

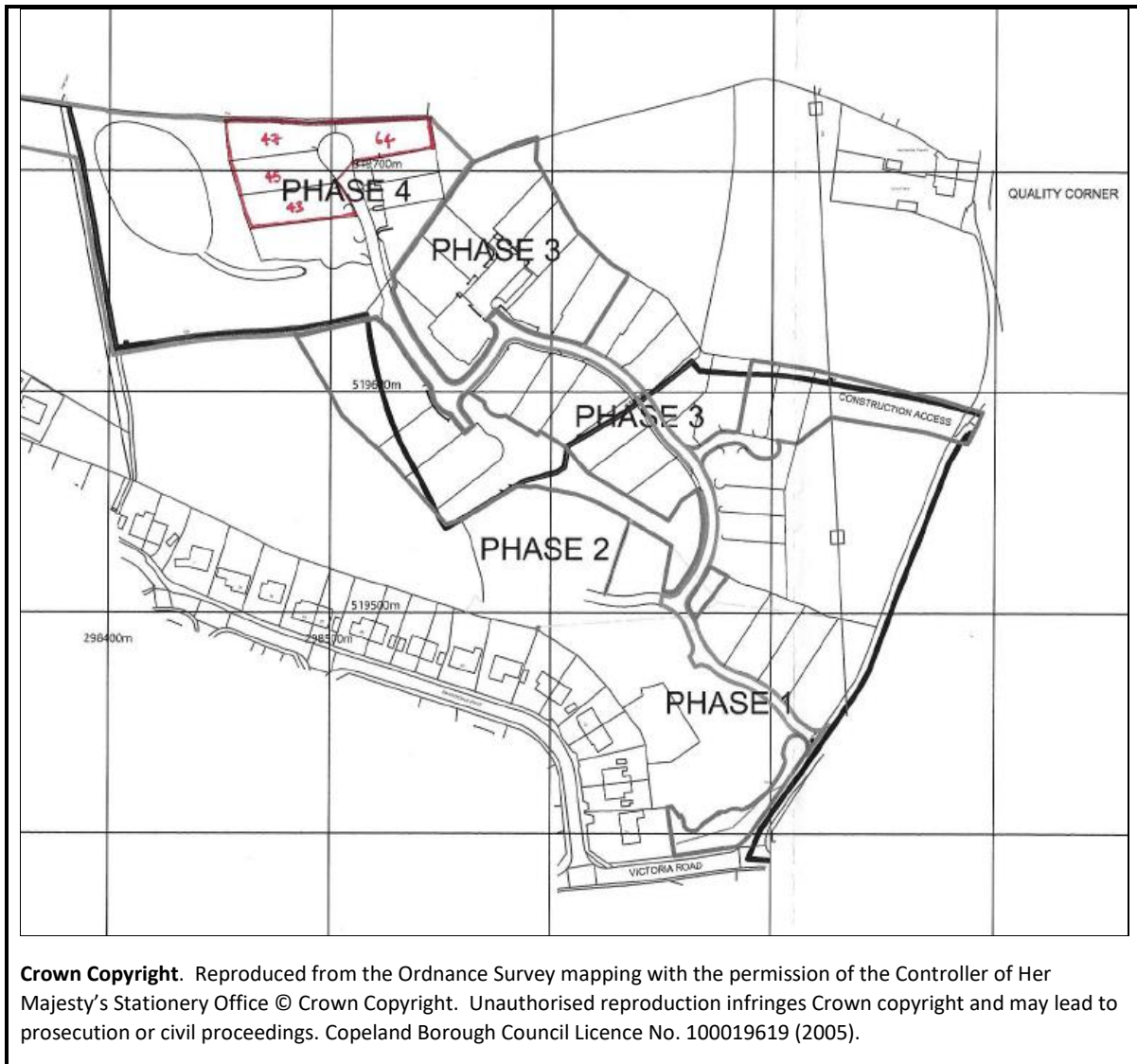


To: PLANNING PANEL

Development Control Section

Date of Meeting: 04/08/2021

Application Number:	4/21/2136/0B1
Application Type:	Amend Condition
Applicant:	John Swift Homes LTD
Application Address:	THE MOUNT, WHITEHAVEN
Proposal	VARIATION OF CONDITION 2 OF PLANNING APPROVAL 4/20/2179/0F1 RELATING TO THE REVISION OF THE LANDSCAPE LAYOUT PLAN, THE SUBSTITUTION OF THE DWELLING TYPE ON PLOT 64 AND A MINOR INCREASE IN THE FLOOR HEIGHT ON PLOTS 43, 45, 47 AND 64
Parish:	Moresby, Whitehaven
Recommendation Summary:	Approve



Reason for Determination by Planning Panel

This application is brought for consideration by Members of the Planning Panel following the receipt of a request from Cllr Graham Minshaw for the planning application to be referred to the Planning Panel for determination.

This application was withdrawn from the agenda for the Planning Panel meeting of the 7th July 2021 following the receipt of a further objection in respect noise impacts. It was considered that specialist advice was required in the assessment of the issues raised. This specialist advice has now been received.

Site and Location

This application relates to an area of former open farmland located on the north-eastern edge of Whitehaven.

The Application Site comprises an area of approximately 0.62 hectares.

The Application Site is located adjacent to the existing residential development to the east known as The Mount and the surface water drainage pond serving the approved residential development to the west. Agricultural land exists to the north of the Application Site.

Relevant Planning Application History

Full Planning Application reference 4/20/2179/0F1 – Residential development for 8 dwellings plus associated infrastructure and landscaping (Phase 4) – Approved under delegated powers subject to planning conditions.

Proposal

This application retrospectively seeks the variation of Planning Condition 2 of approved Full Planning Application reference 4/20/2179/0F1.

The approved development comprises a cul de sac that extends from the highway serving the approved development to the east. The cul de sac aligns south to north terminating at a turning area. The 4no. dwellings are located to the east and west of the cul de sac respectively.

The approved dwellings comprise 3no. four bedroom detached dormer bungalows; 2no. three bedroom detached bungalows; and, 3no. two bedroom detached bungalows.

The approved dwellings are to be finished with interlocking slate tiles to the roof and either white K-Rend or brick with buff colour natural stone features and Tudor detailing in Cedar with K-Rend panels to the elevations. Grey coloured uPVC windows and a natural Oak door are proposed. Cedar garage doors are proposed. Tegula pavers are proposed to the driveways.

A comprehensive scheme of landscaping is approved.

It is approved to dispose of foul and surface water to the public main and an existing watercourse via an attenuation basin respectively.

The current application seeks the following revisions to approved Full Planning Application reference 4/20/2179/0F1:

- Increase the finished floor levels of Plot 43 and Plot 45 from 127 AOD to 127.25 AOD i.e. an increase of 0.25m from the previously approved height.
- Increase the finished floor level of Plot 47 from 127 AOD to 127.50 AOD i.e. an increase of 0.5m from the previously approved height.
- Increase the finished floor level of Plot 64 from 129.5 AOD to 130 AOD i.e. an increase of 0.5m and to vary the design of the approved bungalow.

The revised design of bungalow has a minimally lower ridge height than the previously approved bungalow of 5.65m, resulting in an overall developed ridge height of 135.65 AOD. This is an increase in 0.44m above the ridge height of the previously approved bungalow.

It is proposed to relocate the driveway to the north of the plot and revise the approved hard and soft landscaping to accommodate the varied design of bungalow.

It is proposed to finish the varied design of bungalow with materials to match the previously approved bungalows.

Consultation Responses

Whitehaven Town Council

No comments.

Cumbria County Council

14th April 2021

The box hedge to the frontage of plot 64 needs to be set back to create a clearance strip allowing vehicles to manoeuvre without catching the hedge row and to allow for better visibility exiting the driveway of plot 64.

The supplied plan needs to be amended to reflect the above.

Upon receipt of the above i will be better placed to give further response.

5th May 2021

Having reviewed the submitted Doc M2647.07F Landscape Layout Plan, the box hedge at No 64 has been set back to allow for a clearance strip.

The Highway Authority and Lead Local Flood Authority has no objection to the proposed variation in condition as it is considered that the proposal will not have a material effect on existing highway conditions nor does it increase the flood risk on the site or elsewhere subject to previous conditions not discharged being applied to any notice of consent you may grant.

Copeland Borough Council – Flood and Coastal Defence Engineer

No comments.

Copeland Borough Council – Scientific Officer

21st June 2021

Thank you for sending through the new representation and the comments from the planning agent.

My previous comments have been based on the guidelines detailed in ETSU-R-97 and Recommended Practice 13: Micro-siting small wind turbines for highly turbulent sites (IEA). I believe that these comments still stand as the development appears to meet these guidelines. I would note that my comments were based on the reported ground levels and distances so you should double check these to make sure they are correct.

I'm not able to comment on the wider concerns raised by the new representation

26th May 2020

No objections to the proposed changes in ground level and house type as the changes still meet the guidance on standoff distance for small turbines detailed in Recommended Practice 19: Micro-siting small turbines for highly turbulent sites by the International Energy Agency.

The supporting statement by Alpha Design does contain a typo, stating that the FFL for Plot 47 will be 129.50m. I have confirmed with them that the FFL is 127.50m as shown on the layout plan and attached is the amended statement.

The changes mean that Plot 47 has a FFL of 127.50m and a ridge height of 6.85m and Plot 64 has a FFL of 130.00m and a ridge height of 5.65m. Provided that these levels and heights are maintained the properties remain more than 20H from the turbine as recommended by Recommended Practice 19: Micro-siting small turbines for highly turbulent sites by the International Energy Agency.

Public Representations

The application has been advertised by way of a site notice and neighbour notification letters issued to 83no. properties.

4no. representations have been received in objection and 2no. representations have been received in support.

The material planning issues raised are summarised below:

Support

An objector to the proposed development has been encouraging existing residents of The Mount to object to this planning application on grounds of the noise that can be heard from the existing wind turbine located to the north of the Application Site.

We wish to make it clear and formally state that we have never heard any wind noise from the wind turbine located to the north of the Application Site.

Objection

Retrospective Nature of Works

The dwellings have been constructed as per the proposed plans before Full Planning Application has been approved.

Wind Turbine - Impacts

Approved Phase 4 already has the potential to significantly impair the existing wind turbine to the north. It is accepted that Phase 4 received Full Planning Permission despite the objections raised at that time. It is considered that the amendments to Phase 4 have the potential to cause a greater effect on the existing wind turbine as finished floor levels and ridge heights will be higher.

The proposed dwellings on Phase 4 have the potential to both impair the flow of wind to the turbine and to cause excessive noise and wear and tear due to a potential increase in turbulence caused by the development.

The Phase 4 proposal is located directly to the southwest of the turbine in the prevailing wind direction.

Plot 64 is closest to the wind turbine to the north and is located within the exclusion zone of the wind turbine.

If the finished floor levels are increased and the roof structures of the dwellings differ from the neighbouring plots, this will definitely create a wind turbulence that will affect the performance of the wind turbine and increase the noise from the wind turbine.

Wind Turbine - Impact on Existing Farm Business

The existing wind turbine represents an important source of income for an existing farming business, particularly at the present time with increasing uncertainties relating to Brexit and the economic effects of the current pandemic. This is additional to its clear benefits as a source of low carbon generation. The farm business cannot afford to have the performance of the turbine affected in any adverse way by any nearby development.

Wind Turbine - Noise

Phase 4 of The Mount was subject to a planning condition requiring the preparation and submission of a Noise Assessment by the developer, to ensure that occupiers of the dwellings on Phase 4 would not experience any noise nuisance from the existing wind turbine, through appropriate design mitigation by the developer if required. A Noise Assessment has been submitted by the developer to discharge the requirements of the planning condition. This Noise Assessment is based on the previously approved finished floor levels and not the increased finished floor levels now proposed.

The requirements of the planning condition were required to be met before any building work commenced; however, construction was well under way before this planning condition was approved.

It is considered very unfortunate that a similar planning condition was not applied to the earlier phases of the development, which themselves have potential to increase noise from the turbine affecting these and other properties.

Concern exists that the Noise Assessment and other reports do not include accurately measured distances and levels. The report submitted relies on some standard separation distance criteria with no assessment of actual conditions and topography in the local area. It is considered that this report needs to be reviewed, expanded, applied to the neighbouring properties out with Phase 4 and if necessary corrected before the current planning application is considered by members. The owner of the existing wind turbine is willing to commission an independent third-party review of such an amended report from an appropriate specialist.

In the event of the proposed development proceeding as submitted, the owner of the wind existing wind turbine wishes to make it clear that the local planning authority and developer must acknowledge that any potential noise issues affecting any receptors which are attributable to the impact of the proposed development on the operation of the turbine, will be the responsibility of the developer to mitigate. It is understood that this is already the case in relation to Phase 4 but this needs to be expanded to include all dwellings in the surrounding area.

A Noise Consultant has reviewed the Noise Assessment prepared on behalf of the Applicant and has concluded that this is not fit for purpose. It is considered that:

- The noise monitoring used is based on a single value rather than a prolonged time-series of data and is not correlated with windspeed and other meteorological data;
- The noise monitoring location does not seem appropriate for the development phase under assessment and could have been much closer to Phase 4;
- The noise monitoring location does not have clear line of sight to the turbine due to intervening terrain;
- Noise data was only collected for one data point at night – ETSU limits also apply during the day. One data point is insufficient to extrapolate to a general value for background noise;
- The noise contour plot presented in the report is clipped to 43dB, the night-time limit and does not therefore show noise levels which may still exceed daytime limits;
- The statement that increasing windspeed would increase background noise is correct, however, the conclusion that this would mask the turbine noise is unproven and does not take account of the fact that the turbine noise also increases with windspeed;
- The use of the 35-40dB or 5dB above background daytime, 43dB or 5dB above background night-time limits is not justified as insufficient data have been collected to allow the correct assessment of the noise levels and turbine noise as there is no way to correlate with windspeed as it was not collected;

- Given the lack of data collected, a more appropriate assessment would have been against the flat 35dB at 10m/s level from the simplified conditions stated in ETSU-R-97;
- Our assessment of the noise emissions from the turbine, using test data with uncertainty from a 2012 test report suggests that the 35dB limit is exceeded across much of Phase 4 and some of Phase 3 of the development (modelled at 10m/s using windPRO v3.5 DECIBEL module, ISO 9613-2 propagation, 2m lidar terrain data, Stroma test report with 2dB uncertainty added); and,
- This would mean that houses in Phase 3 and Phase 4 are in areas where ETSU limits would be breached by the turbine.

Concern remains that the potential exists for occupiers of the proposed dwellings to experience noise levels from the turbine which could lead to objections and even, potentially, requests for the operation of the turbine to be curtailed, which is clearly unacceptable.

Attenuation Pond

The Site Section Plan prepared by Alpha Design - Drawing Number 15/10/863-88 a) is not a true representation of the site and associated topography.

The attenuation pond as detailed does not show the actual banking and landscaping that has been constructed around the pond to form the pond and dispose of the excess spoil material from the development. The current position is an artificial banking that is several metres in height and is not duly represented on any of the application documents.

The attenuation pond is of an industrial nature and is not in keeping with a residential area. The ground has been made up several metres from the natural topography.

The attenuation pond has an adverse visual impact to the West and South West.

Any trees, shrubs or vegetation when planted in this area would further block the skyline, cause further visual clutter and would detract from enjoyment of existing nearby properties.

The attenuation pond was previously constructed without Full Planning Permission. It is considered that a full liner has not been fitted to the pond; therefore, it is acting more as a soakaway given the nature of the ground conditions i.e. a sandstone shelf. This drainage arrangement has clear implications for potential ground stability and pollution.

A more appropriate solution would be to modify the attenuation pond within the current footprint to remove the banking; develop it below natural ground level; and, install a liner.

The drainage pond itself is too high. It is built above ground with an earth bank on top of a hill.

It has previously been confirmed that the finished floor levels of the dwellings would need to be lifted in order for the drainage to run into the drainage pond.

Site Infrastructure

Owners of existing properties on The Mount have experienced issues with blocking of drains and water pressure which will be exacerbated.

The development will increase traffic on roads that are narrow and were not intended to have the number of dwellings with increased numbers of vehicles that will result. The single access to the development and the incline to access the new dwellings pose a safety risk in icy winter conditions.

The phased nature of the planning applications submitted by the Applicant and the lack of clarity re. the true proposed scale of the development from the outset has resulted in the development not enjoying the benefits of fibre broadband which would have installed had the true number of properties likely to exist been confirmed at the outset.

Residential Amenity

The development proposed under Phase 4 will blight the views from the existing dwellings to the east towards Whitehaven Harbour and the Scottish coast to the detriment of the residential amenity of their residents.

The proposed revisions to approved Phase 4 will further increase the adverse impacts on the existing dwellings to the east to their detriment through impact on views and overlooking.

Planning Procedure

It is questioned if the planning process has correctly been followed at any stage of this development, including the original Full Planning Application when objection regarding the impact on the existing wind turbine was overruled under delegated powers.

In the interests of clarity and openness, to show all due diligence has been taken into account, to protect neighbours and any future owners of the proposed properties and ensure the integrity of the Copeland Borough Council planning system, it is insisted that this application is determined by the Copeland Borough Council Planning Panel and not determined under delegated powers.

The owner of the wind turbine received no notification of the previous applications for Phase 2 and Phase 3 and were therefore unable to make representations at that time.

Other Matters

Representations have been received regarding the impact of the development on existing property prices and the failure of the developer to disclose the intention to develop Phase 4 of The Mount to purchasers of existing properties on The Mount.

These matters are not material planning considerations and cannot be given weight in decision making.

Planning Policy

Planning law requires that 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 (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST3 – Strategic Development Priorities

Policy ST4 – Providing Infrastructure

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other services areas: Roles and Functions

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS4 – Community and Cultural Facilities and Services

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

Policy ENV6 – Access to the Countryside

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).

Planning Practice Guidance (PPG).

National Design Guide (NDG).

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

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 of Development

Full Planning Application reference 4/20/2179/0F1 was approved in 2020 under delegated powers.

The development was commenced by the Applicant prior to the approval of four planning conditions which required the submission and approval of details before the development was commenced.

The four planning conditions required the following:

- Planning Condition 3 - The submission and approval of details of the carriageways and footways.
- Planning Condition 4 - The submission and approval of the surface water drainage system and a maintenance schedule.
- Planning Condition 5 - The submission and approval of a construction surface water management plan.
- Planning Condition 6 - The submission and approval of an assessment of the noise likely to affect the application site and measures to mitigate such effects.

In accordance with case law, it is necessary to consider if the planning conditions breached comprise a true 'condition precedent' and as such goes to the 'heart of the planning permission'. This is a matter of planning judgement turning on the facts of the individual case.

Whilst the four planning conditions hold potential to comprise a true 'condition precedent' in certain circumstances, it was concluded that this was not the case in this instance and enforcement action not progressed.

This conclusion was drawn based upon the following: given the works completed to date; the surface water drainage system being a connection to a previously approved and constructed drainage system; as construction surface water management is also effectively controlled via separate legislation; and, given the initial advice of the Scientific Officer of Copeland Borough Council in respect of Full Planning Application reference 4/20/2179/0F1 that the development would likely be acceptable in respect of noise impacts.

In the context of the above, it is considered that Full Planning Application reference 4/20/2179/0F1 remains an extant planning permission.

The retrospective variations proposed fall within the scope of what can be considered under Section 73 of the Town and Country Planning Act 1990 (as amended).

The Applicant has been informed that the continuation of the construction of the development not in accordance with the approved plan is at risk that planning permission may not be granted for the development as constructed and that this may result in enforcement action requiring removal or mitigation.

Design and Landscape Impact

A Landscape and Visual Appraisal was submitted in support of Full Planning Application reference 4/20/2179/0F1.

In respect of landscape impacts, the Appraisal concluded that that the proposed development was not expected to generate any higher levels of adverse landscape effect and that the anticipated lower levels of adverse effect identified will be very much localised, affecting the character of the site and its immediate surroundings rather than affecting the wider agricultural landscape or the townscape of Whitehaven to any great extent.

In respect of visual impacts, the Appraisal concluded that the Application Site has a visual prominence that is reflected by a relatively high number of visual receptor groups; however, despite the high levels of visual prominence associated with the site and the development proposals, only one receptor group who experience public views will be affected to a moderate level of adverse effect.

In assessing Full Planning Application reference 4/20/2179/0F1, it was concluded that the landscape and visual effects associated with the development were acceptable. It was concluded that the proposed dwellings were well related to the existing developed extent of

the settlement as it adjoins existing approved dwellings and is in part contained by the existing surface water drainage infrastructure.

The layout comprised an organic extension of the existing development, which as developed is informal in character comprising a combination of the curving roads and cul de sacs etc. with a density consistent with the existing development to the east.

The approved comprised bungalows and dormer bungalows as per the existing development to the east.

Structured planting was proposed to the site and plot boundaries and to the surface water drainage pond. The scheme of landscaping comprised a continuation of the approach adopted across the wider approved development.

A planning condition was imposed to remove the permitted development rights to maintain a high standard of environment for the lifetime of the development.

The revised design of bungalow proposed to Plot 64 is comparable in design to the remainder of the approved development and incorporates matching external finishes, ensuring continuity of design throughout the development.

The relocation of the driveway to the north of the plot and revisions to the approved hard and soft landscaping to accommodate the varied design of bungalow are in keeping with the remainder of the approved development.

The proposed increase to the finished floor levels of the dwellings of 0.25m to 0.5m will not adversely impact the relationship between the proposed dwellings and the existing dwellings to the east. The dwellings will result in only minimal changes in landscape and visual impacts given the location, relationship and distances to receptors.

Residential Amenity

The interface separation distances between the proposed dwellings and the existing/approved dwellings accord with the minimum distances that would normally be anticipated in a new residential development, with the exception of Plots 52 and 58; however, given the angles between the respective dwellings, unacceptable impacts will not result through direct overlooking.

A planning condition is proposed to remove the permitted development rights for extensions and curtilage buildings etc. to prevent unacceptable impacts arising from the erection of extensions.

Objections have been received in respect of the impact of the development upon views from the recently constructed dwelling to the east. The proposed increase in the finished floor level and ridge heights of the dwelling will result in further obscurity of the views from the dwellings to the east; however, these impacts would not be so substantial as to cause unacceptable adverse impacts upon the visual amenity of their occupants.

Wind Turbine

Representations received in objection to Full Planning Application reference 4/20/2179/0F1 stated that it is expected that the proposed dwellings would have an adverse impact on the safety and productivity of the existing wind turbine to the north of the Application Site and could also result in the wind turbine producing additional noise.

The Scientific Officer of Copeland Borough Council was consulted in respect of Full Planning Application reference 4/20/2179/0F1.

It was confirmed that based upon the Noise Assessment provided in support of the planning application for the wind turbine, potential exists for the turbine to breach the flat level noise requirements of ETSU R-97 at the proposed dwellings; however, based on representative background noise data for elevated grounds surrounding Whitehaven and the noise data for the turbine, the potential for adverse impacts and breach of ETSU-R97 was unlikely. A pre-commencement planning condition was imposed on Full Planning Application reference 4/20/2179/0F1 requiring the completion of a Noise Assessment and securing appropriate noise mitigation to ensure adverse impacts upon amenity of residents would not exist or result from the proposed development.

The Scientific Officer of Copeland Borough Council was consulted in respect of the Noise Assessment submitted to discharge the requirements of the pre-commencement planning condition.

It was confirmed that based on the submitted Noise Assessment, the noise from the wind turbine would be within the ETSU-R-97 limits and so would not result in adverse impacts upon the amenity of residents.

Objections were raised by interested parties to the submitted Noise Assessment, including how any turbulence resulting from the proposed dwellings would cause additional noise from the operation of the existing wind turbine, which would cause impact greater than those outlined and assessed.

The Scientific Officer of Copeland Borough Council was consulted in respect of the objections received. The proposed development was assessed against Recommended Practice 13: Micro-siting small wind turbines for highly turbulent sites, which was prepared in 2018 by the International Energy Agency and is based on real world data.

Recommended Practice 19 recommends that wind turbines are situated at least 20H from nearby obstacles, where H is the height of the obstacle in question. If this distance cannot be met, the height to the tip of the wind turbine blade should be 2H or greater. It is confirmed that if the 20H distance is met then turbulence should not be an issue for the efficiency of a turbine or cause increased chopping noise in operation.

To calculate 20H for the two nearest proposed dwellings, the height of the houses was calculated in relation to the wind turbine.

Both the Ordnance Survey contour maps and Google Earth identified that the wind turbine is located above the 130m contour; therefore, calculations were made on the basis that the foot of the turbine is at 130m above sea level.

As approved, Plot 47 had a height to roof ridge of 6.85m and a finished floor level of 127 AOD. This means that the roof ridge elevation would be 133.85 AOD or 3.85m high relative to the base of the turbine; therefore, 20H in this case is $20 \times 3.85 = 77\text{m}$. Plot 47 is c.140m from the turbine; therefore, the 20H requirement was calculated as met.

As approved, Plot 64 had a height to roof ridge is 5.75m and a finished floor level of 129.5 AOD. This means that the roof ridge elevation would be 135.25 AOD or 5.25m relative to the base of the turbine; therefore, 20H in this case is $20 \times 5.25 = 105\text{m}$. Plot 64 is c.125m from the turbine; therefore, the 20H requirement was calculated as met.

Based upon the above, it was concluded that turbulence should not be an issue in respect of the operation of the wind turbine.

The Scientific Officer of Copeland Borough Council has been consulted in respect of the current planning application. The revised proposals have again been assessed against Recommended Practice 19.

As approved, Plot 47 has a height to roof ridge of 6.85m and a finished floor level of 127.5 AOD. This means that the roof ridge elevation would be 134.35 AOD or 4.35m high relative to the base of the turbine; therefore, 20H in this case is $20 \times 3.85 = 87\text{m}$. Plot 47 is c.140m from the turbine; therefore, the 20H requirement is met.

As proposed, Plot 64 has a height to roof ridge is 5.65m and a finished floor level of 130 AOD. This means that the roof ridge elevation would be 135.65 AOD or 5.65m relative to the base of the turbine; therefore, 20H in this case is $20 \times 5.25 = 113\text{m}$. Plot 64 is c.125m from the turbine; therefore, the 20H requirement is met.

Based upon the above, the Scientific Officer of Copeland Borough Council has raised no objections to the proposals and has confirmed that no additional/revised Noise Assessment is considered necessary.

Pursuant to the receipt of the further objection received in respect of the noise impacts, Officers instructed a qualified and experienced third party Noise Consultant to prepare an assessment of the evidence/assessment of the Objector, Applicant and Scientific Officer in the context of the current planning application.

The conclusions of the Noise Consultant are as follows:

- The pre-commencement planning condition imposed on Full Planning Application reference 4/20/2179/0F1 requiring the completion of a Noise Assessment has been discharged by Copeland Borough Council. This comprises a fall-back position for the Applicant.
- The relevant issue to be considered as part of the current planning application is whether the proposed revisions to the development approved under Full Planning Application reference 4/20/2179/0F1 significantly alters the noise impact.

- The excerpted comments from the “*wind assessment specialist*” submitted by the Objector relate solely to the Noise Assessment prepared to discharge the pre-commencement planning condition imposed on Full Planning Application reference 4/20/2179/0F1 and do not relate to the matter at hand.
- The response to the excerpted comments of the “*wind assessment specialist*” prepared on behalf of the Applicant solely defend the Noise Assessment prepared to discharge the pre-commencement planning condition imposed on Full Planning Application reference 4/20/2179/0F1 and consequently they also do not relate to the matter at hand.
- The proposed revisions to the development approved under Full Planning Application reference 4/20/2179/0F1 do not appear to significantly alter the noise impact of the nearby turbine on the future residents of Phase 4.

In the context of the above, no additional/revised Noise Assessment is considered necessary.

Other Matters

Ecology

The Application Site comprised short grazed fields, which have been impacted by the construction of the approved development and was therefore generally species poor.

The proposed revisions will not cause materially greater impacts on existing ecology.

The proposed scheme of planting will deliver comparable levels of biodiversity to the previously approved scheme.

Highways Impacts

No alterations are proposed to the approved access via the junction with the U4010 and internal distributor roads serving the approved dwellings to the east.

The proposed revised driveway layout and parking provision accords with the requirements of the Cumbria Development Design Guide.

Cumbria County Council – Highways have been consulted and raise no objections subject to the imposition of planning conditions.

Drainage

A detailed drainage design for the development remain to be approved.

The Drainage Strategy confirms that it is proposed to dispose of foul water to the existing mains drainage system and surface water to an existing watercourse. Infiltration is discounted on the basis of the known ground conditions.

The proposed drainage strategy accords with the national drainage hierarchy.

Cumbria County Council – LLFA and Flood and Coastal Defence Engineer Environmental Health have been consulted in respect of the proposals and raise no objections subject to the imposition of planning conditions securing the submission and approval of a detailed drainage design.

Queries are raised in the objections to the construction of the existing surface water attenuation basin not having been constructed in accordance with the previously approved details. This matter is the subject of a separate planning enforcement investigation.

The Planning Balance

For the reasons outlined in the Copeland Borough Council produced a Five Year Housing Land Supply Statement November 2020, in assessing the proposed development, Paragraph 11 of the NPPF is engaged with the policies of the Development Plan which are most important for determining the application are to be considered out of date and it required that planning permission be granted unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The revised design of bungalow proposed to Plot 64 is comparable in design to remainder of the approved development and incorporates the matching external finishes, ensuring continuity of design throughout the development.

The relocation of the driveway to the north of the plot and revisions to the approved hard and soft landscaping to accommodate the varied design of bungalow are in keeping with the remainder of the approved development.

The proposed increase to the finished floor levels of the dwellings of between 0.25m to 0.5m will not adversely impact the relationship between the proposed dwellings and the existing dwellings to the east. The dwellings will result in only minimal changes in landscape and visual impacts given the location, relationship and distances to receptors.

The proposed development continues to achieve the recommendations in Recommended Practice 13: Micro-siting small wind turbines for highly turbulent sites; therefore, turbulence should not be an issue in respect of the operation of the wind turbine to the north in terms of output or noise generation.

The proposed revisions do not appear to significantly alter the noise impact of the nearby turbine on the future residents of Phase 4; therefore, no additional/revised Noise Assessment is considered necessary.

Additional unacceptable impacts upon ecology, highways and surface water drainage will not result from the revised development.

In overall terms, whilst additional adverse impacts are identified as arising from the proposed development, these conflicts are collectively not sufficiently harmful to significantly and demonstrably outweigh the identified benefits of the development, which include: the provision of housing to meet the needs of the settlement/borough; boosting the economy of the settlement/borough including the provision of jobs during construction; and, supporting local services when assessed against the policies in the NPPF taken as a whole.

Recommendation:-

Approve subject to the following conditions

Conditions

1. -
2. 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:

Location Plan – Drawing No. 15/10/863-50 received 12th May 2020
Phase Four – Landscape Layout – Drawing No. M2647.07E received 29th March 2021
Type A (Plots 43, 45 and 47) – Working Elevations (Render) – Drawing No. 15/10/863-82 received 12th May 2020
Type A (Plots 43, 45 and 47) – Working Elevations (Brick) – Drawing No. 15/10/863-83 received 12th May 2020
Type A (Plots 43, 45 and 47) – Floor Plans – Drawing No. 15/10/863-81 received 12th May 2020
Dwelling Type B – Elevations – Brick – Drawing No. 15/10/863-11c) received 12th May 2020
Dwelling Type B – Floor Plan - Drawing No. 15/10/863-10d) received 12th May 2020
Dwelling Type C – Elevations – Render – Drawing No. 15/10/863-14b) received 29th March 2021
Dwelling Type C – Floor Plan – Drawing No. 15/10/863-12c) received 29th March 2021
Type F1 – Foundation and Floor Plans – Drawing No. 15/10/863 – 72 received 12th May 2020
Dwelling Type F1 – Elevations – Drawing No. 15/10/863-49 received 12th May 2020
Phase 4 – Site Section – Drawing No. 15/10/863-88a received 29th March 2021
Construction Traffic Management Plan – Doc. Ref. 15/10/863 – CTMP/4 received 12th May 2020
Design and Access Statement – Doc. Ref. 15/10/863-DAS/4 received 12th May 2020
Drainage Strategy – Doc. Ref. 15/10/863 –D.S received 12th May 2020

External Material Schedule – Doc. Ref. 15/10/863-EM/4 received 12th May 2020
Construction Management Plan – Doc. Ref. 15/10/863 – CMP/4 received 12th May 2020

The Mount Phase 4, Whitehaven – Condition 6 Discharge – Noise Assessment 06 Oct 2020

Reason

To conform to the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. -

4. Within one month of the date of this Decision Notice, full details of the surface water drainage system (incorporating SUDs features as far as practicable) and a maintenance schedule (identifying the responsible parties) shall be submitted and approved in writing by the Local Planning Authority. The approved works shall be implemented prior to the development being completed and shall be maintained thereafter in accordance with the schedule.

Reason:

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

5. -

6. -

Pre-Occupation

7. No dwellings shall be occupied until the estate road including footways to serve such dwellings has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

Reason:

To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy DM22 of the Copeland Local Plan 2013-2028.

8. No dwelling hereby approved shall be occupied until the surface water and foul water disposal works required to serve the dwelling has been completed on site in accordance with the approved plans/details. The approved works shall be retained as such thereafter.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

9. Prior to the first occupation of any dwelling hereby approved any individual plot boundary walls or fencing enclosing that plot shall be erected in accordance with the details set out on Phase Four – Landscape Layout – Drawing No. M2647.07E received 29th March 2021. The approved boundary treatments shall be retained at all times thereafter.

Reason

For the avoidance of doubt and to ensure a satisfactory form of boundary treatment in the interests of visual amenity in accordance with the provisions of Policy DM26 of the Copeland Local Plan 2013-2028.

10. Foul and surface water shall be drained on separate systems.

Reason:

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

11. The development hereby permitted shall be constructed entirely of materials detailed in the External Material Schedule – Doc. Ref. 15/10/863-EM/4 received 12th May 2020 and maintained as such thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity in accordance with the provisions of Policy DM10 of the Copeland Local Plan 2013-2028.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the type described in Classes A, B, C, D, E, F, G of Part 1 and Class A of Part 2 of Schedule 2 of

that Order shall be undertaken without the express permission of the Local Planning Authority.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity in accordance with the provisions of Policy DM10 of the Copeland Local Plan 2013-2028.

13. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be completed in the first available planting season following the completion of the development.

Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with the provisions of Policy DM26 of the Copeland Local Plan 2013-2028.

14. Once implemented the approved landscaping works shall be maintained in accordance with the maintenance schedule outlined on Phase Four – Landscape Layout – Drawing No. M2647.07E received 29th March 2021. 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 ensure the planting scheme becomes appropriately established in the interests of visual amenity in accordance with the provisions of Policy DM26 of the Copeland Local Plan 2013-2028.

15. The approved Construction Traffic Management Plan – Doc. Ref. 15/10/863 – CTMP/4 received 12th May 2020 and Construction Management Plan – Doc. Ref. 15/10/863 – CMP/4 received 12th May 2020 shall be adhered to throughout the construction period.

Reason

To ensure the construction phase is carried out in accordance with the approved scheme and does not adversely impact local residential amenity in accordance with the provisions of Policy DM22 of the Copeland Local Plan 2013-2028.

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.