

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/21/2214/OB1	
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 5 (FOOTWAYS) OF PLANNING APPROVAL 4/16/2339/OR1	
3.	<b>Location:</b>	FORMER COUNCIL YARD, HOLBORN HILL, MILLOM	
4.	<b>Parish:</b>	Millom	
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter	No
		Site Notice	No
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	<b>Report:</b>  <b>Site and Location</b>  This application relates to a former brownfield site known as the former Council Yard at Holborn Hill, Millom. The site has been granted planning permission for a small residential estate.  <b>Planning History</b>  4/08/2261/001 – Outline application for residential development – Approved  4/11/2344/001 – Application for a new planning permission to replace extant permission 4/08/2261/001 – Approved  4/14/2214/001 – Outline application for the erection of 8 detached dwellings and one detached		

garage – Approved

4/16/2339/OR1 – Reserved matters application for access, plot layout, surface and foul water drainage – Approved

4/17/2295/OF1 – Erection of a 2 storey, four bedroomed house with integral garage and driveway - Approved

4/17/2347/OF1 – Construction of new detached dwelling as previously approved 4/16/2339/OR1, plot size and orientation has altered prompting a new planning application – Approved

4/17/2379/OR1 – Reserved matters application for scale and appearance of houses for plot 1, 3, 6 & 8 and proposed landscaping – Approved

4/17/2418/OR1 – Reserved matters application for the erection of a three bedroomed 2 storey dwelling - Approved

4/21/2064/DOC – Discharge of condition 5 of planning approval 4/17/2347/OF1

4/21/2216/DOC – Discharge of condition 4 of planning approval 4/16/2339/OF1

### **Proposal**

In January 2017, an application for the Approval of Reserved Matter (ref: 4/16/2339/OR1) was granted for access, plot layout, surface and foul water drainage for this site. This current application seeks permission to vary the following condition attached to this planning permission:

5. Footways shall be provided that link continuously to the nearest existing footway as part of the development and ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such footways and ramps shall be submitted to and approved by the Local Planning Authority in writing before development commences. Any details so approved shall be constructed as part of the development.

Reason

To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety.

An application (ref: 4/21/2216/OF1) has also been submitted alongside this application to vary condition 4 attached to planning permission 4/16/2339/OR1, this has now been approved.

## **Consultation Responses**

### Millom Town Council

No comments received.

### Cumbria County Council – Cumbria Highways & LLFA

*8<sup>th</sup> June 2021*

Whilst condition 5 is not a 'pre-commencement' condition, it does state that the proposed footpath needs to be agreed in writing with the LPA before the development commences. For the sake of securing the footways, the Highway Authority do not recommend that this part of the condition is altered as the footway has been constructed, however it has not been completed and is without a surface course, numerous kerbs have now become loose from vehicular over-run both of these issues which will require rectifying. It is not clear if any form of S278 agreement has been entered into so that the footway can become part of the public highway, this point needs to be clarified.

Due to the current state of the footway and the ambition for it to become adoptable, we do not recommend that this condition is altered.

*9<sup>th</sup> July 2021:*

Following confirmation from the agent that the site is not to be adopted Cumbria Highways have stated that there is no Section 278 or Section 38 in place for the adoption of this development which would include the footways within the new housing estate and also the new footway that is adjacent to the public highway. The applicant/agent has confirmed that the footways are not to be adopted by the LHA. The developer is therefore responsible and potentially liable for any damage that may occur on the footway that is adjacent to the publicly maintained highway. The LHA, therefore, have no comments to make on the changes made to this condition.

*26<sup>th</sup> August 2021:*

Following a request for clarification of Cumbria Highways position on this application, they stated since in June 2021, it has been confirmed that the footway, including the footway adjacent to the highway, is to remain private and not adopted. Cumbria Highways therefore have no comments to make in regards to the standard that it has been built to other than to say it should be completed as soon as possible since they are aware that some of these properties are currently occupied. Your authority should work with the developer to secure that.

## **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

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 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 of New Residential Developments

Policy DM22 – Accessible Developments

Policy DM26 - Landscaping

### **Other Material Planning Considerations**

National Planning Policy Framework (2021)

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

The emerging Copeland Local Plan 2017-2035 was recently the subject of a Preferred Options Consultation which ended on 30 November 2020. 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.

	<p><b>Assessment</b></p> <p>Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that to assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.</p> <p>In terms of the conditions attached to the previous decision notice (ref: 4/16/2339/OR1) as works have commenced on site it is not necessary to repeat condition 1 relating to timescales. Conditions 3 and 6 will be repeated to ensure that works are carried out as per the approved details. As a separate application (ref: 4/21/2216/OB1) has been submitted, and now approved, to vary condition 4, this condition will be amended to reflect this approval.</p> <p>The current application seeks to vary condition 5 of the original planning approval, ref: 4/16/2339/OR1.</p> <p>Condition 5 relates to the footways and ramps to be provided as part of this development. As the development has already commenced on site the variation of this condition allows the works to be completed whilst securing satisfactory footways for the development. As it has been confirmed that the footways are not to be adopted Cumbria Highways have no comments to make in regards to the standard that the footways have been built to other than to say it should be completed as soon as possible since they are aware that some of these properties are currently occupied. In order to secure the completion of the proposed footways it has been deemed necessary to include within this condition a timescale for the completion of the works. The agent for this application has confirmed that the developer has the works booked in to complete the surfacing of the footways at the end of October 2021, they have therefore confirmed that they are happy for the condition to secure that works are completed by the end of 2021.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:-</b></p> <ol style="list-style-type: none"> <li>1. –</li> <li>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:- <ul style="list-style-type: none"> <li>- Site Access Road and Plot Layout, Scale 1:200, Drawing No: 459/01, received by the</li> </ul> </li> </ol>

Local Planning Authority on the 29<sup>th</sup> September 2016.

- Proposed Drainage Layout, Drawing No: K32716/A1/11, received by the Local Planning Authority on the 29<sup>th</sup> September 2016.
- External Works Layout, Scale 1:200, Drawing No: K32716/A1/04B, received by the Local Planning Authority on the 12<sup>th</sup> September 2016.
- External Works Construction Details, Scale 1:200, Drawing No: K32716/A1/05, received by the Local Planning Authority on the 12<sup>th</sup> September 2016.
- Proposed Drainage Layout and Manhole Construction Details, Scale 1:20 & 1:200, Drawing No: K32716/A1/11B, received by the Local Planning Authority on the 13<sup>th</sup> December 2016.
- External Works Layout, Scale 1:200, Drawing No: K32716/A3/04A, received by the Local Planning Authority on the 9<sup>th</sup> December 2016.

Reason

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.

3. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted drawing of "Proposed Drainage Layout and Manhole Construction Details", ref: K32716/A1/11 Rev B dated 13<sup>th</sup> December 2016 which was prepared by R.G. Parkins & Partners LTD. For the avoidance of doubt and unless otherwise agreed in writing by the Local Planning Authority, surface water must drain at the restricted rate of 6.5 l/s into the combined sewer. The development shall be completed in accordance with the approved details and maintained at all times thereafter.

Reason

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

4. The development must be carried out in accordance with and implement all of the details and mitigation measures specified within the following approved documents:
  - Sustainable Drainage Maintenance & Management Plan on behalf of Bay View Close RTM Company Limited for Bay View Close, Millom – Rev C (amended), received by the Local Planning Authority on the 18th August 2021.

- Proof of Right to Manage Co, received by the Local Planning Authority on the 21st July 2021.

The development shall subsequently be completed, maintained and managed in accordance with the approved details.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

5. The development must be carried out in accordance with the details illustrated on the following approved plans:

- Site Plan Link Footways (Amended), Scale 1:200, Drawing No 459/12, Rev A, received by the Local Planning Authority on the 24th June 2021.

The footways within this development must be completed in accordance with these approved details by the 31st December 2021 and must be maintained in accordance with the approved details at all times thereafter.

Reason

To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety.

6. Prior to the commencement of any construction works an access shall be formed which provides visibility splays of 2.4m x 43m in accordance with the approved plan External Works Layout, Drawing No: K32716/A1/04B, received by the Local Planning Authority on the 12th December 2016. Once constructed the access shall be maintained in accordance with the approved details at all times thereafter.

Reason

To ensure that the new access road is constructed within a reasonable timescale in the interests of highway safety.

**Informatives:**

1. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. United Utilities offers a fully supported mapping service and we recommend the applicant contact our Property Searches Team on

03707 510101 to obtain maps of the site.

2. 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](http://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:** C. Burns

**Date :** 12.10.2021

**Authorising Officer:** N.J. Hayhurst

**Date :** 14/10/2021

**Dedicated responses to:-** N/A