



## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/21/2119/OF1
2.	<b>Proposed Development:</b>	ERECTION OF A GALVANISED FRAME WITH GALVANISED SHEETS FOR FENCING
3.	<b>Location:</b>	105 DUKE STREET, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Listed Building - Listed Building, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp;Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>  <b>SITE AND LOCATION</b>  <p>This application relates to 105 Duke Street, a mid-terraced property situated within the town centre of Whitehaven. The building currently operates as a fast food takeaway outlet. It is Grade II Listed and situated within the Whitehaven Conservation Area.</p>  <b>PROPOSAL</b>  <p>Planning Permission is sought for the erection of galvanized fence to the rear of the property. The fence will be located at first floor level and it will be an L-shape to create a solid fence adjacent to the neighbouring rooftop patio at no. 104 Duke Street. It will be 2 metres long and 0.6 metres in width</p>	

and it will have an overall height of 2.4 metres. It will be constructed out of galvanized steel frame and sheets.

This proposal has been submitted in tandem with Listed Building Consent for the same works (application reference 4/21/2118/OL1 relates).

#### **RELEVANT PLANNING APPLICATION HISTORY**

Planning permission has previously been granted for:

- A new shop front (4/94/0809/0);
- The conversion of vacant upper storey to flat (4/95/0023/0);
- Single-storey lean-to extension to rear of property (4/95/0067/0).

Listed Building Consent has previously been granted for:

- A new shop front (ref: 4/94/0808/0);
- The conversion of vacant upper storey to flat (4/95/0024/0).

#### **CONSULTATION RESPONSES**

Whitehaven Town Council – No objection.

Conservation Officer – No objection.

Environmental Health – No comments received.

Public Representations

The application has been advertised by way of site notice and neighbour notification letters issued to 4 no. properties - No objections have been received as a result of this consultation process.

#### **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 ENV4 – Heritage Assets

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM27 – Built Heritage and Archaeology

#### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Planning (Listed Building and Conservation Areas) Act 1990 (LBCA)

#### Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Preferred Options Consultation. The Preferred Options Consultation builds upon the completed Issues and Options Consultation, which finished in January 2020. Given the stage of preparation, the emerging Copeland Local Plan 2017-2035 has only limited weight in decision making, but provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the National Planning Policy Framework.

#### **ASSESSMENT**

The key issues raised by this proposed are its scale and design and the potential impacts on the heritage assets.

#### Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 seeks to ensure high standards of design are maintained, with appropriate scale and materials, responding to the character of the site.

The proposed fence will be suitably located to the rear of 105 Duke Street. It will also be modest in scale and it will be well screened between the buildings at first floor level. The proposal will not be visible from the street-scene and it will have limited visibility from the surrounding properties.

Justification for the fence was provided in the Design and Access Statement and therefore the proposed design is considered to be suitable for its use. It will provide a boundary fence adjacent to the neighbouring rooftop patio and it will prevent further issues with noise and fouling. The current area is also considered to be in a poor state with a wooden pallet currently acting as a temporary fence and therefore the proposed material is considered to be appropriate and provide a suitable solution.

On this basis, the proposed fence is considered to meet Policy DM10 and the NPPF guidance.

#### Heritage Assets

Policy ENV4 and DM27 seek to protect the built heritage and maximise the value. DM27 supports development proposals which protect, conserve and where possible enhance the historic and cultural

	<p>architectural character of the Borough’s historic sites and their settings.</p> <p>The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.</p> <p>Section 66.1 of the LBCA requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.</p> <p>Section 72 requires that: ‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance’ of a conservation area.</p> <p>Paragraphs 184 – 202 of the NPPF in respect of heritage include a requirement that when considering the impact of development proposals on designated heritage assets such as listed buildings, great weight should be given to the conservation of the asset’s significance; however, less than significant harm should be weighed against the public benefits of a development.</p> <p>The Conservation Officer considered that the location of the proposal is acceptable, as it will not be visible from the Conservation Area, and it will have limited visibility from within the surrounding listed buildings.</p> <p>In addition, the area in question is in a poor state of repair and of a very utilitarian appearance. The current wooden pallet is clearly not an ideal solution and the proposed screen will also be removable in the future, should it no longer be needed. Galvanised steel is not considered to be an attractive material in this sense, but the fact it is of very limited visibility and will last well in this hard to maintain location suggests that its specification is justified.</p> <p>Overall the Conservation Officer raised no objection to the proposal as it was considered that the proposal will have no impact on the conservation area, and either neutral impact or negligible harm on the listed buildings. It is also reversible in its nature and form. In accordance with the tests set out in the LBCA and the NPPF, the potential harm of the proposed fence is considered to be minor and great weight should be given to the clear benefits of the proposal.</p> <p>On this basis, the proposed fence is considered to meet Policy DM27, thereby satisfying the duties set out in the LBCA.</p> <p><u>Planning Balance and Conclusion</u></p> <p>On balance, the proposal is considered to have a less than substantial harm to the character of the Listed Buildings and the Conservation Area. It will also provide benefit in terms of providing a screen to reduce the impacts of the use of the premises on the adjoining residential properties.</p> <p>The application is therefore considered to be an acceptable form of development which accords with the policies set out within the adopted Local Plan, the guidance in the NPPF and the tests set out in the LBCA.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>

9.	<p><b>Conditions:</b></p> <p>1. The development hereby permitted must commence before the expiration of three years from the date of this permission.</p> <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p> <p>2. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: -</p> <p>Site Location Plan, scale 1:1250, received 22<sup>nd</sup> March 2021; Block Plan, scale 1:200, received 22<sup>nd</sup> March 2021; Existing Photograph, received 22<sup>nd</sup> March 2021; Proposed Plan, Revision 2, received 6<sup>th</sup> May 2021; Proposed Product Image and 8x8 Sheet, received 22<sup>nd</sup> March 2021; Design, Access and Heritage Statement, Revision 2, received 6<sup>th</sup> May 2021.</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> <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 Listed Building Consent in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>	
<b>Case Officer: C. Unsworth</b>		<b>Date : 13/05/2021</b>
<b>Authorising Officer: N.J. Hayhurst</b>		<b>Date :17/05/2021</b>
<b>Dedicated responses to:- N/A</b>		