



**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2412/OF1
2.	Proposed Development:	APPLICATION FOR PLANNING PERMISSION FOR DEMOLITION & SITE CLEARANCE IN A CONSERVATION AREA - FORMER MAGISTRATES COURT BUILDING
3.	Location:	FORMER MAGISTRATES COURT, CATHERINE STREET, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Listed Building - Listed Building, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	Publicity Representations &Policy	See report.
7.	Report: Site and Location: <p>The Application Site comprises the now vacant former Whitehaven Magistrates Court and Surgery, Catherine Street, Whitehaven.</p> <p>The property was built in the 1987 and has been vacant since the 31st July 2018.</p> <p>The property is post modern in design, comprising a principally two-storey building finished externally to the elevations with a combination of sandstone, render and glazed panelling.</p> <p>It is confirmed that the interior of the building has been significantly stripped with the areas in question being no longer habitable.</p> <p>The property has a limited curtilage and an off highway parking area to the side and rear.</p> Proposal:	

Planning Permission for relevant demolition is sought for the demolition of the existing building and the dressing of the surface of the Application Site with crushed stone.

A Demolition Method Statement which details the means of demotion and a Bat and Breeding Bird Survey have been prepared in support of the planning application.

Consultee:	Nature of Response:
Town Council	No comments.
Cumbria County Council – Highways and LLFA	<p>I can confirm that the LHA and LLFA have no objections to the demolition of the Former Magistrates Court on Catherine Street, Whitehaven. I would recommend that the following condition is included with any permission you might grant:</p> <p>Development shall not commence until a Construction/Demolition Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:</p> <ul style="list-style-type: none"> • pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense; • details of proposed crossings of the highway footway; • retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development; • cleaning of site entrances and the adjacent public highway; • details of proposed wheel washing facilities; • the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway; • construction vehicle routing; • the management of junctions to and crossings of the public highway and other public rights of way/footway; • Details of any proposed temporary access points (vehicular / pedestrian) • Details of proposed road closure of Catherine Street, should it be necessary • Detail of the predicted vehicle movement, trip count and timeframe • surface water management details during the construction phase <p>Reason: To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety. To support Local Transport Plan Policies: WS3, LD4</p>
Whitehaven	Members in principle support demolition and redevelopment as this site has not

	Heritage Action Group	<p>been in use for three years. (Still a matter of regret that the town has lost its magistrate court function and that the structure is only 34 years old) It is accepted however, that the court complex would be a difficult building to convert.</p> <p>It is important that the styling of the new build properties are in keeping with their surroundings. One suggestion was that on the street elevation they should be three-storey town houses. Adequate resident parking should also be a key consideration.</p> <p>Demolition will be a challenging process given the building's central location, and close proximity to historic buildings, and will generate a great deal of noise and dirt. Constant monitoring and consideration for surrounding occupants will be necessary during the site clearance.</p>
	Environmental Health Officer	<p>Based on the information submitted with the above application, Environmental Health support the application, but note the potential for disruption during the demolition and site clearance and therefore request the following conditions:</p> <p><u>Demolition Phase and site clearance</u></p> <ul style="list-style-type: none"> • All external lighting shall meet the guidelines and obtrusive limits details in the institute of lighting professionals Guidance Notes for the Reduction of Obtrusive light (GN01:2011) • All HGV deliveries to the site shall be carried out solely between the hours of 09:00 and 17:00 Monday to Friday. There shall be no HGV deliveries on Saturdays, Sundays and Bank Holidays • No idling or waiting by deliveries to prevent noise nuisance • The demolition method statement sets out hours of work 08:00 – 18:30 Monday – Friday and 08:00 – 16:00 Saturdays and no operation on Sunday. Conditions for operating hours from Environmental Health are 08:00 – 18:00 Monday – Friday, 08:00 -13:00 Saturdays and no operation on Saturday or Bank Holidays. • A contact telephone number must be provided for members of the public to report any concerns/complaints • The use of a mobile crusher must be in accordance with the authorisation permit
	Copeland Borough Council – Conservation	<p>6th October 2021</p> <ul style="list-style-type: none"> • There is no need to mention conservation area consent at the start of the heritage statement as conservation area consent hasn't existed since

	Officer	<p>2013.</p> <ul style="list-style-type: none"> • The conclusion, which states the demolishing the building will enhance the immediate setting, and also not affect the setting of nearby listed buildings, seems a little confused. • This building has the interesting distinction of being one of a very small number of identifiably “postmodern” buildings in Whitehaven, along with arguably the Beacon Museum, and the Police Station onto which the court backs (which I would view as the ultimate expression of postmodernism in Whitehaven). The Magistrates’ Court has some architectural quality too, although this is essentially confined to its frontage, behind which is a blank volume of little merit. • The frontage, though not exactly beautiful (although postmodernism never set itself up focused specifically on beauty), is characterful and somewhat interesting. The coursed red sandstone lower sections, and the glass volumes nestled into the building with metal decoration, are highly typical of 80s postmodernism. Also of note are the custom-made gates to the side, which match the scheme of metalwork on the main building, including its rainwater goods. • This is not a particularly grand example of postmodernism, and I would not call it a heritage asset, but its frontage does display a certain character and architectural quality. • I have no reason to doubt that the building is unviable and cannot be converted effectively to residential use, and although 90% is of no architectural quality, the loss of the frontage would be a modest loss to the conservation area. • Façadism does not enjoy wide support, and I would not propose retaining this façade and inserting a new residential scheme behind, however I would make two recommendations: <ul style="list-style-type: none"> ○ If material can be salvaged from the existing architecture and reused on site, that would be advantageous (E.g. the access gates, and potentially the red sandstone. I am not clear on whether this is blockwork or cladding stuck on, so would be receptive to further comment). ○ The replacement scheme ought to be of a high architectural quality. • This site offers something virtually unique in the town centre, which is an opportunity to explore more diverse forms of architectural expression by virtue of the site’s predominantly 20th century context. The Salvation Army building next door is of no architectural merit, but the Telephone Exchange, although over-large, does demonstrate a certain grandeur and architectural quality. • I think the principle of redeveloping the site can be established by virtue of
--	---------	--

the building being unviable, and façadism being an undesirable strategy in this case. The replacement outlined in the indicative elevation is unadventurous and lacking in innovation however. Ironically, this is highly reminiscent of the approach taken in redeveloping many of Whitehaven's sites in the 1980s. It could be seen as a missed opportunity, given that the current façade does exhibit some architectural quality (albeit not wholly successful). This block of town is a mixture of 18th and 19th century buildings, along with 20th century modernism and postmodernism, most of which has some architectural intentionality behind it and establishes a unique mix. In order to preserve the character of the conservation area, a similar level of architectural intentionality should be the goal.

- The self-conscious and articulated “playing” with conventional styles is a distinctly mannerist and postmodern impulse that seeks to embrace ambiguity and thereby create something engaging, complex and locally embedded. The pastiche suggested here as a likely replacement for the Magistrates’ Court starts with a conventional style in its most conventional form, but treats it as the end point rather than the starting point. Of course, mannerism is by no means the only strategy available; some architects might lean in a more sculptural direction, others might look at the climate crisis as a design opportunity, and still others might look at the socio-spatial opportunities presented by a small, enclosed site (or some combination thereof).
- I would consider the loss of the better section of the building (the front) to be the loss of an element that makes a minor positive contribution to the character and appearance of the conservation area, and therefore a small level of harm, constituting less-than-substantial harm, to it. Under paras. 202, 206 and 207 of the NPPF, this should be weighed against the public benefit and opportunities should be sought to enhance or better reveal the conservation area’s significance. In the replacement of an unviable building with housing, there is clear public benefit, however there may also be other options that achieve greater public benefit by better enhancing and revealing the significance of the CA, and specifically this unique block of it.
- Though there is an opportunity to enhance the conservation area and the settings of the heritage assets opposite, the removal of the Magistrates’ Court doesn’t by itself provide enough information to understand the likely impact, as the replacement is the key question. On that basis, I would be interested to know what the designers might explore if the simple, straightforward pastiche style presented here were considered one option among others, and a fairly uninspiring one at that.

8th October 2021

		<p>The risk of a gap site is certainly not ideal (thinking of Senhouse Street here...) and I believe NPPF paragraph 204 is related to this. At least, it refers to not permitting the loss of all or part of a heritage asset without taking reasonable steps to ensure development proceeds, which I presume includes conservation areas, as when assessing impact on them you treat them the same way.</p> <p>If it were 100% up to me I would want to consider the loss of the court and the creation of its replacement in the same application as otherwise it's hard to be sure about the change. How tied to the indicative scheme are they when the permission is granted?</p>
	The Twentieth Century Society	<p>The Twentieth Century Society has been alerted to the above planning application for the demolition of the former Magistrates Court in Whitehaven. The Society considers the building to be a non-designated heritage asset (NDHA) within the Whitehaven Town Centre Conservation Area. We object to its total demolition.</p> <p>Background</p> <p>The Whitehaven Magistrates Court opened in 1987 and was designed by the Cumbria County Council Department of Property Services. It was built for the Cumbria County Magistracy and Probation Committee. The director of property services was John Robinson, and the project architect was Ian Royle.</p> <p>The Whitehaven building is designed in a Post-Modernist style, which was popular between about 1975 and 1990. Post-Modernism moved away from the purity and rationalism of modernism, embracing instead complexity and richness, and making use of historical and contextual allusions. The former Whitehaven Magistrates Court uses traditional materials and finishes and engages with the Cumbrian vernacular while remaining decidedly Post-Modernist in style. Its lower levels are faced in rusticated stepping local pink sandstone, and the upper levels are white rendered. The principal courts entrance is located to one end of the Catherine Street elevation, within a glazed gabled bay with eye-catching red drainpipes and curved canopy, flanked by two gabled bays. This elevation is a façade, projecting forwards to conceal glazing behind. The building's roofline, and its use of trusses inside, references the warehouses that once occupied the site.</p> <p>The former Whitehaven Magistrates Court was planned on two floors with courts and public waiting area on the first floor, and probation and common services below. The public entrance hall was linked to the first floor waiting area by a top-lit staircase. There were two courtrooms, one for formal cases with fixed furniture and a dock, and one smaller room for informal cases, such as licensing and adoption hearings, which had a simple bench.</p>

		<p>Comments</p> <p>The Society believes the former Magistrates Court should be considered an NDHA, being a good example of 1980s Post-Modernist civic architecture. The National Planning Policy Framework (NPPF, 2021) states that “Heritage assets range from sites and buildings of local historic value to those of the highest significance [...] These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations” (para 189).</p> <p>The NPPF advises that “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset” (paragraph 203). The current application will result in the total loss of what we consider to be an NDHA. The applicant states that “The nature of the former Magistrates Court building is such that its design and layout mean that it would not successfully convert to another use”, but no evidence or analysis is provided to support this claim. As such, we see no reason why the building could not be adapted for reuse.</p> <p>The Society believes that former Magistrates Court makes a positive contribution to the Whitehaven Town Centre Conservation Area, owing to its architectural merit and historic interest. Paragraph 199 of the NPPF relates to designated heritage assets, which includes conservation areas: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be).” We believe the loss of the former Magistrates Court will have a detrimental impact on the conservation area.</p> <p>Appreciation for late 20th-century Post-Modernist architecture is increasing with time, as evidenced by recent studies and surveys. We believe buildings like the former Magistrates Court in Whitehaven will be better understood and valued in the near future, and should be conserved for the benefit of future generations.</p> <p>Summary</p> <p>The Society objects to the current application due to the loss of a local heritage asset and positive contributor to a conservation area. We encourage the local authority to refuse planning permission.</p>
--	--	---

Neighbour Responses:

The application has been advertised by way of a planning application site notice, press notice and notification letter sent to 9no. neighbouring properties

Three written representation have been received, one in objection and two in comment. The relevant material planning issues raised comprise the following:

- The Salvation Army premises is a Place of Worship with associated activities with events happening on a regular basis.
- An existing wall of the Application Site forms the boundary with the Salvation Army premises and it is apparent that access to these premises will be required to enable demolition to take place. It is required that the premises and personnel working at the premises are protected during the demolition and the development company and their contractors indemnify us against any accident or damage that may occur as a result of their works.
- Due to the activities at the Salvation Army premises, we do not wish to suffer any undue interference in terms of access or disruption to our services.

Comments are made in respect of the indicative plans showing how a residential development could be accommodated in the Application Site. These plans are indicative only and do not form part of the proposed development, which comprises demolition and site remediation only. As such, these comments are not relevant material planning matters.

Development plan policies:Copeland Local Plan 2013-2028 (Adopted December 2013):Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy ER7 – Principal Town Centres, Local Centres and other service areas: Roles and Functions

Policy ER8 – Whitehaven Town Centre

Policy SS4 –Community and Cultural Facilities and Services

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV4 – Heritage Assets

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM21 – Protecting Community Facilities
Policy DM24 – Development Proposals and Flood
Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species
Policy DM27 – Built Heritage and Archaeology

Other Material Planning Considerations

National Planning Policy Framework (NPPF).
Planning Practice Guidance (PPG).
The Conservation of Habitats and Species Regulations 2017 (CHSR).
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Assessment:

Principle

Policy ST2 identifies Whitehaven as the Principal Service Centre.

The Application Site is located within the settlement boundary for Whitehaven as defined in Policy ST2 of the CS.

Policy SS4 seeks to protect the range of services and facilities within the Borough's communities by: encouraging the provision and retention of good quality services and facilities which meet the needs of local communities and are accessible by public transport, cycling or on foot; and, by guarding against the loss of land or buildings belonging to existing facilities in all locations by wherever possible ensuring sites are retained for other forms of community use and ensuring that satisfactory alternative provision is made where proposals for development will result in the justifiable loss of an existing service or facility.

Policy DM21 states that development or change of use which would result in the loss of an existing social or community facility will be resisted where there is evidence that there is a demand for that facility that is unlikely to be met elsewhere.

The Application Site has been vacant since the 31st July 2018 when the use as a magistrates court and surgery ceased.

The Application Site is known to have been marketed for sale for reuse by a local and reputable commercial property agent for a period of three years without securing a sale, with the Applicant having purchased the property at auction in August 2021.

The former uses of the building as a magistrates court has been accommodated elsewhere within the County.

The active marketing that is known to have been undertaken clearly demonstrates a lack of demand for the use of the building for community uses.

Heritage

Policy DM10 expects high standards of design and the fostering of quality places. It is required that development responds positively to the character of the site and the immediate and wider setting and enhance local distinctiveness. It is required that development incorporate existing features and address vulnerability to and fear of crime and antisocial behaviour.

Policies ENV4 and DM27 of the LP seeks to protect, conserve and where possible enhance listed buildings and conservation areas and their settings.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 of the LBCA requires that: *‘In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses’.*

Section 72 of the LBCA requires that: *‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance’ of a conservation area’.*

Paragraphs 199 – 208 of the NPPF in respect of heritage include a requirement that when considering the impact of development proposals on designated heritage assets such as a conservation area, great weight should be given to the conservation of the asset’s significance; however, less than significant harm should be weighed against the public benefits of a development.

A limited Heritage Statement has been prepared in support of this planning application.

The Application Site is located within the Whitehaven Town Centre Conservation Area.

The building on the Application Site has the interesting distinction of being one of a very small number of identifiably “postmodern” buildings in Whitehaven. This block of Whitehaven is a mixture of 18th and 19th century buildings, along with 20th century modernism and postmodernism, most of which have some architectural intentionality; therefore, establishing the area as a unique mix within Whitehaven.

The building has some architectural quality, although this is confined to its frontage, behind which is a blank volume of little merit and so makes a slight positive contribution to the character of the conservation area only.

There is a clear difference of view between the Copeland Conservation Officer and The Twentieth Century Society. The Copeland Conservation Officer concludes that the building is not a heritage asset, whilst The Twentieth Century Society concludes that the building comprises a non-designated heritage asset. Given the form and character of the building and the very limited elements of the building that make a positive contribution to the conservation area, the building is not considered a non-designated heritage asset.

Numerous pre-application consultations have been completed in respect of reuse of this building. All such enquiries have failed to progress to development. This in combination with the very deep floor plan clearly indicates that an economically viable scheme for use is unlikely without substantive alteration to the form and appearance of the building and a lack of demand for a use that could accommodate the scale, form and nature of the building as existing or as could be viably secured through adaptation.

Given the distance, form of the developed block and relationship to the existing listed buildings within the area, harm will not result to their settings.

There is always an inherent risk that redevelopment will not result following demolition. Whilst this can be reduced by securing proposals for redevelopment when approving any demolition and use of planning conditions, this risk cannot reasonably be wholly removed.

The loss of the element of the building that makes a minor positive contribution constitutes less than substantial harm to the significance of the conservation area. Under the provisions of the NPPF, this harm must be weighed against the public benefits of the development. The demolition of the existing building will in itself cause harm; however, its redevelopment will create opportunities to enhance or better reveal the significance of the conservation area and will deliver both social and economic benefits through the construction and operation of the redevelopment.

Ecology

The building has been the subject of a Bat Survey.

The Bat Survey concludes that there is considered to be 'negligible' potential for roosting bats to utilise the building and no further surveys are required.

The Bat Survey also confirms that there is considered to be 'high' potential for *Larus* species gulls to nest on the roof of the building; however, that no further surveys are required, but appropriate mitigation measures should be adopted to avoid harm to breeding birds contrary to The Wildlife and Countryside Act (1981). A planning condition is proposed to secure the proposed scheme of mitigation outlined.

Highways Impacts

The demolition of the building will result in highway movements in the transportation of machinery, personnel and materials. Given the scale of the development, the level of traffic generation will not cause substantive impacts on the highway network.

Cumbria County Council – Highways have been consulted and raised no objection to the development subject to a planning condition re. securing a Construction Traffic Management Plan to control the impacts of the traffic generated by the development.

Space exists for the parking of vehicles connected with the development on and off the public highway.

Residential Amenity

The demolition of the existing building will result in some harm to the residential amenity of the nearby dwelling; however, this will be for a limited period only.

Concerns have been raised by The Salvation Army in respect of the impact of the development upon their premises and operations.

Provisions exist under separate legislation in relation to access and impacts upon party walls with the The Salvation Army premises.

A Demolition Method Statement has been prepared which includes details working practices and measures that seek to minimise impacts and health/safety risks. A planning condition is proposed to secure completion of the development in accordance with these details.

The Copeland Environmental Health Officer has suggested a range of planning conditions in relation to working hours and deliveries to mitigate impacts. A planning condition is proposed to secure the working hours proposed by the Copeland Environmental Health Officer which differs from that proposed in the Demolition Method Statement, with the remainder of the matters outlined being secured via the planning condition securing a Construction Traffic Management Plan as proposed by Cumbria County Council – Highways.

Planning Balance

In overall terms, it is considered that the benefits of the development outweigh the harms, when assessed against the policies of the development plan when taken as a whole.

8.	<p>Recommendation: Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <p>1. The development hereby permitted shall begin not later than three years from the date of this decision.</p> <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <p>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:-</p> <p>Application Form Location Plan – Drawing No. 21/08/1000-01 Site Plan – Drawing No. 21/08/1000-02 Heritage Statement Ref. 21/08/1000 – HS Demolition Method Statement – High Grange Development Site Inspection (Bats) - Former Magistrates Court/Doctors Surgery, Catherine Street, Whitehaven, Cumbria, CA28 7QT</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>3. Notwithstanding the submitted detail, no work relating to the demolition, shall take place on the site, except between the hours: 08.00 - 18.00 Monday to Friday; and 08.00 - 13.00 on Saturdays; In particular, no work should be carried out on Sundays or officially recognised public holidays without the prior agreement in writing of the Local Planning Authority.</p> <p>Reason</p> <p>To safeguard the amenity of neighbouring occupiers in accordance with the requirements of Policy ST1 of the Copeland Local Plan 2013-2028.</p>

4. Development shall not commence until a Construction/Demolition Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:

- pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
- details of proposed crossings of the highway footway;
- retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- the management of junctions to and crossings of the public highway and other public rights of way/footway;
- Details of any proposed temporary access points (vehicular / pedestrian)
- Details of proposed road closure of Catherine Street, should it be necessary
- Detail of the predicted vehicle movement, trip count and timeframe
- surface water management details during the construction phase

Reason

To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety in accordance with the requirements of Policy T1 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

	<p>Statement</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 planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>
<p>Case Officer: Chris Harrison</p>	<p>Date : 08/11/2021</p>
<p>Authorising Officer: N.J. Hayhurst</p>	<p>Date : 08/11/2021</p>
<p>Dedicated responses to:- N/A</p>	