

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/21/2425/0F1
2.	Proposed Development:	ERECTION OF WOODEN FENCE ON TOP OF EXISTING WALL
3.	Location:	CROSSFIELD HOUSE, CROSSFIELD ROAD, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Development Referral Area - Data Subject to Change, Coal - Standing Advice - Data Subject To Change
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: Site and Location This application relates to Crossfield House, a semi-detached property on Crossfield Road, Cleator Moor. The property benefits from a 1-metre-high wall along the front boundary, adjacent to the unclassified road. Proposal This application seeks planning permission for the erection of a wooden fence on top of the existing wall. The 0.9 metres high wooden fence would be attached to the existing wall with brackets and it would result in a boundary wall and fence with an overall height of 1.8 metre adjacent to the highway.	

Consultation Responses

Cleator Moor Town Council

No concerns or comments.

Highway Authority

Object - The Highway Authority advised they are aware of the planning history for this site and the conditions imposed on the previous application. Conditions were attached to the previous planning permission to lower the boundary wall to ensure suitable visibility was provided as part of the new dwellings development adjacent to the application site.

The proposal would remove all visibility splays for vehicles exiting the site of vehicles on the highway. The Highway Authority therefore advised they have no alternative but to recommend refusal due to the following –

The Local Planning Authority considers that this application will remove the clear visibility from the existing access and consequently will create conditions prejudicial to highway safety, thereby creating an unacceptable highway safety concern (as defined in the NPPF).

Public Representation

This application has been advertised by way of site notice and neighbour notification letters issued to nine properties.

Three letters of objection have been received as a result of this consultation which raised the following concerns:

- Application contravenes the Town and Country Planning (General Permitted Development) Order 1995 Schedule 2 Part 2 Class A;
- Concerns for safety on the single-track road;
- Speed of some vehicles and the poor visibility will cause an accident;
- No pavements on the lane and cars frequently park opposite so traffic drive on the wrong side of the road, adjacent to the entrance to Crossfield House is likely to cause an accident;
- The road is busy in the day and night with people tending to their animals along Blind Lane with tractors, farm machinery and delivery vans frequently using the road;
- Existing poor visibility for vehicles backing out of their narrow driveway so the fence will make the situation worse;
- Conditions were attached to the previous planning permission (4/18/2512/0F1) to lower the boundary wall to ensure suitable visibility was provided as part of the new dwellings development adjacent to the application site;
- Harm to highway safety due to the obstruction of visibility at the access and those of



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neighbours;

- Harm the street scene and create a 'tunnel' effect;
- Quoted the case of *Simmonds v SSE & Rochdale MDC* [1981] Harm to the street scene and highway safety due to the obstruction of visibility at access and those of neighbours, not outweighed by claims of anti-social behaviour and will risk setting a precedent;
- Dangers and degradation to the streetscape outweigh any minor privacy issues;
- Accident waiting to happen on the narrow, single track, busy road.

Planning Policy

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

Development Plan

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

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

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM22 – Accessible Developments

Other Material Planning Considerations

National Planning Policy Framework

Cumbria Development Design Guide

Emerging Copeland Local Plan 2021-2038 (ELP):

Cumberland Council are continuing the preparation and progression to adoption of the ELP.

The Local Plan Examination Hearing Sessions were completed in March 2023.

The appointed Planning Inspector issued their post hearing letter in June 2023, which identified the next steps for the examination.

The appointed Planning Inspector has now considered all representations and the discussions that took place during the Local Plan Examination Hearing Sessions in 2023 and has identified a number of amendments or ‘modifications’ that are required in order to ensure the ELP is sound i.e. positively prepared, justified, effective and consistent with national planning policy.

A six-week public consultation seeking views on the proposed modifications to the ELP commenced on Wednesday 14th February 2024 and will close on the 28th March 2024.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Once the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.

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 CO7PU – Parking Standards and Electric Vehicle Charging Infrastructure

Assessment

The main issues raised by this application are the impact on highway safety and the impact on the character and appearance of the driveway and the wider impact on visual amenity of the local area.

Principle of Development

The proposed application relates to a residential dwelling within Cleator Moor and it seeks to



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erect a wooden fence on top of the existing wall. The proposal will result in an overall height of 1.8 metres adjacent to the highway. 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 in accordance with Policies ST2, DM18 of the Copeland Local Plan and the NPPF guidance

Impact Of Highway Safety

Policies ST1 and DM22 seeks to ensure development proposals to incorporate innovative approaches to manage vehicular access and parking and maintain highway safety.

Paragraph 115 of the NPPF states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 116 of the NPPF states applications should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.

The Cumbria Development Design Guide also sets out design and highway safety standards. This planning practice guidance is given significant weight in the material planning considerations balance.

The application site relates to a residential site with Cleator Moor and it fronts Crossfield Road/Blind Lane.

Significant concerns relating to highway safety were raised as part of the public consultation and the Highway Authority also objected to the installation of the fence as it would have an unacceptable impact on the visibility splays and highway safety secured by conditions as part of a previous planning application (reference 4//18/2512/0F1).

On this basis, the proposed wooden fence would interfere with the required visibility splays onto Crossfield Road/Blind Lane. No alternate proposal has been submitted and no acceptable proposal can be achieved.

Overall, despite the proposal creating minor privacy benefits, the required visibility splays cannot be achieved. In considering NPPF tests, due to the interference with the splays, the development would have an unacceptable impact on highway safety. On this basis, the harm to highway safety outweighs the privacy benefits. Therefore, the proposal conflicts with Policies ST1 and DM22 of the Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 9 of the NPPF, which seek to maintain highway safety standards.

The Effect of the Proposed Development on the Character and Appearance of the Area

Policies ST1 and DM18 of the Copeland Local Plan seek to create high quality developments which respond positively to the character of the site and the wider setting. Draft Policy DS6PU also set out Design and Development Standards to ensure extensions do not

adversely alter the character or appearance of the existing building, street scene or wider surrounding area.

Paragraph 131 of the NPPF seeks to safeguard high standards of amenity for existing and future users. Developments should add to the overall quality of the area, should be sympathetic to the local character, and should establish and maintain a strong sense of place.

The wooden fence to create minor privacy benefits is not justified. It would harm the local character and visual amenity of the street-scene, which currently benefits from front gardens/driveways bound by a maximum of 1-metre-high fences or walls.

Conditions were attached to the previous planning permission to lower the existing boundary wall to ensure suitable visibility was provided as part of the new development adjacent to the application site and there are no 2-metre-high fences adjacent to the pavement. On this basis, the proposal would be out of character with the residential area.

Overall, it is considered that the proposed fence would result in an inappropriate form of development that would have an adverse effect on the character and appearance of the area. This would conflict with Policies ST1, DM10 and DM18 of the Copeland Local Plan. These policies seek to ensure that developments are of an appropriate scale, design and material, which are appropriate to their surroundings and respond positively to the character of the area.

Planning Balance and Conclusion

The National Planning Policy Framework seeks to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings, along with promoting sustainable transport and maintaining highway safety.

Policies ST1 and DM18 supports extensions and alterations to residential properties and DM22 seeks to ensure development proposals to incorporate innovative approaches to manage vehicular access and parking and maintain highway safety.

The Cumbria Development Design Guide also sets out design and highway safety standards. This planning practice guidance is given significant weight in the material planning considerations balance.

The application site relates to a residential site with Cleator Moor and it seeks to erect a wooden fence on top of the existing wall. The proposal will result in an overall height of 1.8 metres adjacent to the highway.

Significant concerns relating to highway safety were raised as part of the public consultation and the Highway Authority also objected to the installation of the fence as it would have an unacceptable impact on the visibility splays and highway safety secured by conditions as part of a previous planning application (reference 4/18/2512/0F1).

Section 9 of the National Planning Policy Framework requires developments to create places



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	<p>that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. In this case, the Highway Authority, as statutory consultee to the LPA, have no alternative but to recommend refusal on the grounds of highway safety and in applying the NPPF tests, due to the unachievable visibility splays, the development would have an unacceptable impact on highway safety and the wider visual amenity of the locality.</p> <p>On balance, the proposal is considered to be an inappropriate form of development which is in conflict with Policies ST1, DM10 and DM22 of the adopted Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 9 of the NPPF, which seek to maintain highway safety standards. The minor privacy benefits that would result from this proposal are not considered to be sufficient to outweigh the significant adverse harm identified to both highway safety and the visual amenity of the local area and therefore the application is recommended for refusal.</p>
8.	<p>Recommendation:</p> <p>Refuse</p>
9.	<p>Reasons for Refusal:</p> <ol style="list-style-type: none"> 1. The proposed fence would result in a loss of all highway visibility for both the application site and the neighbouring properties and therefore it would result in a significant detrimental impact on highway safety. As a consequence it would be contrary to Policies ST1 and DM22 of the Adopted Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 9 of the NPPF, which seek to maintain highway safety standards. 2. The proposed 1.8 metre high wooden fence would be out of character with the residential area and therefore it is considered to harm visual amenity. As a consequence the development would be in conflict with Policies ST1, DM10 and DM18 of the Adopted Local Plan and Policies DS6PU of the Emerging Local Plan which seek to ensure a good standard of design and amenity for all existing and future occupants of land and buildings. <p>Statement</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>

Case Officer: C. Wootton	Date : 23/04/2024
Authorising Officer: N.J. Hayhurst	Date : 12/06/2024
Dedicated responses to:- N/A	