

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/21/2102/0F1
2.	Proposed Development:	ERECTION OF DWELLING (AMENDMENT TO PREVIOUSLY APPROVED DWELLING)
3.	Location:	PLOT 3, 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.	<p>Report:</p> <p>Site and Location:</p> <p>The Application Site comprises the land known as Plot 3 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 estate, which has been developed over several decades to comprise a housing estate of in excess of 60 dwellings.</p> <p>Direct Planning Application History:</p> <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, 4/20/2014/OR1 - 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 a single storey detached garage.

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

A single storey sunroom with terrace above is proposed to the rear elevation.

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

uPVC and aluminium windows and composite doors are proposed.

The proposed dwelling has been amended numerous times during the course of application.

Consultee:	Nature of Response:
Parish Council	No objections.
Cumbria County Council – Highways and LLFA	<i>6th April 2021</i> Highways response: There are no objections to the proposal from a highway point of view. 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. 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. 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. Any gates should open inwards only with any boundary walls, fencing or

		<p>planting not affecting inter-visibility of the access also the passing place fronting the site should be clearly delineated from the driveway.</p> <p><i>LLFA response:</i></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>27th 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>
	Arboriculturalist	<p><i>23rd March 2021</i></p> <p>The proposed dwelling and garage are situated within an area of woodland, W1, protected by the (Rheda Park, Frizington) Tree Preservation Order 1997.</p> <p>The plot has two distinct areas of woodland, an area dominated by pines to the rear of the plot beyond a ditch, and an area of young birch with and understory of laurel and bamboo between the ditch and the road. The proposal will result in most of the birch in front of the dwelling being removed. The trees to the rear are to be retained.</p> <p>A few trees at the front of the plot are shown to be retained, and these, along with the trees to the rear will need protecting during development. 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> <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><i>22nd September 2021</i></p> <p>I have the following comment/observation to make on the amended scheme. There is a difference in the specification between the tree protection barriers</p>
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		<p>shown in the Pre-development Arboricultural Report, and the submitted Arboricultural Method Statement. The tree protection barriers/fencing should be in accordance with the specification set out in the Pre-development Arboricultural Report.</p> <p>RECOMMENDATION</p> <p>The specification for the tree protection barriers as shown in the Arboricultural Method Statement must be updated to the specification shown in the Pre-development Arboricultural Report.</p> <p>1st October 2021</p> <p>The tree protection measures are suitable for the site, and are now consistent throughout the documents. The application can be discharged.</p>
	<p>Dave Bechelli - Flood and Coastal Defence Engineer</p>	<p><i>17th March 2021</i></p> <p><i>Response 1</i></p> <p>I've received the above planning application for consultation, which I understand you are dealing with.</p> <p>The application states that the surface water is to be disposed of to a watercourse and the site plan shows the domestic drainage heading to a diverted stream.</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"> • Following the hierarchy the preferred means of surface water disposal is a soakaway. Has the use of a soakaway been investigated? Has this been discounted for this plot? If so why? • The plan shows the diversion of a stream. 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. • The foul sewage is show 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>Response 2</i></p> <p>I forgot to ask about disposal of surface water from the drive and garage.</p> <p>Can the proposal for these be confirmed?</p>
United Utilities	<p><i>29th March 2021</i></p> <p>We have no objection to the proposal providing surface water drainage is in line with the agreed drainage strategy of the larger development.</p>
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 for residential development was approved on the 15th February 2017 under planning application ref. 4/16/2393/001.

Planning application ref. 4/16/2393/001 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 Planning Development manager 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 the 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 not inappropriate to the emerging character of the approved development in the locality.

Residential Amenity;

The interface separation distances achieved between the existing/approved dwellings to the east and proposed dwelling on Plot 3 accord with the provisions of Policy DM12.

The interface separation distances achieved between the proposed dwelling and the proposed dwelling on Plot 4 do not accord with the provisions of Policy DM12; however, given the angles between the respective windows in the gable elevations and the location of the windows in the sunroom being at ground floor level, adverse impacts will not result.

A terrace is proposed at first floor level above the sunroom. Given the relationship between the terrace and the approved/proposed dwellings on Plot 2 and Plot 4, adverse impacts through overlooking and perception of overlooking will result. Glazed screens are proposed to prevent such impacts and a planning condition is proposed requiring their retention for the lifetime of the development.

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. A planning condition is proposed to secure the implementation, maintenance and management of the scheme of landscaping detailed in the Pre-development Arboricultural Report.

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 foul waters from the majority of the site will drain as approved under application ref. 4/16/2393/001.

It is proposed to dispose of surface water from the proposed dwelling to a watercourse. Disposal of surface water via attenuation to a watercourse as was approved under application ref. 4/16/2393/001.

Habitats;

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

	<p>4/16/2393/001.</p> <p>The Phase 1 Preliminary Environmental Risk 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 “<i>geohazards</i>” 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.</p> <p>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.</p> <p><i>Highways;</i></p> <p>Access to the dwelling is proposed via the private access serving the wider Rheda Park development.</p> <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 it 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: Approve (commence within 3 years)</p>

9.	<p>Conditions:</p> <p>1. The development hereby permitted shall begin not later than three years from the date of this decision.</p> <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> <p>2. The development hereby permitted shall be carried out in accordance with the following approved details:</p> <p>Application Form received 10th March 2021 Site Location Plan – Plot 3 West End, Rheda Park, Frizington received 10th March 2021 As Proposed Site Plan – Drawing No. 1000/3 04 Rev. I received 14th September 2021 As Proposed GF Plan – Drawing No. 1000/4 100 Rev. C received 7th September 2021 As Proposed FF Plan – Drawing No. 1000/4 101 Rev. H received 7th September 2021 As Proposed Elevations – Drawing No. 1000/4 102 Rev. D received 7th September 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 14th September 2021 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 Job No 1000/3 No 3 Rheda Park, Rheda – Mr & Mrs Tomlinson Material Schedule received 7th September 2021 Arboricultural Method Statement To BS 5837:2012 - Rheda Close Plot 3, Frizington Cumbria received 27th September 2021 Plot 3 Rheda Park, Frizington Pre-development Arboricultural Report Ref. EJC/61-2021-Plot3 received 14th September 2021</p> <p>Reason</p> <p>For the avoidance of doubt and in the interests of proper planning.</p> <p>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</p>
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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 3 Rheda Park, Frizington Pre-development Arboricultural Report Ref. EJC/61-2021-Plot3 received 14th September 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 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 : 12.10.2021

Authorising Officer: N.J. Hayhurst

Date : 22/10/2021

Dedicated responses to:- N/A