

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2334/OB1
2.	Proposed Development:	AMENDMENT OF CONDITION 5 (MODIFICATION OF ACCESS JUNCTION) OF PLANNING APPROVAL 4/16/2409/001 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF 65 DWELLINGS INCLUDING FULL DETAILS OF ACCESS WITH ALL OTHER MATTERS RESERVED
3.	Location:	KEEKLE MEADOWS, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations & Policy	See Report
7.	Report:	<p>Site and Location:</p> <p>This application relates to part of the residential development of Keekle Meadows located to the western boundary of Cleator Moor.</p> <p>The development is currently under construction.</p> <p>Recent Relevant Planning Application History:</p> <p>4/16/2409/001 - Outline application for residential development of up to 65 dwellings including full details of access with all other matters reserved – Approved.</p> <p>Proposal:</p> <p>This application seeks the variation of Planning Condition 5 attached to application ref. 4/16/2409/001.</p> <p>Planning Condition 5 as approved states the following:</p>

5. *The junction of the access road and the B5295 shall be modified strictly in accordance with the details approved on WYG drawing no. A 085136 – C001 to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority. The modification works shall be completed and made fully operational before the 100th dwelling on the estate served by the access road is occupied.*

It is proposed to amend Planning Condition 5 to state the following:

5. *The junction of the access road and the B5295 shall be modified strictly in accordance with the details approved on WYG drawing no. A 085136 – C001 to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority. The modification works shall be completed and made fully operational before the 125th dwelling on the estate served by the access road is occupied.*

No other revisions are proposed.

Consultee:	Nature of Response:
Town Council	None received.
Cumbria County Council – Highways	<p><i>2nd August 2021</i></p> <p>Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning application for the variation of condition 5 and we can confirm as follows:</p> <p>We have no alternative but to retain our previous view on this matter. The original condition stated that when the 100th property is occupied the works under the Section 278 agreement between Cumbria Highways and High Grange Homes on the B5295 should be carried out.</p> <p>The issues that created the delay in the Sec 278 should now be resolved and work should be able to commence without delay. In light of the above we can confirm that we would recommend that this condition be retained in its current form.</p> <p><i>19th August 2021</i></p> <p>Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning</p>

application for the variation of condition 5 and we can confirm as follows:

We have no alternative but to retain our previous view on this matter. The original condition stated that when the 100th property is occupied the works under the Section 278 agreement between Cumbria Highways and High Grange Homes on the B5295 should be carried out.

The issues that created the delay in the Sec 278 should now be resolved and work should be able to commence without delay. In light of the above we can confirm that we would recommend that this condition be retained in its current form

31st August 2021

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.

As the LHA we are comfortable in accepting the Sc 73 application to amend Condition 5 of planning application 4/16/2409/001.

This amendment will change the start of the agreed section 278 works trigger point from 100 properties occupied to 125 properties occupied.

Neighbour Responses:

The application has been advertised by way of a planning application site notice and a press notice.

No representations have been received.

Development Plan:

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy T1 – Improving Accessibility and Transport

Development Management Policies (DMP):

Policy DM22 – Accessible Developments

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

Planning Practice Guidance (PPG).

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

Outline Planning Permission ref. 4/16/2409/001 was approved on the 15th February 2017.

Reserved matters have been approved for the development.

The development has been lawfully commenced.

Highways

Planning Condition 5 of Outline Planning Permission ref. 4/16/2409/001 was imposed to ensure the delivery of improvements of the junction of the access road to serve this development and the B5295.

Planning Condition 5 required the works be completed and made fully operational before the 100th dwelling on the estate served by the access road is occupied.

The trigger of 100 dwellings was imposed to ensure the timely delivery of the improvements by the Developer and to ensure that the capacity and flows rates at the junction are not adversely impacted by the number of dwellings occupied on the estate.

The Developer is seeking to increase the trigger from 100 dwellings to 125 dwellings due to delays in the progression of the required Section 278 Agreement by Cumbria County Council, which has prevented the completion of the required works prior to now and the reaching of the trigger of 100 dwellings.

Cumbria County Council – Highways have been consulted in respect of the proposed development and initially objected to the proposed amendment. It was confirmed that the delay in the Section 278 has now been resolved and that the works should be able to commence without delay.

The Developer subsequently confirmed the following:

- There are currently 98 dwellings occupied and served by the estate access road, with a further 20 forward sales of which 13 dwellings are currently under construction.
- All forward sales are due to be complete and occupied by end of 2022 and that the obligation to deliver these dwellings is binding by law, demonstrating the on-going commitment to the Developer to the construction of the site and the completion of the required Section 278 works.
- The Section 278 works would be completed in early 2022 due to the availability of contractors to complete the works.

Cumbria County Council – Highways subsequently confirmed that the proposed trigger of 125 dwellings occupied is acceptable.

Reconciliation of Previously Imposed Planning Conditions

The approval of a Section 73 planning application has the effect of creating a new planning permission; therefore, it is required that the planning conditions imposed on Outline Planning Permission ref. 4/16/2409/001 are required to be re-stated/imposed.

Planning Condition	Retain/Amend
<p>1. The layout, scale and landscaping shall be as may be approved by the Local Planning Authority.</p> <p>Reason</p> <p>To comply with Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p>	<p>Remove. Development commenced.</p>
<p>2. Detailed plans and drawings with respect to the matters reserved for subsequent approval shall be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted shall be commenced not later than the later of the following dates:-</p>	<p>Remove. Development commenced.</p>

<p>a) The expiration of THREE years from the date of this permission</p> <p>Or</p> <p>b) The expiration of TWO years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.</p> <p>Reason</p> <p>To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.</p>		
<p>3. 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: -</p> <ul style="list-style-type: none"> - Site Location Plan, scale 1:2500, drawing number 06/11/542-100, received on 22nd November 2016 - Proposed Access Ghost Island Arrangement, scale 1:500, drawing number C001, received on 14th January 2016 - Phase 1 Desk Top Study Report (Preliminary Environmental 	<p>Amend as per approved plans and documents.</p> <p>3. Permission shall relate to the following and shall be carried out in accordance with them:</p> <ul style="list-style-type: none"> - Plans and documents approved under Outline Planning Application Ref. 4/16/2409/001. - Plans and documents approved under Reserved Matters Planning Application Ref. 4/18/2069/OR1. - Plans and documents approved under Reserved Matters Planning Application Ref. 4/18/2223/OR1. Plans and documents approved under Reserved Matters Planning Application Ref. 4/19/2158/OR1. 	

	<p>Risk Assessment), reference 2016-2215, prepared by Geo Environmental Engineering, dated 08th November 2016</p> <ul style="list-style-type: none"> - Flood Risk Assessment and Drainage Strategy, reference 06/11/542-FRA/1, prepared by Alpha Design, dated November 2016 - Supporting Planning Statement received on 22nd November 2016 - Design and Access Statement, reference 06/11/542-DAS 2/1, prepared by Alpha Design, dated 11th November 2016 - Stage 1 Road Safety Audit, reference A085136/RSA1, prepared by WYG, dated January 2017 - Transport Statement, reference A085136/EB1, prepared by WYG, dated January 2017 <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>- Plans and documents approved under Section 73 Planning Application Ref. 4/21/2227/0B1.</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>4. The carriageway, footways, footpaths, cycleways and Junction onto the B5295, including the gateway feature, pedestrian refuges and ancillary works, shall be designed, constructed, drained and lit to a standard suitable for adoption; and in this respect further details, including longitudinal/cross sections, shall</p>	<p>Amend</p> <p>4. All work to the internal roads shall be completed prior to the occupation of the 50th dwelling hereby permitted.</p> <p>Reason</p> <p>To ensure a minimum standard of construction in the interests of highway</p>	

	<p>be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works to the access so approved shall be constructed before the development commences and all work to the internal roads shall be completed prior to the occupation of the 50th dwelling hereby permitted.</p> <p>Reason</p> <p>To ensure a minimum standard of construction in the interests of highway safety.</p>	<p>safety.</p>	
	<p>5. The junction of the access road and the B5295 shall be modified strictly in accordance with the details approved on WYG drawing no. A 085136 – C001 to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority. The modification works shall be completed and made fully operational before the 100th dwelling served by the access road is occupied.</p> <p>Reason</p> <p>For the avoidance of doubt and to ensure that a safe junction can be provided to serve the site in the</p>	<p>Amend</p> <p>5. The junction of the access road and the B5295 shall be modified strictly in accordance with the details approved on WYG drawing no. A 085136 – C001 to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority. The modification works shall be completed and made fully operational before the 125th dwelling on the estate served by the access road is occupied.</p> <p>Reason</p> <p>For the avoidance of doubt and to ensure that a safe junction can be provided to serve the site in the interests of highway safety.</p>	

	interests of highway safety.	
6.	<p>Before any development takes place, a plan shall be submitted for the prior approval of the local planning authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.</p> <p>Reason</p> <p>The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users.</p>	Remove. Controlled by Planning Condition 2.
7.	<p>The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment & Drainage Strategy, ref: 06/11/542-FRA/1 dated November 2016 which was prepared by Alpha Design proposing surface water discharging into the River Keekle and foul water discharging into combined/foul sewer.</p> <p>No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local</p>	Retain.

	<p>Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.</p> <p>Reason</p> <p>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.</p>		
	<p>8. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:</p> <ul style="list-style-type: none"> a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. <p>The development shall subsequently be completed, maintained and managed in</p>	<p>Amend.</p> <p>8. The development shall be completed, maintained and managed in accordance with the approved drainage management and maintenance plan for the lifetime of the development.</p> <p>Reason</p> <p>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.</p>	

	<p>accordance with the approved plan.</p> <p>Reason</p> <p>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.</p>		
	<p>9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.</p> <p>Reason</p> <p>National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable</p>	<p>Retain.</p>	

	<p>levels water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).</p>		
		<p>Add – From Reserved Matters Planning Application:</p> <p>10. None of the dwellings hereby approved shall be occupied until the vehicular access, turning and parking requirements serving that dwelling 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 thereafter and shall not be removed or altered without the prior written consent of the Local Planning Authority.</p> <p>Reason</p> <p>To ensure a minimum standard of access provision when the development is brought into use in accordance with the requirements of Policy T1 of the Copeland Local Plan 2013-2028.</p>	
		<p>Add – From Reserved Matters Planning Application:</p> <p>11. All hard and soft landscape works shall be carried out in accordance with the approved details.</p> <p>The hard and soft landscape works to the dwellings shall be carried out in the first planting season following the first occupation of the dwellings.</p> <p>The hard and soft landscape works to the open</p>	

	<p>spaces shall be carried out in the first planting season following the first occupation of the dwellings sharing a boundary with that open space.</p> <p>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.</p> <p>Reason</p> <p>To ensure the implementation of a satisfactory landscaping scheme in accordance with Policy ENV5 and Policy DM26 of the Copeland Local Plan 2013-2028.</p>	
	<p>Add – From Reserved Matters Planning Application:</p> <p>12. The hedgerows to the western boundaries of the application site as identified on Landscape Layout – Drawing No. 06/11/542-174d) received 13th July 2020 shall be allowed to grow to a height exceeding 1m metre and shall be retained thereafter at or above the stated height for the lifetime of the development.</p> <p>Reason</p> <p>To ensure that the character of the area is not adversely affected in accordance with Policy DM26 of the Copeland Local Plan 2013-2028.</p>	
<p>Planning Conditions 4 and 5 of Application Ref. 4/18/2069/OR1 and Planning Condition 4 of Application Ref. 4/18/2223/OR1 require the submission of details of boundary treatments and finished floor levels.</p> <p>The relevant dwellings have been constructed, with the required details not having been formally approved. The dwellings and the associated boundary treatments are considered appropriate and acceptable as constructed; therefore, these planning conditions are not proposed to be reinstated.</p>		

	<p>Conclusion</p> <p>The proposed revision is acceptable subject to the revised planning conditions proposed.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <p>1. Permission shall relate to the following and shall be carried out in accordance with them:</p> <ul style="list-style-type: none"> - Plans and documents approved under Outline Planning Application Ref. 4/16/2409/001. - Plans and documents approved under Reserved Matters Planning Application Ref. 4/18/2069/OR1. - Plans and documents approved under Reserved Matters Planning Application Ref. 4/18/2223/OR1. Plans and documents approved under Reserved Matters Planning Application Ref. 4/19/2158/OR1. - Plans and documents approved under Section 73 Planning Application Ref. 4/21/2227/0B1 <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>2. All work to the internal roads shall be completed prior to the occupation of the 50th dwelling hereby permitted.</p> <p>Reason</p> <p>To ensure a minimum standard of construction in the interests of highway safety.</p> <p>3. The junction of the access road and the B5295 shall be modified strictly in accordance with the details approved on WYG drawing no. A 085136 – C001 to the satisfaction of the Local Planning Authority in consultation with the Local Highway Authority. The modification works shall be completed and made fully operational before the 125th dwelling on the estate served by the access road is occupied.</p> <p>Reason</p> <p>For the avoidance of doubt and to ensure that a safe junction can be provided to serve the site in the interests of highway safety.</p> <p>4. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment & Drainage Strategy, ref: 06/11/542-FRA/1</p>

dated November 2016 which was prepared by Alpha Design proposing surface water discharging into the River Keekle and foul water discharging into combined/foul sewer.

No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.

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.

5. The development shall be completed, maintained and managed in accordance with the approved drainage management and maintenance plan for the lifetime of the development.

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.

6. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

7. None of the dwellings hereby approved shall be occupied until the vehicular access, turning and

parking requirements serving that dwelling 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 thereafter and shall not be removed or altered without the prior written consent of the Local Planning Authority.

Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the requirements of Policy T1 of the Copeland Local Plan 2013-2028.

8. All hard and soft landscape works shall be carried out in accordance with the approved details.

The hard and soft landscape works to the dwellings shall be carried out in the first planting season following the first occupation of the dwellings.

The hard and soft landscape works to the open spaces shall be carried out in the first planting season following the first occupation of the dwellings sharing a boundary with that open space.

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 ensure the implementation of a satisfactory landscaping scheme in accordance with Policy ENV5 and Policy DM26 of the Copeland Local Plan 2013-2028.

9. The hedgerows to the western boundaries of the application site as identified on Landscape Layout – Drawing No. 06/11/542-174d) received 13th July 2020 shall be allowed to grow to a height exceeding 1m metre and shall be retained thereafter at or above the stated height for the lifetime of the development.

Reason

To ensure that the character of the area is not adversely affected in accordance with Policy DM26 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 : 30/09/2021

Authorising Officer: N.J. Hayhurst

Date : 01/10/2021

Dedicated responses to:- N/A