conditions

4. All hard and soft landscape works shall be carried out in accordance with the details outlined in the Plot 4 Rheda Park, Frizington Pre-development Arboricultural Report Ref. EJC/61-2017-

Plot4 received 28th October 2021. The works shall be carried out in the first planting season following first occupation of the dwelling hereby approved. 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.

Reason:

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

5. Access gates, if provided, shall be hung to open inwards only, away from the highway, be recessed no less than 4.5m measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

Reason

In the interests of highway safety in accordance with the provisions of Policy T1 and Policy DM22 of the Copeland Local Plan 2013-2028.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the dwelling, nor shall any detached building, enclosure, domestic fuel containers, pool or hardstandings be constructed within the curtilage other than those expressly authorised by this planning permission.

Reason

To safeguard the character and appearance of the development in the interests of visual amenity and to ensure that any future development does not have a detrimental impact on the mature trees on the site in accordance with the provisions of Policy ENV3 and Policy DM10 of the Copeland Local Plan 2013-2028.

7. The development shall not proceed except in accordance with the provisions of Phase 1: Desk Top Study Report Preliminary Environmental Risk Assessment & UKWIR Water Supply Pipe Risk Assessment - Proposed Residential Development of Land at Plots 3, 4 & 5 Rheda Park, Frizington, Cumbria – Ref. 2021-4807 received 13th July 2021.

Reason:

For the avoidance of doubt and to prevent harm to safeguard public health in accordance with 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 identifying matters of concern with the proposal and negotiating with the applicants acceptable amendments to address them. As a result the Local Planning Authority has been able to grant planning permission for an acceptable proposal in accordance with Copeland Local Plan policies and the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: Chris Harrison

Date : 06.12.2021

Authorising Officer: N.J. Hayhurst

Date : 08.12.2021

Dedicated responses to:- N/A