

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2490/OB1
2.	Proposed Development:	VARIATION OF CONDITION 3 - TO AMEND PREVIOUSLY APPROVED LANDSCAPE PLAN OF PLANNING APPROVAL 4/19/2441/OR1 RESERVED MATTERS APPLICATION FOR THE ERECTION OF TWO DETACHED DWELLINGS
3.	Location:	LAND AT ASBY ROAD, ASBY
4.	Parish:	Arlecdon and Frizington
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See Report
7.	Report:	<p>SITE AND LOCATION</p> <p>This application relates to Plot 1 on Land at Asby Road. The dwelling was subject to outline planning permission which was approved in March 2019 (application reference 4/18/2486/001 relates). A subsequent Reserved Matters application was approved in February 2020 (application reference 4/19/2441/OR1)</p> <p>PROPOSAL</p> <p>This variation of condition application seeks to vary condition 3 of the Reserved Matters Approval relating to the landscaping scheme. This is to allow for the erection of a garage/home office to the front of the property which is subject to a separate application (application reference 4/21/2315/OF1 relates).</p> <p>RELEVANT PLANNING APPLICATION HISTORY</p> <p>Outline application for residential development of two detached dwellings plus associated access and landscaping, approved in March 2019 (application reference 4/18/2486/001 relates).</p> <p>Reserved matters application for erection of two detached dwellings, approved in February 2020 (application reference 4/19/2441/OR1 relates).</p>

An application to discharge conditions 3 and 4 of the Reserved Matters Approval was approved in October 2021 (application reference 4/21/2414/DOC relates)

CONSULTATION RESPONSES

Arlecdon and Frizington Parish Council

No objections

Arborist (Capita)

If implemented in full, this landscape scheme should help to screen the proposed development from the adjacent buildings. We consider this landscaping scheme fulfils the requirements of planning condition 3.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 12 no. properties.

Two letters of concern were received which raised the following comments:

- The Pinus Niagra or Corsican Pine is fast growing and capable of 30 metres in height which is likely to eventually cause problems;
- The garage on the plans should be subject to a separate planning application.

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 ENV3 – Biodiversity and Geodiversity

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM26 – Landscaping

Other Material Planning Considerations

National Planning Policy Framework 2021 (NPPF)

The Planning Practice Guidance (NPPG)

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

ASSESSMENT

The application seeks to vary the planning condition on the Reserved Matters Approval which relates to landscaping. The amended landscaping scheme is required to enable the erection of a home office/garage building to the front of the dwelling. This proposal is subject to a separate planning application.

The plan submitted includes details of new planting within the garden areas using nine different tree species, their specification, locations and sizes. The plan also includes details of the aftercare maintenance procedures. Despite concerns raised by a local resident, the Arborist considers that the scheme is appropriate and will help to screen the development in full.

All other details of the previously approved development have remained the same. In accordance with the guidance set out in the NPPG it is appropriate to repeat the original conditions 1 and 2, amend condition 3 to reflect the new landscaping scheme submitted and also to include a revised wording for condition 4 to reflect the details previously approved under application reference 4/21/2414/DOC.

PLANNING BALANCE AND CONCLUSION

In my opinion, the revised information which seeks to amend the originally approved condition, satisfies the policy criteria and will ensure that a satisfactory landscaping scheme can be implemented to provide adequate screening to soften the impact of the development within the immediate locality.

Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPG and the policies within the adopted Local Plan.

8.	<p>Recommendation: Approve amendment of condition</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> <li data-bbox="183 394 1503 464">1. The development shall be carried out in accordance with the plans submitted and in accordance with the conditions attached to the outline planning permission. Reason To comply with Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004. <li data-bbox="183 667 1503 1163">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: - Site Location Plan, scale 1:2500, drawing number 18/07/936-01, received 23rd December 2019; Existing Site Plan, scale 1:500, drawing number 18/07/936-02, received 23rd December 2019; Proposed Site Plan (Reserved Matters), scale 1:500, drawing number 18/07/936-03b), received 23rd December 2019; Plot 1 – Proposed Plans and Elevations, scale 1:100, drawing number 18/07/936-04, received 23rd December 2019; Plot 2 – Proposed Plans and Elevations, scale 1:100, drawing number 18/07/936-05, received 23rd December 2019; Design and Access Statement, received 23rd December 2019 Landscape Plan drawing number WW-108 Rev B, received on 14th February 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. <li data-bbox="183 1402 1503 1587">3. The landscaping scheme and boundary treatments illustrated on the Landscape Plan drawing number WW-108 Rev B shall be implemented within the first planting season following the first occupation of the dwellings approved. The landscaping and boundary treatments scheme must be implemented in accordance with the approved plans and retained as such at all times thereafter. Reason To protect both the amenity of the neighbouring properties and the highways visibility splays and also to soften the impact of the development within the locality.

	<p>4. The dwellings shall be constructed in accordance with the materials approved under the application reference 4/21/2414/DOC.</p> <p>Reason</p> <p>To ensure a satisfactory appearance of the development in the interests of visual amenity.</p> <p>.</p> <p>Informative</p> <p>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.</p> <p>Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority</p> <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 vary the condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>	
Case Officer: S. Papaleo		Date : 11/02/2022
Authorising Officer: N.J. Hayhurst		Date : 17/02/2022
<p>Dedicated responses to:-</p>		