

**COPELAND BOROUGH COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/21/2386/001
2.	<b>Proposed Development:</b>	OUTLINE APPLICATION FOR THE ERECTION OF A SINGLE DWELLING WITH DETAILS OF PROPOSED ACCESS AND ALL OTHER MATTERS RESERVED (RESUBMISSION)
3.	<b>Location:</b>	LAND AT ACREWALLS, ARLECDON, FRIZINGTON
4.	<b>Parish:</b>	Weddicar
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: YES  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>	<p><b>SITE AND LOCATION</b></p> <p>This application relates to a parcel of land 0.18 hectares, situated to the south west of the dwelling known as Acrewalls House. The site is accessed from two private roads, one leading to Steel Brow to the north east and the other with the Moresby Parks to Asby road.</p> <p>There are two existing residential properties on the site including Acrewalls House and Acrewalls Farm. The area is surrounded by agricultural fields in all directions with Dub Beck running approximately 220 metres to the east.</p> <p><b>PROPOSAL</b></p> <p>Outline planning permission is sought for the erection of a single dwelling on the site. Full details of the access have been submitted with all other matters relating to scale, layout, appearance and</p>

landscaping reserved for future approval.

Although only in outline form an indicative layout plan has been submitted to demonstrate how a single dwelling could be accommodated on the site.

Access is to be achieved from the existing private road to the north west that serves Acrewalls House.

The application is accompanied by the following:-

- A site location plan
- An illustrative layout plan
- A planning statement which sets out a justification for the proposal.

## **CONSULTATION RESPONSES**

### Weddicar Parish Council

No objections.

### Cumbria Highways

The proposal is located off an un-adopted road that appears to be serving two existing properties. The access joining the public highway, U4013, would need to be widened to 4.1m for the first 10m from the carriageway edge to prevent vehicles waiting on the highway to enter the site. This is in line with Appendix 4 - Highway Design Guidance of the Cumbria Design Guide for Private/Shared Driveways/ Courtyards. Passing places should also be provided at least every 40m on the access lane to prevent vehicles reversing the length of the lane to the highway. The slight increase in vehicular use of the existing access is unlikely to have a significant material effect on existing highway conditions. I can therefore confirm that the Highways Authority has no objection to the proposal subject to the following condition being included with any permission you

might grant:

1. The use of the development shall not be commenced until the access road has been formed to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 10 metres into the site from the existing highway has been constructed in accordance with details approved by the Local Planning Authority.

Reason: In the interests of highway safety.

To support Local Transport Plan Policies: LD7, LD8

Also requested the following informative:

A PROW (public footpath/bridleway/byway) number 429003 lies adjacent to the site, the

Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works

Local Lead Flood Authority

No objections.

United Utilities

No objections, subject to advisories regarding foul and surface water draining on separate systems and the surface water drainage plan following the hierarchy.

The Coal Authority

No objections but requested an informative to ensure any mining hazards discovered during works are reported.

Public Representation

The application has been advertised by way of a site notice, press notice and a neighbour notification letter issued to 1 no. properties.

Three letters of support has been received.

**PLANNING POLICY**

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 SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

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 DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

### **Other Material Planning Considerations**

National Planning Policy Framework 2021 (NPPF)

Cumbria Landscape Character Toolkit

Cumbria Development Design Guide

#### 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**

#### **Principle of the development**

The main issue raised by this application is whether the application site forms a suitable location for residential development having regard to national and local planning policy.

Policy ST2 of the Copeland Local Plan 2013-2028 Core Strategy and Development Management Policies DPD 2013 (the Local Plan) sets out a spatial development strategy for the borough. The site lies outside of any designated settlement boundary in open countryside. Part c) of Policy ST2 restricts development outside the defined settlement boundaries to that which has a proven requirement for such a location including housing that meets a local need. Policy SS3 of the Copeland Local Plan sets out that the Council will continue to operate a Rural Exception site policy approach in rural areas outside the Key Service Centres and Local Centres to provide affordable housing that meets an identified local need and will be secured to that need in perpetuity.

Paragraph 5.4.6 sets out the following:-

Rural Exceptions: The Council will consider favourably proposals for affordable housing in villages to meet the needs of the local community and fulfil the following requirements:

- i. a site that is within or immediately adjoins the village and is well related to its built form in terms of scale and character*
- ii. supported by evidence to show need for the development in the local community (usually parish*

*and adjoining parishes) or that an individual applicant has genuine local ties to the village and genuine affordability needs*

*iii. subject to a planning obligation that requires occupation of the dwelling(s) in perpetuity only by households with these same local connections and affordability issues.*

Paragraph 5.4.7 states:-

Exceptionally, consent may be given to homes in open countryside fulfilling the above requirements and where it can be demonstrated that a location outside a settlement is essential

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to the provision of housing where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Out of date includes where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

In November 2020, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 6.35 year supply of deliverable housing sites against the emerging housing requirement calculated in the updated Strategic Housing Market Assessment (SHMA) and a 55 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.

Notwithstanding the above, the policies in the Local Plan must still be considered out of date and only some weight can be given to their content as far as they are consistent with the provisions of the NPPF.

Consultation on the Local Plan 2017-2035 Preferred Options Draft (ECLP) ended in November 2020. The ECLP will, once adopted, replace the policies of the adopted Local Plan.

The ECLP has been drafted based upon an evidence base. The SHMA calculates a housing need in Copeland over the plan period 2017-2035 of 140 dwellings per annum. The ECLP confirms that to meet the housing need identified in the SHMA, development will be required beyond the existing development boundaries identified in Policy ST2 of the CS.

The ECLP continues to identify this site at Acrewalls as open countryside, reflective of the location away from a settlement and without any services within easy walking distance.

In the context of the provisions of Paragraph 11, the defined development boundaries within the Borough must be considered out of date. Paragraph 11 of the NPPF sets out that planning permission should 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 NPPF aims to promote sustainable rural development that enhances or maintains the vitality of rural communities. In paragraph 79 the NPPF specifically seeks to avoid the development of isolated homes in the countryside unless certain circumstances apply. Paragraph 80 lists these exceptions as follows:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building; or
- e) the design is of exceptional quality, in that it:
  - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The application site is located in open countryside and is isolated from any existing settlement being approximately 2600m by car from Arlecdon and 2200m by car from Frizington. There are no services within immediate proximity of the site and access to the site is via minor roads and country lanes which do not have a separated pedestrian walkway. Whilst there are some public rights of way adjacent to the site, it is not considered that these routes provide clear, direct access to local services.

Due to the restricted nature of the available public transport, future residents would be reliant on the private car. The application proposal is not in an accessible location and it is considered that access to services from the site is extremely limited, beyond distances which those residing could reasonably be expected to walk to and from. Furthermore, the lack of pavement on direct access routes results in the only safe access to services via vehicle. On this basis, it is considered that the development cannot be considered to be sustainable.

The applicant has stated the following case for a rural exception dwelling:

*"In the context of {paragraph 80 of the NPPF}, criterion a) is the circumstances that exactly apply to this planning submission. {...} the dwelling proposed is specifically for {The Applicant} and his family. His parents reside at the existing dwelling at Acrewalls and run the Gill Brothers building business from this location, as they have done for many years. Over the next few years, {The Applicant} will be taking over the majority control of the business, at which point there is an essential need for him to live permanently at his place of work which is in this countryside location. This is the base for the business and, as such {The Applicant} needs to be based on the site.*

*{...} Acrewalls was considered the best location to run the Gill Business from. This has proved to be a*

*correct decision given that it is a long-term successful business, while not be located within one of the existing settlements of the Copeland Local Plan. For the business to now prepare for the future and grow further, an additional dwelling at the Acrewalls site is required. Given that the dwelling is specific in its use to Gill Brothers/{The Applicant}, the applicants would be willing to accept any condition relating to limiting the occupancy to such a use given the location outside of the defined Copeland settlement limits.”*

The Applicant has submitted the application, stating that the development complies with Paragraph 80, exception a) of the NPPF - a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

Although the Applicant has expressed a desire to reside on the site and in close proximity to his business, there is no proven or functional need for the Gill Brothers builders business to be located within the rural area. The building business requires workers to travel to various locations for work across a wide geographical area and the base used for the workers could be re-located within one of the designated industrial estates within Copeland, which on the whole are underutilized and have many vacant units. Furthermore, the Applicant does not state any functional need for requiring a presence on the site for 24 hours a day. Any security needs could be fulfilled from the dwelling already associated with the business, known as Acrewalls House.

Policies relating to rural exception sites are generally utilized by Agricultural workers with a proven need for residence within the farm unit in relation to animal welfare or security. Furthermore, by nature of their workings, farms have a proven need to be within the open countryside, whereas the building firm run by the Gill Brothers does not have a functional need for this location.

On this basis, the justification provided by the Applicant must fail. The site could continue to operate for business purposes without the construction of an additional dwelling. Due to the nature of the business any need could be met from the housing provision within the nearby sustainable settlements.

### **Other Material Considerations**

#### **Landscape and Visual Impacts**

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.

Policy DM10 seeks that development responds positively to the character of the site and the immediate and wider setting and enhances local distinctiveness including: an appropriate size and arrangement of development plots; the appropriate provision, orientation, proportion, scale and

massing of buildings; and, careful attention to the design of spaces between buildings.

The Cumbria Landscape Character Toolkit defines the area as Sub Type 9d, Ridges. The vision is to ensure that the landscape will be conserved and enhanced. Development will be carefully controlled in order to ensure that the landscape isn't cluttered or dominated and public rights of way will be protected to enable quiet appreciation and enjoyment of the countryside.

Whilst the site lies adjacent to two existing dwellings, the proposed development will have some impact on the landscape character. The proposal would extend the built form to the south west, creating further intrusion into the open countryside and creating some visual harm.

On this basis, it is considered that the proposal is in conflict with Policy ENV5 of the Copeland Local Plan.

### **Highways**

The site is accessed along a narrow country road and relies on the widening of the access joining the public highway to 4.1m for the first 10m from the carriageway edge and the creation of passing places at least every 40m on the access lane to prevent vehicles reversing the length of the lane to the highway.

The submitted indicative block plan shows that the plot is a sufficient size to accommodate parking on site.

The Highways Department have raised no objections to the application, subject to a condition to ensure that the access meets their minimum criteria for highway safety. With the use of a planning condition, it is considered that the proposal would meet the requirements of Policy DM22 of the Copeland Local plan and the access is acceptable.

### **Ground conditions**

The application site is located on a coal referral area and the application has been submitted without any information in relation to ground conditions. The Coal Authority were consulted stated that the site where development is proposed lies outside of the defined High Risk Area and therefore did not consider that a Coal Mining Risk Assessment is necessary to support the application and raise no objections. An informative was requested in order to ensure that any mining related hazards discovered are reported.

### **Benefits**

Paragraph 11 of the NPPF requires any adverse impacts to be weighed against the benefits that a scheme would produce.

The provision of one house would only make a limited contribution to the supply and delivery of housing within the Borough. Although there would be some minor economic benefits this would be mainly limited to the construction phase which would only be apparent on a temporary basis. Consequently little weight can be attached to this benefit.



## **Planning Balance**

The application site is located 'outside settlement boundaries' as defined in Policy ST2 of the Copeland Local Plan.

For the reasons outlined, 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:

- 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
- 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 proposed development is in clear conflict with the provisions of Policy ST2 of the Local Plan and Paragraph 11 of the NPPF with regard to the location of the development within the open countryside and some distance from any settlements.

The Applicant has submitted a justification for a Rural Exception Site, as detailed in Policies ST2 and SS3 of the Copeland Local Plan and Paragraph 80 of the NPPF.

The isolated location of the site away from any nearby settlements would result in future occupants being reliant on the private car to access services and facilities. The proposal would therefore not form a sustainable location for development and would conflict with paragraph 79 of the NPPF. The justification provided does not pose a need for the location within the open countryside, as is required by Paragraph 80 of the NPPF and it is considered that the Applicant's desire to live close to the existing business is not sufficient to justify a further dwelling on the site.

Any economic benefits would be minor and would only be in evidence during the limited construction phase.

Overall the erection of a dwelling in this rural location without justification would significantly and demonstrably outweigh the very limited economic and social benefits of the scheme when assessed against the policies of the NPPF taken as a whole. Consequently the proposed development would not constitute sustainable development in the terms of the NPPF.

## **Conclusions**

The proposed development would not be in a suitable location for residential development and the case laid out by the Applicant for a rural exception site is not considered to be sufficient to warrant an exception to policy. The proposal would be in conflict with the spatial strategy for the borough set out in Policy ST2 of the Copeland Local Plan and the sustainable rural development objectives of paragraphs 79 and 80 of the NPPF. On this basis the proposal is considered to be an unacceptable form of development that is unsustainable.

8.	<p><b>Recommendation:</b></p> <p>Refuse</p>	
9.	<p><b>Reason for Refusal</b></p> <p>1. The Site is located in an area of open countryside where access to services from the site are beyond distances which residents could reasonably be expected to walk or cycle. There are no footways directly linking the application site to the available services. Given the distance to the available services and facilities in Arlecdon and Frizington and lack of sustainable transport links, travel by more sustainable methods would be unlikely to offer a feasible alternative to the private vehicle. The minor benefits that could result from a single dwelling in this location would not be sufficient to outweigh this harm.</p> <p>No exceptional circumstances exist that would justify a dwelling in this rural location. The proposal is therefore considered to represent a unsustainable form of development and would be contrary to policies ST1, ST2 and SS3 of the Copeland Local Plan 2013-2028 and Paragraphs 8, 9, 11, 79, and Paragraph 80 and Part 9 of the National Planning Policy Framework.</p> <p><b>Statement</b></p> <p>The Local Planning Authority has acted positively and proactively in accordance with Copeland Local Plan policies and the National Planning Policy Framework in determining this application by identifying matters of concern with the proposal and raising those with the applicant/ agent. However, in this case it has not been possible to arrive at a satisfactory resolution for the reasons set out in the reason for refusal.</p>	
<p><b>Case Officer: Sarah Papaleo</b></p>		<p><b>Date : 18/10/2021</b></p>
<p><b>Authorising Officer: N.J. Hayhurst</b></p>		<p><b>Date : 18/10/2021</b></p>
<p><b>Dedicated responses to:- N/A</b></p>		