

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2362/0F1
2.	Proposed Development:	CHANGE OF USE OF AGRICULTURAL LAND TO EXTEND DOMESTIC CURTILAGE, THE ERECTION OF A DETACHED GARAGE AND HARDSTANDING AND THE CREATION OF A NEW VEHICLE ACCESS (RETROSPECTIVE)
3.	Location:	MOORHOUSE FARM, CALDERBRIDGE, SEASCALE
4.	Parish:	Haile
5.	Constraints:	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Off Coalfield - Data Subject To Change, DEPZ Zone - DEPZ Zone
6.	Publicity Representations & Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>SITE AND LOCATION</p> <p>This application relates to Moorhouse Farm, a semi-detached property situated within a small collection of buildings approximately 0.7 metres north of Calderbridge.</p> <p>The site benefits from a large garden and is bound by a farm access track, agricultural fields and a Public Right of Way (reference 410007). Public Right of Way 410008 also lies in close proximity to the application site.</p> <p>PROPOSAL</p> <p>Retrospective Planning Permission is sought for the change of use of agricultural land to domestic</p>

curtilage and the erection of a detached garage, new vehicle access and hard standing.

The garage measures 6.5 metres in width and 6.5 metres in depth. It includes a pitched roof with an overall height of 3.7 metres and an eaves height of 2.3 metres. It has been designed to include garage door on the front elevation and a window on the side elevation facing the garden and an access door on the rear elevation. The side elevation facing the boundary is blank. It is finished with log lap timber cladding, dark grey boxed profile roof sheeting, an anthracite aluminium roller shutter door and a white UPVC window.

The proposal also includes the removal of part of a boundary hedge to provide a new vehicle access off a farm track to the front of the garage, the excavation of part of the field and the installation of hardcore. The new boundary is bound by a timber fence and planted trees.

RELEVANT PLANNING APPLICATION HISTORY

There have been no previous planning applications at this property.

CONSULTATION RESPONSES

Consultees

Initial Consultation

Haile and Wilton Parish Council – No comments received.

Highway Authority – No objections.

Lead Local Flood Authority – No objections.

Cumbria County Council Footpath Officer - No objections.

Re-consultation, following receipt of amended plans

Haile and Wilton Parish Council – No comments received.

Highway Authority – No objections.

Lead Local Flood Authority – No objections.

Cumbria County Council Footpath Officer - No objections.

Public Representation

The application has been advertised by way of site notice and neighbour notification letters issued to 3 no. properties.

One initial objection was received as a result of this consultation process which raised the following concerns:

- Existing and Proposed plans not accurate;

- Removed part of this hedgerow to form an access entrance to the new garage off the road outside ownership and a fence needs to be erected to replace the hedge;
- Excavated and removed the top soil to a significant area of the field and the new fence from the top of the garden right down to the bottom of the field is not reflected in the plans;
- The garage has been constructed outside of the original garden curtilage and encompassed into the agricultural land;
- Significant garden curtilage extension and hardcore area into the field for non-agricultural use;
- Construction and electricity supply concerns and Building Regulation requirements;
- Roof materials not built in accordance with submitted details;
- Concerns regarding the surface water from the garage as there is no culvert or existing drainage in this locality;
- There are covenants attached to the land and the applicant is currently in breach of the contract of sale and covenants contained within;
- Objector feels the garage should be removed and the land reinstated to agricultural land, as it was intended to remain within the transfer deed;
- Retrospective application has caused significant upset.

A further objection was received following the re-consultation of the amended plans which raised the following concerns:

- Existing site plan submitted is still incorrect;
- Extent of garden extension should be clearly shown;
- Vehicle access and legal restriction to form a new access onto a road outside of the applicants ownership;
- Access should remain though the original access to the field;
- Business and workshop use;
- Increased traffic and disturbance to neighbours;
- Roof materials not built in accordance with submitted details;
- Drainage concerns as there is no culvert or existing drainage in this locality;
- Specifications of the electricity supply;
- Significant stress and upset caused as the applicant has breached all the restrictive covenants and legal obligations under the contract of sale.

PLANNING POLICIES

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ENV1 – Flood Risk and Risk Management

Policy ENV5 - Protecting and Enhancing the Borough's Landscape

Policy ENV6 – Access to the Countryside

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

Cumbria Landscape Character Guidance and Toolkit (CLCGT)

Cumbria Development Design Guide

Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Publication Draft Consultation. The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Given the stage of preparation of the Copeland Local Plan 2017-2035 some weight can be attached to policies within the Publication Draft where no objections have been received. The Publication Draft 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.

The following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy H14PU – Domestic Extensions and Alterations

Policy CO6PU – Countryside Access

Policy CO7PU – Parking Standards and Electric Vehicle Charging Infrastructure

ASSESSMENT

The key issues raised by this proposal are the principle of development, its siting, scale and design and the potential impacts on the landscape and visual impact, residential amenity, highway safety, public right of way and flood risk and drainage.

Concerns were received regarding the incorrect plans not reflecting the existing and proposed development and therefore the correct plans were sought and once received were subject to a further consultation. Due to the nature of the retrospective application, it should be noted the application assessment is based on the proposed plans and following a review of the Council's GIS mapping system, the original garden and field boundary can clearly be seen.

Principle of Development

The proposed retrospective application relates to a residential dwelling close to Calderbridge which seeks permission for a domestic curtilage extension, a detached garage and a new access and hardstanding. Policy DM18 supports extensions and alterations to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable and the extension satisfies Policies ST2, DM18 of the Local Plan and the NPPF guidance.

Siting, Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

Significant concerns were received regarding the location of the garage and garden curtilage extension due to a legal covenant on the land. As only material planning considerations can be taken into account in the application assessment the existence of legal restrictions are not considered to be material. The assessment has to be based on Local and National Planning Policies and on this basis, the proposed siting of the garage and garden extension is considered to be suitable to the rear of the dwelling.

The garage is relatively modest in scale and the design is considered to be suitable for its domestic use. It is not considered to be excessively prominent within the locality or excessively overbearing for the neighbouring properties.

Concerns were also raised regarding the retrospective application and the materials which had been

installed, which were different to the submitted details on the application form. The correct materials were sought from the agent, who provided confirmation in an email and a photograph of the garage. The choice of materials are considered to respect the existing character and appearance of the existing property and the surrounding residential properties.

In addition, following a review of the original boundaries on the Council's GIS mapping system and the proposed plans, the extent of the garden curtilage that has been extended into the field can clearly be seen. The scale and design of the domestic curtilage extension are considered to be appropriate with a suitable boundary fence and planting between the garden and field. In order to safeguard the character and appearance of the development and residential amenity, it is appropriate to attach a condition to remove permitted development rights from the extended domestic curtilage.

Overall, the proposal is considered to meet Policies DM10 and DM18 of the Local Plan and the NPPF guidance.

Landscape and Visual Impact

Policy ENV5 states that the Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.

The application site lies within a residential garden and agricultural field associated with the Moorhouse Farm complex. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within Sub Type 5b 'Low Farmland' which includes intensively farmed agricultural land. The CLCGT seeks to conserve and enhance the well-maintained working landscape.

The development is considered to be suitably located, approximately 5 metres from the existing large agricultural building, which ensures the character of the area is not eroded with development away from the traditional farmstead. Despite the garage being visible from the surrounding fields, the structure will be viewed in the context of the existing dwelling and the adjacent modern agricultural building. This will minimise the impact of the development on the surrounding landscape in accordance with the vision in the CLCGT.

Overall, the garage, domestic curtilage extension and hardstanding is not considered to have a significant impact on the character and appearance of the landscape or result in a significant intrusion into the open countryside. The proposal is therefore considered to comply with policies ST1 and ENV5 of the Copeland Local Plan and provision of the CLCGT.

Residential Amenity

Policy ST1, Policy DM18 and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings.

The proposal will be appropriately located to the rear of the existing dwelling. The garage is located

approximately 20 metres from the closest neighbouring boundary and therefore it is not considered to be excessively overbearing or cause a significant loss of light on the surrounding neighbours.

In addition, the siting of the window included on the side facing the garden and adjoining field mitigates potential overlooking issues.

Concerns regarding the potential business use and disturbance associated with this use were received and therefore, to ensure the use will remain domestic in nature, a planning condition is attached. This will help to minimise impact on the amenities of the occupiers of surrounding dwellings and ensure that non-conforming uses are not introduced into the area.

On balance, it is considered that the proposal will not have a detrimental impact on neighbouring amenity and the proposal is therefore considered to comply with Policy DM18 and the NPPF guidance.

Highway Safety

Policy DM22 encourages innovative approaches to manage vehicular access and parking to avoid vehicles dominating the street scene.

Concerns were raised regarding the legal restrictions regarding the creation of a new access. Although under current permitted development rights, a vehicle access can be created onto any highway which is not a trunk road or a classified road without the requirement for formal planning permission. This fall-back position is a material consideration in the assessment of this application. In this case, based on the Permitted Development Technical Guidance, the private way is considered to be a highway and therefore the vehicle access is acceptable in terms of highway safety.

The hardstanding will also provide adequate off-street parking to meet the needs of the property and the Highway Authority raised no objections to the original and revised plans.

On this basis, the proposal will not have a detrimental effect on the existing highway conditions and it is considered to comply with Policy DM22 and the standards set out in the Cumbria Development Design Guide.

Public Right of Way

Policy ENV6 recognises that existing Public Rights of Way are protected in law.

Public Rights of Ways 410007 and 410008 lie in close proximity to the application site and the Cumbria County Council Footpath Officer raised no objections to the proposal. Despite the garage and garden extension being visible from a small section of the Public Right of Way, it will be modest in scale and it will be viewed in the context of the existing dwelling. As such will not have any detrimental impact on the Public Right of Way. The proposal will not harm the physical footpath or the amenity of the user.

An informative note has been included to ensure the applicant is aware that no right of way is obstructed.

	<p>Overall, therefore the proposal is considered to satisfy Policies ENV6, DM10 and the NPPF guidance.</p> <p><u>Flood Risk and Drainage</u></p> <p>Policies ENV1 and DM24 seeks to protect developments against risks of flooding.</p> <p>The proposal is relatively small and the surface water from the garage is proposed to tap into an existing culvert which is located approximately 3 metres away from the garage. The objector questioned these details, although due to the nature of this application, the drainage is covered by the Building Regulations process.</p> <p>The Lead Local Flood Authority raised no objections to the proposal as they considered the change of use and garage would not increase flood risk within the site or elsewhere.</p> <p>On this basis, it is considered that the proposal will not have a detrimental impact on increasing flood risk and therefore, the proposal is considered to meet Policies ENV1, DM24 and the NPPG guidance.</p> <p><u>Planning Balance and Conclusion</u></p> <p>The proposed retrospective application relates to a residential dwelling in close proximity to Calderbridge which seeks permission for a domestic curtilage extension, a detached garage and a new access and hardstanding</p> <p>Significant concerns were received regarding the proposal and amended plans were sought to address these. Concerns were still received regarding the amended plans and the existence of legal restrictions, although non-material planning considerations cannot be taken into account in the application assessment.</p> <p>Building Regulations concerns are assessed under different legislation and, due to the size of the garage, an application will be required. This should satisfy these concerns.</p> <p>On balance, the proposal is considered to be suitably located and is of an appropriate scale and design. It will not have any detrimental impact on the landscape character, amenities of the adjoining properties, highway safety, the public right of way and flood risk and drainage.</p> <p>Overall, it represents an acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.</p>
8.	<p>Recommendation: Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <p>1. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: -</p> <p>Application Form, received 11th August 2021; Existing Location Plan, scale 1:1250, drawing reference DWG01 Rev A, received 31st January 2022;</p>

Proposed Location Plan, scale 1:1250, drawing reference DWG03 Rev C, received 31st January 2022;
Proposed Floor Plan and Elevations, scale 1:50 and 1:100, drawing reference DWG02 Rev B, received 11th August 2021;
Email from agent confirming roof materials, received 11th May 2022.

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.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification) no detached buildings, enclosures, domestic fuel containers, pool or hardstandings shall be constructed within the hard standing gravel area, as shown in drawing DWG03 Rev C, other than those expressly authorised by this permission.

Reason

To safeguard the character and appearance of the development in the interests of visual amenity.

3. The garage must be used for the parking of private vehicles and the storage of domestic equipment only in association with the residential property known as Moorhouse Farm and for no commercial or business purposes whatsoever.

Reason

To ensure that non-conforming uses are not introduced into the area.

Informative Note

Please be advised:

- The granting of planning permission does not give the applicant the right to block or obstruct the rights of way shown on the attached plan.
- The applicant should contact Cumbria County Council's Countryside Access Team at countryside.access@cumbria.gov.uk to discuss an application for an order to temporarily close a right of way shown on the definitive map and statement for the duration of any works which would directly affect the public use of the rights of way.

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. Unsworth**Date : 18/05/2022****Authorising Officer: N.J. Hayhurst****Date : 18/05/2022****Dedicated responses to:- Letter to objector**