

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/21/2270/OG1
2.	<b>Proposed Development:</b>	REMOVAL OF CONDITION 3 (MATERIALS), CONDITION 6 (BOUNDARY FENCE) & CONDITION 8 (SURFACE WATER) OF PLANNING APPROVAL 4/17/2061/OF1
3.	<b>Location:</b>	16 AND 17 JOLLOWS CLOSE, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp; Policy</b>	<p>Neighbour Notification Letter: NO</p> <p>Site Notice: NO</p> <p>Press Notice: NO</p> <p>Consultation Responses: See report</p> <p>Relevant Planning Policies: See report</p>
7.	<p><b>Report:</b></p> <p><b>Site and Location:</b></p> <p>This application relates to 16 and 17 Jollows Close, two semi-detached properties situated in the Kells area of Whitehaven.</p> <p>Full planning permission was approved in April 2017 for the erection of a pair of semi-detached dwellings (application reference 4/17/2061/OF1 relates).</p> <p><b>Proposal:</b></p> <p>Planning Conditions imposed on application ref. 4/17/2061/OF1 state the following:</p> <p>3. Before any of the substructure is constructed representative samples of the materials to be used on the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in</p>	

accordance with the approved details and so maintained thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity.

6. Details of all boundary fences shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the dwellings hereby approved. Development shall be carried out in accordance with the approved details and shall be retained thereafter.

Reason

To ensure the amenity of adjoining occupiers.

8. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public surface water sewer must be restricted to predevelopment Greenfield runoff rate for any storm event.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF.

This application seeks to remove these conditions as the dwellings have been built without the conditions being discharged.

The following information has been submitted as part of the application:-

- Application form
- Layout plans of the dwellings as built
- Elevation plans of the dwellings as built
- Clarification that the site is drained using the existing infrastructure that serves the whole site and has been adopted by United Utilities

Consultee:	Nature of Response:
Whitehaven Town	No objections

Council	
Cumbria County Highways	<p>Condition 6 - I would advise that your authority confirms that the walls in question have been built in accordance with the plans, you may also need to consider that if the condition is removed entirely from the application the applicant may be under no obligation to keep the wall heights between the properties below 900mm.</p> <p>I would suggest that the applicant considers a variation in both conditions over removal entirely for the reasons stated above, your authority may wish to consider this when approving this application.</p>
Local Lead Flood Authority	<p>Condition 8 - Your authority should consider the following when removing this condition, as United Utilities have approved the design and the condition stipulates a forward pass rate into the public sewer be restricted to pre-development green field rate for all storm events, the removal would negate any stipulation of this agreed rate. I would advise that your authority ensure through Building Control (as the development is below the criteria for LLFA consultation) that the drainage has been built as detailed on the plan, meets Building Regulation criteria and is inline with the condition in regards to discharge rate.</p> <p>I would suggest that the applicant considers a variation in both conditions over removal entirely for the reasons stated above, your authority may wish to consider this when approving this application.</p>
United Utilities	United Utilities has no objection to drainage condition being removed.
<b>Neighbour Responses:</b>	
None received.	

**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 ENV1 – Flood Risk and Risk Management

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM24 – Development Proposals and Flood Risk

Policy DM26 – Landscaping

**Other Material Planning Considerations**

National Planning Policy Framework 2021 (NPPF)

Emerging Copeland Local Plan

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:**

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

The removal of conditions 3. 6 and 8 is requested as the Developer has completed the dwellings without seeking to provide the required information to secure discharge of the conditions. It was therefore impossible for the conditions to be complied with as they required discharge prior to commencement.

The dwelling has been constructed with a suitable choice of materials to include bricks to match the surrounding properties and a boundary fence at no higher than 0.9 metres. Cumbria Highways raised concerns with the removal of the condition relating to boundary fences, however these are covered by the Permitted Development rights and cannot be erected above 1m when adjacent to a highway. It is therefore considered that the removal of this condition will not have any negative effect on the lifetime of the development or adjacent highway.

The drainage implemented includes foul and surface water drained to separate systems which are

	<p>provided for the whole site and maintained by United Utilities. United Utilities raised no objections to the removal of the condition as the drainage is already established. United Utilities manage the drainage on the whole of the Former White School site and therefore are responsible for its maintenance going forward. The drainage has also been signed off through the Building Regulations and is therefore considered to be acceptable.</p> <p>No objections to the application have been raised.</p> <p>It is therefore considered that the works undertaken are acceptable and it is reasonable that conditions 3, 6 and 8 can be removed.</p> <p>As the development has been completed and occupied there is no requirement to repeat any of the other conditions that were imposed on the original planning permission reference 4/17/2061/0F1</p>	
8.	<p><b>Recommendation:</b> Approve removal of condition</p>	
9.	<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 the removal of the planning conditions in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>	
Case Officer: Sarah Papaleo		Date : 22/09/2021
Authorising Officer: N.J. Hayhurst		Date : 01/10/2021
Dedicated responses to:- N/A		