



To: PLANNING PANEL

Development Management Section

Date of Meeting: 15/03/2023

Application Numbers:	4/21/2504/001
Application Type:	Outline
Applicant:	South North Crossings Ltd
Application Address:	ST BEGAS RC CHURCH, WHITEHAVEN ROAD, CLEATOR MOOR
Proposals	OUTLINE APPLICATION FOR THE DEMOLITION OF EXISTING CHAPEL BUILDING AND THE ERECTION OF 11 RESIDENTIAL DWELLINGS INCLUDING FULL DETAILS OF ACCESS, LAYOUT AND SCALE FOR PLOTS 1-10, ACCESS AND SCALE FOR PLOT 11 AND MATTERS RELATING TO LANDSCAPING & APPEARANCE RESERVED FOR FUTURE APPROVAL FOR ALL PLOTS
Parish:	Cleator Moor
Recommendation Summary:	Approve subject to conditions



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Reason for Determination by the Planning Panel

This application is brought for consideration by Members of the Planning Panel under the terms of the Constitution as the Town Council has lodged an objection to the proposal which is contrary to the Officer recommendation.

Site and Location

This application relates to an area of land which currently houses the St Bega's Roman Catholic Church which is situated off Crossings Close in Cleator Moor. The site is adjoined by green fields to the southwest, a Public Right of Way (403017) to the east, Whitehaven Road to the north and existing residential dwellings to the northwest and south east.

The site is accessed directly from Crossings Close and currently includes the church building and a large surfaced area which provides car parking.

The site is partly located within the Coal Referral Area and within Flood Zones 2 and 3.

Proposal

This Outline Application seeks to establish the principle of developing the site for 11 residential dwellings. The application includes details of the layout, access and scale for plots 1-10 and access and scale for plot 11. All matters relating to appearance, and landscaping for all plots and the layout for plot 11 are reserved for subsequent approval.

A site plan has been submitted with this application to show the proposed layout, along with detailed information relating to the proposed access. The 11 dwellings proposed are to be arranged in a linear row fronting on to the access road. The units comprise 2 pairs of semi-detached units and 7 detached dwellings. In this context of this proposal, scale relates to the number of dwellings on the site which is a maximum of 11 units.

This application is accompanied by the following information:

- Site Plan;
- Block Plan;
- Flood Risk Assessment;
- Sequential and Exception Tests.
- Drainage Management Strategy;
- Coal Mining Risk Assessment;
- Phase 1 Environmental Desk Study;
- Preliminary Ecological Appraisal
- Tree Survey and Arboricultural Impact Assessment;
- Design and Access Statement;
- Refuse Lorry Tracking Plan;
- Road Safety Audit;
- Swept Path Analysis for Fire Trucks and Refuse Lorries;

Consultation Responses

Cleator Moor Town Council

In respect of application 4/21/2504/001 Members expressed concern over the already busy junction at Bowthorn and the increased pressure during and after completion of the development and the increased traffic from the proposed Leconfield extension.

The proposed development is in a flood risk zone 2&3 with the Domestic strategic Housing Land allocation assessment stating where 50% fall within flood zones 2&3 should be excluded.

Reports state that the current ditch and Norbeck tributaries are undersized and further tests/soil analyses should be carried out.

Surveys state that badgers are in the area and that bats have been identified as roosting in the area, therefore a bat survey should be carried out. A previous survey also shows a disused mine shaft located on the south of the proposed development site.

No additional comments were received from the Town Council to a subsequent Reconsultation on this proposal.

Highway Authority (LHA)

1st Response

Further to the response from consultees the LHA have some concerns that the applicant should consider.

Given that there are two bus stops near to the site and the existing traffic volume of Whitehaven Road, we would be looking for contributions from the developer towards improvements to Whitehaven Road to ensure pedestrian and cyclist safety. Given the vertical alignment of the existing main road, pedestrians wishing to cross Whitehaven Road may be obscured temporarily to traffic heading towards Whitehaven. The location also has cycleway access, a suitable crossing solution would be the introduction of a Toucan Crossing at a suitable location along Whitehaven Road.

Building on this, we know that the area can be busy with visitors to shops and restaurants therefore we ask the developer to provide a Stage 1/2 Road Safety Audit.

The developer should provide road lighting at the access to the site to ensure that it is visible to traffic.

The applicant has shown that the site will have a turning head outside Plot 11. Please could they submit a swept path diagram that shows a refuse or emergency vehicle is able to turn within the site preventing the need for them to reverse out onto the public highway? It should also be noted that since this site is to remain private, it could be that refuse vehicles will not travel the full stretch of the site and therefore we ask that refuse bin storage point is provided near the access to the site but not located on public highway.

2nd Response

With regards to the highway improvements, we would need to see a Stage 1/2 Road Safety Audit (RSA) with emphasis on pedestrian and cycling traffic currently using the area and crossing of Whitehaven Road. We feel that a signalised crossing may be necessary but we will have more clarity on that following the submission of the RSA.

3rd Response

The LHA recognise there has been a tracking diagram provided for the use of refuse vehicles. It should be noted that if this site is to remain privately owned and maintained, it could be that a refuse vehicle will not travel the length of the proposed development. It may be necessary that a bin storage area is provided close to the access to the highway but still within the application site.

Following out previous response dated 21/12/21 asking for a road safety audit to be completed and submitted, we will be better placed to make further comments on this upon receipt of this assessment. Please refer to our previous response.

Upon receipt of the Road Safety Audit, we will be able to provide recommended conditions.

4th Response

Having discussed with the Section 278 officer in the highways department we request a couple of extra details to be included within the RSA:

1. Please could they confirm the date the RSA was completed
2. Item 7.1, 7.2, 7.3 there no mention of potential cyclepath traffic/vehicular traffic conflict given the exit angle from the proposed development
3. Can they confirm who will carry out the traffic monitoring and when?

5th Response

Further to my previous response dated 27/12/2022 where it was discussed there may be a requirement for the developer to contribute towards improvements to Whitehaven Road. I now have confirmation that due to the scale of the works required to Whitehaven Road in comparison to the scale of this development, it would an unreasonable ask.

Taking into account the site is to remain privately maintained and managed it could be that a refuse bin storage area is required near to the site access but within the site. However, there is sufficient turning space within the site to allow a refuse vehicle to manoeuvre should they enter.

I can confirm the Highway Authority raise no objections to this proposal subject to the following conditions being included with any permission you might grant.

2. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained to the satisfaction of the Local Planning Authority and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. Any works so approved shall be constructed before the development is complete.

Reason: To ensure a minimum standard of construction in the interests of highway safety.

3. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason: In the interests of highway safety.

4. Footways shall be provided that link continuously and conveniently to the nearest existing footway. Pedestrian within and to and from the site shall be provided that is convenient to use.

5. A 2.0 metre x 2.0 metre pedestrian visibility sight splay as measured from the highway boundary (or footpath boundary), shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

Reason: To provide adequate inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access

Local Education Authority

1st Response

We are awaiting a response from the LEA in regards to educational contributions. We will chase up and confirm whether or not they are required.

2nd Response

Thank you for your patience on this matter. I have confirmation that an Education contribution will not be required for this development.

Local Lead Flood Authority

1st Response

The site is within Flood Zones 2 and 3. It is understood that an FRA has been submitted. During the detailed planning stage, a full drainage strategy will be required, please note that it is unlikely that the Cumbria Highways Authority would accept surface water from this development being drained into the existing highway drainage system.

2nd Response

During the detailed planning stages there will be the requirement for the full surface water drainage strategy being submitted and reviewed.

1) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

The works shall be constructed, maintained and managed in accordance with the approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

Flood and Coastal Drainage Engineer

1st Response

This site is a difficult site to assess in terms of flood risk.

Mapping shows that site is located in Flood Zones 1 , 2 and 3.

As such the Application will need to be supported by the Sequential and Exception Tests, as stated in the Flood Risk Assessment, yet these do not appear to have been undertaken and passed.

Therefore, I am objecting to the proposed development.

The Flood Risk Assessment provides a good summary of flood risk based on the Environment Agency data of 2015, which uses a 30% climate change uplift.

Using the data provided, property flooding of over 300mm could occur.

The Flood Risk Assessment also recommends further modelling to be undertaken, to better understand the flood risk.

The need for compensatory flood storage by building in the flood plain is also a material consideration.

2nd Response

With regards to the additional and amended information, I have no comments to make with the submitted documentation, as it contains no drainage or flooding information.

However, any changes should be incorporated into the detailed drainage design.

The changes may not actually be material to the drainage design.

United Utilities

1st response

REQUEST FOR ADDITIONAL INFORMATION

We would be grateful if the applicant can submit a plan outlining the proposed levels (including finished floor levels ,ground levels and cover level and invert level for the proposed drainage on site) shown in metres above Ordnance Datum. We would also ask that the applicant provides an indicative foul & surface water drainage strategy. We request that this information is submitted for our review and comment prior to the determination of this application. On receipt of this information we will be able to provide further comment.

Drainage

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

We request the following drainage conditions are attached to any subsequent approval to reflect the above approach:

Condition 1 – Surface water

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

2nd response

Following our review of the submitted Flood Risk Assessment and Drainage Strategy (Ref: HYD662_WHITEHAVEN.ROAD_FRA&DMS, rev 1.0, dated 26th Aug 2022), we can confirm that whilst the proposals are acceptable in principle, there is insufficient information on the detail of the drainage design.

The detailed drainage design must include all cover levels, invert levels, points of connection, and also evidence as to how the existing public sewer on site has been accurately located and that a minimum of 3m (measured either side from the centreline) has been achieved.

Should planning permission be granted we request the following condition is attached to any subsequent Decision Notice:

CONDITION

Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- (v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

3rd Response

United Utilities have no further comments to make on the additional information provided, our response dated 26/09/2022 still stands, I have attached a copy above.

Environment Agency

1st Response

The submitted FRA (produced by Betts Hydro, date 14 October 2021) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. It is a scoping report, which identifies the need for a full Flood Risk Assessment. Based on the current flood risk information and site layout, we are not in a position to determine the flood risk of the site or accept the proposals. The FRA identifies a need to:

1. conduct additional hydraulic modelling of Nor Beck and the onsite Nor Beck Tributary Link to fully understand the flood risk of the site, to include climate change allowances
2. conduct a blockage assessment on the culvert to fully understand the flood risk of the site
3. provide flood compensatory storage
4. move development 8m away from the Main River channel (both culverted and open)

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA and plans which addresses the points highlighted above.

If this cannot be achieved, we are likely to maintain our objection. Please consult us on any revised FRA submitted and we will respond within 21 days of receiving it.

Sequential test - advice to LPA

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

It is for the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search

has been used. Further guidance on the area of search can be found in the planning practice guidance.

2nd Response

Environment Agency position

The revised planning application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy along with accompanying Appendices prepared by Betts Hydro Consulting Engineers, referenced; HYD662_WHITEHAVEN.ROAD_FRA and dated 26th August 2022. We have reviewed the FRA together with Proposed Site Plan Rev 22A (amended July 2022).

In the absence of an acceptable Flood Risk Assessment (FRA) we maintain our objection to this application and recommend that planning permission is refused.

Reasons

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular the FRA fails to:

- consider the provision of flood compensatory storage;
- consider the proximity of the designated main river.

In our letter dated 07 December 2021 (reference NO/2021/114063/01), we objected to the outline development as proposed pending the submission of an acceptable FRA.

We recommended that 4 points be addressed to overcome our objection. These were: -

1. conduct additional hydraulic modelling of Nor Beck and the onsite Nor Beck Tributary Link to fully understand the flood risk of the site, to include climate change allowances
2. conduct a blockage assessment on the culvert to fully understand the flood risk of the site
3. provide flood compensatory storage
4. move development 8m away from the Main River channel (both culverted and open).

We have reviewed the updated FRA and can comment as follows:

- Point 1 of our objection has been addressed and we can confirm that for the purposes of site-specific Flood Risk Assessment, the existing large hydraulic model extending from the River Keekle at Whitehaven, down to the River Ehen at Sellafield has been refined by adding a site-specific topographical survey and reducing its computation grid size to improve its accuracy.
- Point 2 of our objection has been addressed and some basic culvert blockage analysis has been undertaken.
- Points 3 and 4 have not yet been satisfactorily addressed, and therefore we maintain our objection.

Reason

The modelling is based on existing topography with the proposed development platforms. This shows that the development platform is free from flooding in the design flood event plus climate change. However, flood risk is then transferred to the strip of land forming the gardens, with increases in flood depth on the western and southern portions of the site. Subsequent small-scale homeowner development on a plot-by-plot basis (such as garden buildings or terracing) could change what is currently indicated.

The FRA does not explicitly specify any requirements or mitigation measures for the safeguarding or enhancement of ground levels for the storage and conveyance of fluvial flooding. There is a danger that if development was unchecked in the areas identified at risk, that this current and future fluvial flood risk could be increased and even transferred outside the site boundary.

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above, specifically:

- To address point 3: provide commentary on the points raised above, and in relation to any compensatory storage requirements.
- To address point 4: provide indicative dimensions on the Proposed Site Plan Rev 22A (amended July 2022), of the offset from the assumed line of the culvert on the western boundary to the development platform. Provide offset dimensions from any proposed development and turning hammerhead at Plot 11, and the open section of watercourse.
- Nor Beck Tributary Link runs in culvert on the western portion of the site. There are 3 manholes on the site which provide access to culvert. The Environment Agency will need barrier free access to the manholes for essential inspection and maintenance. Details of how this can be incorporated in any development of the site will need to be provided.
- The proposed development of the site provide has the potential to provide improved access for maintenance to the open portion of the watercourse. The Environment Agency would like to see provision made for parking of a 4x4 and trailer at the hammerhead in the vicinity of the current plot 11. This would enable our field teams to remove debris and undertake any necessary routine maintenance for the management of flood risk.

If this cannot be achieved, we are likely to maintain our objection. Please consult us on any revised FRA submitted and we will respond within 21 days of receiving it.

Additional information

Flood risk modelling undertaken by a third party has been used in support of this application. The Environment Agency has applied a risk-based approach to the assessment of this model. In this instance and considering the Outline nature of the application, a basic review has been carried out. The Environment Agency has not undertaken a full assessment

of the fitness for purpose of the modelling and can accept no liability for any errors or inadequacies in the model.

3rd Response

Please find attached a plan showing the approximate locations of the manholes in relation to the proposed development. As you can see, the Nor Beck manholes are expected to be in gardens 6 and 11, however this would need to be confirmed on site.

I hope the points below help clarify our access requirements :

- We will need access to the manholes for jetting and maintenance – Vehicular access to a position close to the gardens of no 6 and 11 would be preferred eg for jetting. Access to the garden of property 11 would be feasible from the south, however access between properties may be required to get close to the manhole in the garden of property 6, eg between no 6 and 7, as vehicular access from behind is prevented by the railway embankment.
- EA access would ideally be by garden gate which could be padlocked with EA key.
- We will need to specify no loading of any part of the culvert during construction or thereafter eg by materials/ construction vehicles.
- We need to specify no structures (eg sheds) of any kind are built over the manholes which would prevent access;
- We would like to see provision made for parking of a 4x4 and trailer at the hammerhead in the vicinity of the current plot 11. This would enable our field teams to remove debris and undertake any necessary routine maintenance for the management of flood risk.

4th Response

Further to my email from yesterday, below, I have now had further confirmation re access.

Our Assets team would be able to manage with pedestrian access of 2m wide between Nos. 6 & 7, providing they can get a tanker in to the culvert using the hammerhead and further west at the bottom near No.11.

I hope that helps clarify as you develop your plans.

5th Response

In our letter dated 26 September 2022 (reference: NO/2022/114743/01-L01, copy enclosed), we objected to the outline development as proposed pending the submission of an acceptable Flood Risk Assessment (FRA) and recommend the following 4 points be addressed to overcome our objection:

1. provide flood compensatory storage
2. provide indicative dimensions on the Proposed Site Plan of the offset from the assumed line of the culvert on the western boundary to the development platform. Provide offset dimensions from any proposed development and turning hammerhead at Plot 11 and the open section of watercourse

3. the Environment Agency will need barrier free access to the manholes for essential inspection and maintenance. Details of how this can be incorporated in any development of the site will need to be provided.

4. The proposed development of the site provide has the potential to provide improved access for maintenance to the open portion of the watercourse. The Environment Agency would like to see provision made for parking of a 4x4 and trailer at the hammerhead in the vicinity of the current plot 11. This would enable our field teams to remove debris and undertake any necessary routine maintenance for the management of flood risk.

We have reviewed the amended proposed site plan which addresses the Points 2, 3 and 4 outlined in our previous response. But as Point 1 of our objection has not yet been satisfactorily addressed, we therefore maintain our objection as set out in our previous response.

Please re-consult us on any revised FRA submitted and we will respond within 21 days of receiving it

Should the applicant submit an acceptable FRA and we are able to withdraw our flood risk objection, we still require additional information on the following issues.

Please aware that, without the submission of these information, we are likely to request pre-commencement conditions on land contamination and surface water drainage. This is to ensure the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

Land contamination

The previous use of the proposed development site as railway and landfill presents a high risk of contamination that could be mobilized during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a Secondary A aquifer and a surface watercourse is present on the Southern boundary of the site.

The application's desk study demonstrates that it will be possible to manage the risks posed to controlled waters by this development. A remediation strategy will however be required before built development is undertaken. This strategy should include the following components:

1. A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Should the applicant submit any additional information in this regard prior to the determination of the application, we request to be re-consulted on it.

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Groundwater installations – advice to applicant

The proposal for dual purpose gas and groundwater monitoring boreholes is not acceptable in multi-stratified geology likely to penetrate aquicludes. Such installations which require perforated/slotted pipe throughout their length can cause short circuiting of groundwater movement and cross contamination of groundwater quality. Therefore, specific groundwater installations need to be sheathed /solid with perforated sections targeting the groundwater response zone only. Analysis recommendation for groundwater should also include dissolved oxygen, electrical conductivity, chloride, ammonia, sulphate, sulphide, COD.

6th Response

We have reviewed the amended proposed site plan and we are satisfied that the additional information addresses the queries outlined in our previous response on 26 September 2022 (ref: NO/2022/114743/01-L01, copy enclosed). We therefore withdraw our objection to the proposed development.

The proposed development must proceed in strict accordance with this amended Proposed Site Plan and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved plan and / or the mitigation measures identified will require the submission of a revised proposed site plan.

Separate to the above matters, we also recommend that any subsequent approval includes the following conditions. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

Land contamination

The previous use of the proposed development site as railway land and landfill presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer A and a surface water course is present on the Southern boundary of the site.

The application's desk study demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution. Condition

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

Surface water drainage

The previous use of the proposed development site as railway land and landfilled area presents a risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). This could pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is in close proximity to Nor Beck and is located upon a secondary aquifer A.

In addition, the mine shafts on site provide a potential conduit for accelerated migration of superficial groundwater entering and cross contaminating groundwater in the solid geology thereby affecting the quality of the aquifer directly.

In light of the above, we do not believe that the use of infiltration SuDS is appropriate in this location. We therefore request that the following planning condition is included as part of any permission granted. Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed

that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Condition

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details. Reason

To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

Groundwater monitoring

The proposal for dual purpose gas and groundwater monitoring boreholes is not acceptable in multi-stratified geology likely to penetrate aquicludes. Such installations which require perforated/slotted pipe throughout their length can cause short circuiting of groundwater movement and cross contamination of groundwater quality. Therefore, specific groundwater installations need to be sheathed /solid with perforated sections targeting the groundwater response zone only. Analysis recommendation for groundwater should also include dissolved oxygen, electrical conductivity, chloride, ammonia, sulphate, sulphide, COD.

Land contamination: risk management and good practice

We recommend that developers should:

- Follow the risk management framework provided in Land Contamination: Risk Management, when dealing with land affected by contamination
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site - the local authority can advise on risk to other receptors, such as human health
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed
- Refer to the contaminated land pages on gov.uk for more information

Environmental Health

1st Response

Noise

- The proposed housing development is sited at its nearest northern boundary approximately 30 – 40 metres from Whitehaven Road / Birks Road junction and possible intrusion from traffic noise was considered. Preliminary noise readings taken by Environmental Health at the site recently, together with data from a comparable acoustic survey in the area, indicate a negligible / low risk of noise impact to the development and no

adverse effect on the development is predicted in terms of Professional Practice Guidance on Planning and Noise 2014.

Advice

- Japanese Knotweed was identified on the site in 2014 by a colleague. Environmental Health staff have inspected the site recently and did not see any infestation, though the weed does recede back in Winter. There is circumstantial evidence that specific herbicide treatment was made to the Japanese Knotweed. The site should be thoroughly inspected and reference made to Code of Practice For The Treatment of Japanese Knotweed PCA 2018 and INNSA 2017 respectively.

- The development lies within an area of elevated Radon potential, with a maximum potential of 10 – 30%. See UKradon.org

Conditions

A desk study and walkover noted a variety of potential hazards on site. These include a possible mineshaft (Whinnygill Colliery 2), a previous inert landfill site, and old railway embankments and lines that are likely to contain infill ash and clinker materials.

No development shall take place until an investigation, risk assessment, and plan for any remediation, has been completed of the nature and extent of contamination on the site. The contents of the study to and approved in writing by the Local Planning Authority. The study should be undertaken by competent persons and a written report must be produced for the approval of the Local Planning Authority.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

No development shall take place until a construction management plan or construction method statement has been submitted to and approved in writing to the Local Planning Authority. The approved / plan statement shall be adhered throughout demolition / construction period.

Reason: In the interests of safe operation and to protect the amenity of residents during the demolition / construction phases of the development.

2nd Response

I have no objections to the proposal, and would comment further:

- Contaminated Land – a Phase 2 Intrusive Investigation should be made and a report provided in writing to the Council as per the findings made in the Phase 1 Desk top Study, namely for a range of potential soil / ground contaminants, the risk of mine gas migration and further study to substantiate the risk associated with historical mine shafts on the site.

- Japanese Knotweed - I would again draw attention to the previous 2014 incidence of Japanese Knotweed on the site, as well as recent import of demolition soil / material on to the site from off site. I would advise that an appropriate soil sample testing regime is undertaken for rhizomes of Japanese Knotweed across the site.

The Coal Authority

1st Response

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Our records indicate that there is a mine entry and its resultant zone of influence on the application site. We hold no treatment details for this feature and its exact location is unknown and its recorded position may be subject to significant departure. This feature poses a potential risk to surface stability and public safety.

The planning application is supported by a brief report, dated 18th November 2021 and prepared by MBC Designs. However, the report does not make any proper assessment of the risks posed to the development by past coal mining activity, nor does it identify the risk features present in this case.

It is noted that the application is in outline but with some matters being considered at this time, this includes layout of the development. Where layout of development is being considered and mining features which have layout implications are recorded on site, we would expect the exact location and condition of these features to be established by intrusive site investigations. In this case the recorded mine entry should be investigated, and its condition assessed. The risks that this feature poses should be established, and the layout designed to avoid buildings being located over, or within influencing distance, of the mine entry. Prior to the investigations being carried out a positional review of the mine entry should be carried out from source data in order to ensure that the investigations are designed to take account of its best plot position.

The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

On the basis of the information currently submitted we object to this planning application and the layout proposed, as the applicant has not demonstrated to the LPA that the site is safe and stable for the development. It is requested that the applicant be informed that they need to submit a detailed Coal Mining Risk Assessment, which in this case will need to be informed by intrusive site investigations to locate the recorded mine entry, assess its condition and calculate its zone of influence. Based on these findings the layout as currently proposed may need to be revised to ensure that adequate separation is provided between

the mine entry, its zone of influence and any buildings proposed. A layout plan should be submitted which demonstrates how the location of the mine entry has been taken into account.

2nd Response

We previously commented on this application in a letter to the LPA dated 15th December 2021. In this letter we raised objections and noted the following:

It is noted that the application is in outline but with some matters being considered at this time, this includes layout of the development. Where layout of development is being considered and mining features which have layout implications are recorded on site, we would expect the exact location and condition of these features to be established by intrusive site investigations. In this case the recorded mine entry should be investigated, and its condition assessed. The risks that this feature poses should be established, and the layout designed to avoid buildings being located over, or within influencing distance, of the mine entry. Prior to the investigations being carried out a positional review of the mine entry should be carried out from source data in order to ensure that the investigations are designed to take account of its best plot position.

It is requested that the applicant be informed that they need to submit a detailed Coal Mining Risk Assessment, which in this case will need to be informed by intrusive site investigations to locate the recorded mine entry, assess its condition and calculate its zone of influence. Based on these findings the layout as currently proposed may need to be revised to ensure that adequate separation is provided between the mine entry, its zone of influence and any buildings proposed. A layout plan should be submitted which demonstrates how the location of the mine entry has been taken into account.

The planning application is now supported by a Phase 1 Environmental Desk Study, dated 20th July 2022 and prepared by RGS. For clarity this is a desk-based study only and does not report on the findings of site investigations as we had previously requested.

The Phase 1 Report concludes that shallow coal workings pose a moderate risk to the development and that further investigation is necessary. In respect of the mine entries recorded (one within the site and one outside) the report authors note that we hold no treatment details for these features and that their precise locations are unknown. The report confirms that the mine entry within the site has not been investigated and that its exact location may be subject to departure from its recorded position. The report authors note that the actual location of the shaft and depth to rockhead will require confirmation in order that a re-assessment of the risk level can be made.

It does not appear from the report that any positional review of the mine entry has taken place. As noted in our previous comments we would expect the location of the on-site mine entry to be established by intrusive site investigations in order that the exact location of this feature, and its zone of influence can inform the site layout. Where it can be justified that intrusive site investigations are unable to be carried out prior to a decision being made we would expect a positional review of the mine entry to be undertaken in order to establish its best plot position. Once this is established a plan should be submitted to the LPA which identifies the best plot position of the mine entry, its potential departure and its zone of

influence and how these relate to the development. This should demonstrate that adequate separation is provided between the mine entry, its zone of influence and any buildings proposed.

It is noted that the layout has been revised with Plot 11 relocated, however this does not clearly demonstrate adequate separation taking account of the potential departure of this feature and its zone of influence. No information has been submitted to indicate how the mine entry once located and commentary on this issue would also be helpful.

On the basis of the information currently submitted the Planning team at the Coal Authority maintain its objection to this planning application. It is requested that additional information is submitted to address the issues raised above.

3rd Response

Although this is an outline application layout is being considered at this time therefore we would expect the applicant to demonstrate to the LPA that the site is safe and suitable for the quantum and layout of development proposed. We previously raised the issue of the layout needing to be informed by the coal mining features present back in December 2021. Notwithstanding our earlier comments the applicant provided only a desk based Phase 1 assessment to support the submission.

As I have previously noted we hold no treatment details for the mine entry recorded as being present on site and therefore its exact location is unknown. Its actual position could be subject to significant departure and could be several metres away from where our records indicate it is. This means that the mine entry could be close to, or even under, Plot 11 as proposed. We do not consider it acceptable to condition the investigations to locate this feature. Once approved the layout is fixed and we wish to avoid a situation where a new dwelling is proposed over, or within, influencing distance of the mine entry.

The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Without carrying out the site investigations to locate the mine entry the applicant has not demonstrated to the LPA that the site is safe and stable for the development proposed as required by the NPPF.

Although I note that the agent has indicated that a position review of this feature is being carried out, they have provided no justification as to why it cannot be located prior to any decision being made. I would draw attention to my previous letter, content of which is included below.

.... we would expect the location of the on-site mine entry to be established by intrusive site investigations in order that the exact location of this feature, and its zone of influence can inform the site layout. Where it can be justified that intrusive site investigations are unable to be carried out prior to a decision being made we would expect a positional review of the mine entry to be undertaken in order to establish its best plot position. Once this is

established a plan should be submitted to the LPA which identifies the best plot position of the mine entry, its potential departure and its zone of influence and how these relate to the development. This should demonstrate that adequate separation is provided between the mine entry, its zone of influence and any buildings proposed.

It is noted that the layout has been revised with Plot 11 relocated, however this does not clearly demonstrate adequate separation taking account of the potential departure of this feature and its zone of influence.

Where the applicant can demonstrate that they are unable to carry out intrusive site investigations prior to any decision being made then we would expect a robust engineering strategy to be submitted to demonstrate how the mine entry could be treated to support the plans showing best plot position, potential departure and zone of influence for this feature. All of this should demonstrate adequate separation between the mine entry and any buildings proposed.

For clarity we do not consider that a pre-commencement condition would overcome the concerns raised in respect of the location of the mine entry, its zone of influence and how these may impact on the layout proposed.

4th Response

It is not clear from the information submitted if a positional review from source data has been carried out for the mine entry or if all of the plans within the RGS report are based on our recorded position for this feature. A positional review of the mine entry would include all of the available source data for the mine entry, so any plans, maps etc which it is recorded on, with this then being used to identify its best plot position, this can include geo referencing of the mine entry.

In order that I can seek technical advice from colleagues please could the report authors provide commentary on the information and plans they have used to carry out the positional review they refer to, including any abandonment plan reference numbers if available.

5th Response

Usually when we refer to a positional review we would expect a review of the available source data for the mine entry, so abandonment plans and maps etc which record this feature, to ensure that any works proposed are based on its best plot position.

The problem with basing a review on our coordinates is that these may not be accurate, the shaft may for example be 3m east of its recorded position once a review of source data has been carried out. This would then move the potential departure and the worst-case zones of influence for this feature and clearly this all has potential implications for the layout.

Have the report authors reviewed any of the source data for the mine entry? If not, is this something they could do to inform this exercise?

6th Response

We have previously commented on this application in letters to the LPA dated 15th December 2021 and 22nd August 2022, and a further email to you on the 7th September

2022. In all of this correspondence we have raised our concerns regarding the risks posed by the recorded mine entry within the site, and how this feature and its zone of influence impact on the layout of the development. We have previously stated that in this case intrusive site investigations would be necessary to establish the risks posed by this feature and the findings from these works should be used to inform the layout of the development.

We are pleased to see that the applicant has now commissioned a positional review of the recorded mine entry and we note submission of the Mine Entry Positional Review Report, dated 28th October 2022 and prepared by RGS. The report authors note that the positional review has identified the potential presence of the mine entry further north than originally anticipated, albeit still likely situated away from the building on Plot 11. They go on to comment that if the mine entry is positioned in the most northern point of the departure zone it is possible that this will encroach into the plot although it should not be below the building. The report authors recommend that the departure zone should be subject to a series of excavations in order to locate where the mine shaft is present, if at all, and that the strata below Plot 11 should also be investigated. The report authors also note that the findings of these investigations should be used to calculate the zone of influence from the mine entry.

As I have previously commented this is an outline application with layout being considered at this time it is therefore imperative that the applicant demonstrates to the LPA that the site is safe and stable and that the quantum of development proposed can be safely accommodated on the site. In order to do this intrusive site investigations are required to locate the mine entry, or discount its presence, if this is the case. We note that Plot 11 has been relocated to accommodate a sewer easement which runs through this part of the site. However, this does not remove the risks posed to this plot by the mine entry and its zone of influence.

It is requested that the intrusive site investigations for the mine entry, recommended in the Positional Review Report submitted, are carried out on site in order to establish the exact situation in respect of the risks posed by this feature to the development proposed. The findings of these investigations should be used to inform the layout of the development, to ensure that adequate separation is provided between the mine entry, its calculated zone of influence and the closest dwelling. The findings should also be used to inform the remedial works necessary (including treatment of the mine shaft if found) to ensure the safety and stability of the development. On the basis of the information currently submitted to support this application we maintain our objection.

The findings of the intrusive site investigations should be submitted to the LPA. The information submitted should include a plan showing the established position of the mine entry, if found, its calculated zone of influence and how these relate to the development layout. The submission should also set out the remedial work necessary should the mine entry be located on site and any mitigation measures deemed necessary should it be concluded that the feature lies outside of the site.

The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

The intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary.

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of any Permit application.

7th Response

We previously commented on this application in letters to the LPA dated 15th December 2021 and 22nd August 2022, a further email to you on the 7th September 2022 and our last letter dated 16th November 2022. Following on from my last letter to you I had a telephone conversation with the applicant's agent to discuss a way forward.

Your email indicates that you have been made aware of my discussions with the applicant's agent and you have provided a copy of a revised layout plan. I note that the description of the plan states the following; Outline application for the demolition of existing chapel buildings and the erection of 11 residential dwellings including full details of access, layout and scale for Plots 1-10, access and scale for Plot 11. I assume that this will be reflected in a revised description of development.

Our previous concerns related to the relationship of Plot 11 to the mine entry and its associated zone of influence, especially as the siting of this dwelling on this plot was being considered at that time and no intrusive site investigations to locate the feature had been carried out. The applicant has now removed the detail of this plot from consideration at this time, which will enable the siting of the dwelling to be informed by site investigations to locate the mine entry and its calculated zone of influence. This should ensure that adequate separation is provided between the buildings, the mine entry and its zone of influence.

The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Intrusive site investigations are required to establish the location of the mine entry on the site, its condition and the remedial work necessary. During construction works on the wider site the mine entry and its zone of influence should be fenced to ensure no authorised access to this area as this feature may pose a risk to public safety. Should part of the wider development be occupied in the vicinity of Plot 11, prior to the mine entry being stabilised and capped, then the feature should remain securely fenced to avoid occupants of the

development accessing its location, an untreated mine entry poses a public safety risk. If the development is not built out in full the LPA should ensure that the mine entry is either treated to a satisfactory standard in accordance with authoritative guidance or securely fenced to prevent access.

SUDs

It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

The intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary.

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of any Permit application.

The Coal Authority Recommendation to the LPA

This is our recommendation for what any planning conditions should cover, we appreciate that you may wish to make amendments to the choice of words.

1. Prior to commencement of the development in the vicinity of Plot 11 a scheme of intrusive site investigations shall be carried out on site to establish the risks posed to the development by the mine entry and its zone of influence. The findings of these investigations, including any remedial works necessary, shall be submitted to the LPA for consideration and approval in writing.
2. If the mine entry is found to be located outside of Plot 11 remedial works shall be carried out on site to stabilise this feature prior to the infrastructure (access road

and turning head) being constructed to the front and side of this plot. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

3. Prior to, or concurrent with, the reserved matters submission for Plot 11, the findings of a scheme of intrusive site investigations to locate the mine entry within the plot shall be submitted to the LPA for consideration. The information submitted shall include recommendations for remedial works and mitigation measures necessary to ensure the safety and stability of the development. A plan shall also be submitted to the LPA to show the location of the mine entry, as established, its calculated zone of influence and its relationship to the siting of the dwelling on Plot 11.
4. Prior to commencement of the development on Plot 11 the remedial works necessary to ensure the stability and safety of the mine entry and the development as a whole, including any mitigation measures required shall be implemented on site. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
5. Prior to the occupation of Plots 10 and 11, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of any remedial works and/or mitigation necessary to address the risks posed by the mine entry.

The Coal Authority withdraws its objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

Natural England

No comments.

Strategic Housing Officer

This is an application for 11 dwellings – 7 x 3 bed (4 semi-detached and 3 detached) and 4 x 4 bed, within the centre of Cleator Moor, close to local amenities and other residential areas.

Our recent Housing Needs Survey indicated that there is demand for new development in Cleator Moor, one of Copeland's four main towns, and this is something we support in terms of economic development and the overall regeneration in the town. Significant capital investment is being made through the Town's Fund and other projects, which will increase demand for housing locally and the mix of dwelling size proposed will suit the likely market.

Cleator Moor has, according to the latest SHMA, on average the estimated lowest house prices of the four main towns, making the requirement for affordable housing for sale less pressing than in other areas of the borough, though some requirement still exists for affordable rented housing. We would expect to see affordable delivery met through larger developments and so were provision of 10% affordable housing to be a viability issue on this site we would not withdraw our overall support for it.

Arboricultural Officer

Following our site visit, we have the following comment/observation to make on the proposed development. The scheme proposes to construct 11x houses on the development site. There are currently a group trees growing at the southern end of the site and off-site trees at the northern end of the site.

The tree report (dated 23/10/2021) submitted with the application gives details of four individual trees (T1-T4) and two groups of trees (G1 & G2). The trees identified were:

- T1, T2, T3 & G1: Common Sycamore (*Acer pseudoplatanus*)
- T4 & G1: Crack Willow (*Salix Fragilis*)
- G1: Common Laurel (*Prunus laurocerasus*)
- G2: Common Alder (*Alnus glutinosa*)

In accordance with the British Standard (BS 5837: 2012), the report assesses the quality of the trees for retention within a development scheme. It lists trees T1-T3 and group G2 as retention category B, and tree T4 and group G1 as category C. Retention category B are moderate quality trees and groups, and category C are low quality.

The report says the current proposals require the site to be cleared of all existing vegetation and trees. T1, T2, T3 and G1 are thought not to be within the site boundary and outside of the ownership of the landowner, and therefore would require protection. T1, T2, T3 and G1 can be retained and protected to create sufficient space for the proposed houses.

RECOMMENDATION

We recommend attaching a condition to any planning permission requiring the submission of a landscape plan prior to construction. The Landscape plan should include details of planting and aftercare maintenance, along with a size and species specification for the replacement trees.

Countryside Access Officer

Section 7.7 of Policy ENV6 – Access to the Countryside within the Copeland Local Plan 2013-2028 recognises that existing Public Rights of Way are protected in law.

FP 403017 runs parallel to the development site, see attached plan.

We advise that:

- The granting of planning permission would not give the applicant the right to block or obstruct the right of way adjacent to the development site.
- The right of way as shown on the definitive map and statement must be kept open and unaltered for public use, unless or until an order is made to divert, stop up or to temporarily close it comes into effect.
- The applicant should contact Copeland Borough Council in the first instance if they wish to discuss the process for an application for an order to divert, stop up or temporarily close a right of way shown on the definitive map and statement.

Public Representation

This application has been advertised by way of a press notice, site notice and neighbour notification letters issued to 32 no. properties. Two full consultations have been undertaken during the course of the application process.

5 letters of objection have been received stating the following concerns:

- The houses would be looking directly into the windows of existing dwellings;
- More than enough housing is already available within Cleator Moor
- The site is within a flood plain;
- The drainage systems cannot handle any more dwellings;
- The private road is the responsibility of the occupants of Crossing Close;
- The cycle path is very popular and creates issues with parking;
- It is dangerous to get onto the main road by car;
- The application plots are large and it is likely that the Applicant will increase the number of dwellings proposed;
- The site has not been vandalized as stated within the application and is used for storage;
- There is an unsafe mine shaft on the site;
- The site is not suitable for housing;
- The former church has been utilized as a community centre, until lockdown;
- The dwellings will create privacy issues for Coniston Park.

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

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy (CS)

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 T1 – Improving Accessibility and Transport

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 DM24 – Development Proposal and Flood Risk

Policy DM26 – Landscaping

Policy DM28 – Protection of Trees

Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.

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 stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) 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 NPPF.

The policies relevant to this application are:

- Strategic Policy DS1PU - Presumption in favour of Sustainable Development
- Strategic Policy DS2PU - Reducing the impacts of development on Climate Change
- Strategic Policy DS3PU - Settlement Hierarchy
- Strategic Policy DS4PU - Settlement Boundaries
- Strategic Policy DS5PU - Planning Obligations
- Policy DS6PU - Design and Development Standards
- Policy DS7PU - Hard and Soft Landscaping
- Strategic Policy DS8PU - Reducing Flood Risk Policy
- Policy DS9PU: Sustainable Drainage
- Strategic Policy H1PU - Improving the Housing Offer
- Strategic Policy H2PU - Housing Requirement
- Strategic Policy H3PU - Housing delivery
- Strategic Policy H4PU - Distribution of Housing
- Strategic Policy H5PU - Housing Allocations
- Policy H6PU - New Housing Development
- Policy H7PU - Housing Density and Mix Strategic
- Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity
- Strategic Policy N3PU: Biodiversity Net Gain
- Policy N13PU: Woodlands, Trees and Hedgerows
- Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (2021)

National Design Guide (NDG).

The Conservation of Habitats and Species Regulations 2017 (CHSR).

Cumbria Development Design Guide (CDG)

Strategic Housing Market Assessment 2021 (SHMA)

Copeland Borough Council Housing Strategy 2018 – 2023 (CBCHS)

Assessment

Principle of Development

The application site falls within the designated settlement boundary for Cleator Moor, which is listed as a Key Service Centre in Policy ST2 of the CS and Policy DS3PU of the ELP. This policy allows for infill and windfall housing sites, and moderate allocations to form extensions to the town to meet general needs, with larger sites required to offer a proportion of affordable housing.

The principle of new housing is supported in the Copeland Local Plan through strategic policies ST1 and ST2 along with policies SS1, SS2 and SS3. This is reiterated through the ELP in Policies H1PU, H2PU, H3PU, H4PU, H5PU, H6PU and H7PU. These policies seek to

promote sustainable development to meet the needs and aspirations of the Boroughs housing market, as well as having consideration for the requirements of smaller settlements within the Borough, which respect their scale and function.

Development management policies DM10, DM11 and DM12 of the CS and DS6PU and DS7PU of the ELP seek to ensure that the proposed development can provide quality places to live, are also relevant to this scheme.

On the basis of the above, it is therefore considered that the development would be in accordance with the aims and objectives of the relevant policies of the adopted Copeland Local Plan and the NPPF which set a presumption in favour of sustainable development. The principle of residential development on this site is supported subject to site-specific matters.

Demolition of the Existing Building

The existing church hall is not Listed, nor within a Conservation Area. The building has little architectural merit and has been disused for a number of years. On this basis, the demolition of the existing building is considered to be acceptable.

Housing Mix, Need and Affordable Dwellings

Policy SS3 of the CS and HS7PU of the ELP require that housing developments demonstrate a range of good quality and affordable homes for everyone.

The Strategic Housing Market Assessment identifies a need for executive and family homes within the Borough. The provision of the proposed dwellings would enhance the housing choice within Cleator Moor and therefore contribute towards the vitality of the town.

The proposal submitted includes a mix of 3 and 4 bedroomed homes. The provision of family homes is welcome and the site provides a balanced mix of dwelling types that will respond to market requirements and the needs of the Borough.

Policy H8PU of the ELP requires that on sites of 10 or more units at least 10% of the homes provided should be affordable. This policy requirement is consistent with paragraph 64 of the NPPF. No affordable dwellings are proposed as part of this scheme. Whilst there is a policy requirement for at least one affordable unit the constraints of this brownfield site raise issues about the viability of the development.

The Council's Housing Strategy and Inclusion Officer is supportive of the application and states that Cleator Moor has, according to the latest SHMA, on average the estimated lowest house prices of the four main towns. On this basis the Officer concludes that as the requirement for affordable dwellings within Cleator Moor is low, this could be delivered through bigger schemes going forward. Therefore, this requirement is not considered to be to be fundamental to this scheme.

Design and Impact on Residential Amenity

Policies ST1, DM10, DM11, and DM12 of the Local Plan, Policies DS6PU and H6PU of the ELP, and section 12 of the NPPF seek to secure high standards of design for new residential properties. These policies seek to create and maintain a reasonable standard of amenity and

set out detailed requirements with regard to standard of residential amenity, including the provision of parking spaces, separation distances and open space.

As this application is in outline form only, details of the scale and appearance of the individual dwellings themselves are reserved for subsequent applications. The application is accompanied by a block plan which shows the proposed layout of 11 dwellings which are to be arranged in a linear row fronting on to the access road. The units comprise 2 pairs of semi-detached units and 7 detached dwellings. In this configuration the layout demonstrates that the minimum separation distance of 21 metres between dwellings can be achieved with the existing dwellings to the west on Grisedale Close and Coniston Park and to the east on Crossings Close. It is therefore unlikely that any privacy or overlooking issues will be created by the development. Each plot is suitably sized for the provision of a private amenity space, as well as parking and turning areas for each dwelling.

On the basis, it is considered that the site is capable of accommodating the number of units proposed in accordance with the aims and objectives of the adopted Copeland Local Plan, the ELP and the NPPF.

Landscape and Visual Impact

Policies ENV5 and DM26 of the CS and DS6PU of the ELP state 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 the existing settlement boundary for Cleator Moor, within a residential area and on a piece of surfaced brownfield land which is enclosed by other residential development. It is considered that dwellings on this site would be viewed against the backdrop of the existing urban form and would not have a detrimental visual impact on the locality.

The proposal is therefore considered to comply with the policies set out in the adopted Copeland Local Plan, the ELP and provisions of the NPPF.

Drainage and Flood Risk

Policy ST1B(ii) of the CS and paragraph 163 of the NPPF seek to focus development on sites that are at least risk of flooding and where development in flood risk is unavoidable, ensure that the risk is minimised or mitigated through appropriate design. Policy ENV1 and DM24 of the CS and DS8PU and DS9PU of the ELP reinforces the focus of protecting development against flood risk.

As the application site is located within Flood Zones 2 and 3 it is supported by a Flood Risk Assessment, Drainage Plan and Drainage Management Strategy.

The information initially submitted was considered to be incomplete and the Environment Agency and Council's Flood and Coastal Engineer requested both a Sequential and Exception test in order to ensure that there were no other more suitable sites within the locality for

development within a lower flood zone. The sequential test, which included the analysis of windfall, allocated and available sites within Cleator Moor, concluded that there were no other sites identified. The proposed development is therefore deemed to pass the Sequential Test and should be subject to the Exception Test. The Exception Test for this site is supported by the submitted FRA.

The exception test was undertaken according to Paragraph 164 of the NPPF whereby it was demonstrated that:

- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) The development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing the flood risk elsewhere, and, where possible, will reduce flood risk.

The modelling undertaken includes the risk of climate change and concluded that the dwellings proposed will fulfil the need identified by the recent Town's Fund that will bring new jobs and regeneration to the area, therefore creating a demand for new housing.

The submitted Drainage Strategy identifies a possible existing connection to the Nor Beck and the proposal for the development would be to utilize this where possible. As the layout and scale of the dwellings has yet to be submitted, this information will be submitted in full detail at the reserved matters stage.

The inclusion of appropriately worded planning condition will secure proper drainage within the site and will manage the risk of flooding and pollution, ensuring that the development complies with Policy ENV1 and Policy DM24 of the CS, DS8PU and DS9PU of the ELP and the provisions of the NPPF.

Ground Conditions

The southwestern portion of the site lies within the Coal Referral Area which required the application to be supported by a Coal Mining Risk Assessment and Phase 1 Environmental Risk Assessment. This concluded that intrusive site investigations would be required to confirm that the site is covered in sub-soil from previously filled mining works. The Coal Authority raised concerns with public safety due to previous mine shafts on the site and resulting mine gas and therefore a mine entry positional review was submitted. This document did not satisfy the concerns of The Coal Authority and as Plot 11 is directly within the zone of influence, it requires intrusive site investigations.

The Agent made the decision to remove the layout detail of Plot 11 from the plans, therefore seeking the principle of development only. On this basis the Coal Authority removed their objection. Several conditions were requested by the Coal Authority to ensure that this detail is included within any subsequent applications and any issues found may preclude the inclusion of this portion of the site from development.

The Environment Agency also raised concerns with previous mining and contamination on the site and the knock-on effects of these historic issues for surface water runoff on the Nor Beck. As a result, the EA have requested a condition relating to controlled infiltration from the site.

Ecology and Trees

Policy ENV3 of the CS and N1PU and N3PU of the ELP seek to protect and enhance the Boroughs ecology. Development must respect the local environment and provide habitats for any species that may be displaced. Furthermore, Policies DM28 of the CS and N13PU of the ELP seek to protect existing trees and hedgerows, ensuring that their loss is minimized, justified and mitigated.

The application includes a Preliminary Ecological Survey which details that no habitats of value were discovered during the assessment. It includes mitigation measures for use during the construction period and also advises that a bat survey be carried out during the active season between May-September. These details should be conditioned to be undertaken prior to the demolition of the building on the site, in order to ensure the protection of any species habiting the area.

The tree survey and Arboricultural Impact Assessment concluded that there are 5 trees on and around the site which are in good condition and it is proposed that these are retained. Further trees will be felled during the site clearance – this is considered to be acceptable due to their condition and lack of official protection.

A full landscaping condition has been requested by the Arboricultural Officer in order to ensure that the lost trees are replaced and that an ongoing maintenance plan is secured.

On this basis, the application is considered to comply with Policies ENV3 and DM28 of the CS and Policies N1PU, N3PU and N13PU of the ELP.

Rights of Way

Public Right of Way number 403017 runs adjacent to the site from northeast to southwest. The Rights of Way Officer raised no objections to the proposal but advised that the path must not be obstructed or altered. Any requirement to temporarily close or divert the footpath must be applied for separately.

Access, Parking and Highway Safety

Policy T1 of the CS requires mitigation measures to be secured to address the impact of major housing schemes on the Boroughs transportation system. Policies DM22 of the CS and CO7PU of the ELP requires developments to be accessible to all users and to meet adopted car parking standards, which reflect the needs of the Borough in its rural context.

The site will be accessed from the existing road network off Crossings Close which joins onto Whitehaven Road to the northeast. Cumbria Highways requested a Road Safety Audit and vehicle tracking plans to show how the site could accommodate the occupants and any emergency and refuse vehicles. This information was considered to be satisfactory with Cumbria Highways suggesting a number of conditions to ensure the appropriateness of the development.

Due to the size of each plot, it is considered that there is ample space for off street parking and turning to be available to serve each dwelling. This detail can be considered at the reserved matters stage.

Furthermore, it was suggested that contributions may be required for any works to Whitehaven Road to aid the development, However, on further consideration of the scale of the works, this was deemed to be unreasonable and the request was therefore removed by the Highway Authority.

On this basis the proposal is considered to be compliant with Policies T1 and DM22 of the CS and Policy CO7PU of the ELP.

Planning Balance

The principle of developing this site for residential purposes is acceptable as the site is located within the existing settlement boundary of Cleator Moor which is listed under Policy ST2 of the CS as one of the Borough's Key Service Centres. The site is capable of accommodating 11 dwellings which can be accommodated on the site in a satisfactory layout without causing any detriment to the surrounding residential units.

The proposal submitted includes a mix of 3 and 4 bedroomed homes. The provision of family homes is welcome and the site provides a balanced mix of dwelling types that will respond to market requirements and the needs of the Borough.

The demolition of the existing building is considered to be acceptable as it is not used and has no designation or architectural interest.

As the application is in outline form only no details have been provided with regard to the scale or appearance of the proposed dwellings, however it is considered that any development on this site can achieve the required separation distances to mitigate overlooking and privacy concerns. The development will be viewed within the context of the surrounding existing properties which will limit its visual impact within the locality.

Issues relating to ground conditions have been considered and suitably worded planning conditions are proposed in order to ensure that investigations and mitigation measures are implemented prior to the commencement of works on the site.

Whilst the principle of draining the site has been established and approved, due to the sensitive location close to Nor Beck, full details are required to be submitted at a later stage.

A Road Safety Audit has confirmed that the use of the access road off Whitehaven Road through Crossings Close is appropriate. A number of conditions are proposed to ensure that the highways are constructed to a minimum standard and maintained for the lifetime of the development.

The existing ecological interest on the site has been assessed with the retention of trees where possible and further investigation proposed to ensure that no protected species are harmed or displaced during the demolition or construction process.

On balance, the proposal is considered to be an acceptable form of sustainable development which is compliant with policies of the Copeland Local Plan, the emerging local plan and the provisions of the NPPF.

Recommendation:

Approve subject to the following conditions: -

1. The layout, scale, appearance and landscaping shall be as may be approved by the Local Planning Authority.

Reason

To comply with Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Detailed plans and drawings with respect to the matters reserved for subsequent approval shall be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted shall be commenced not later than the later of the following dates:-

- a) The expiration of THREE years from the date of this permission

Or

- b) The expiration of TWO years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. 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 1:1250, drawing number SNG-StBega-SLP-OPA, received 23rd November 2021;
- Proposed Site Plan, scale 1:500, drawing number SNG-SBOP-PSP22D, received 29th November 2022;
- Flood Risk Assessment, written by Betts Hydro, received 23rd November 2021;
- Coal Mining Risk Assessment, written by MBC Designs, received 23rd

November 2021;

- Preliminary Ecological Appraisal, written by Elite Ecology, received 23rd November 2021;
- BS5837:2012 Tree Survey and Arboricultural Impact Assessment, written by Elite Ecology, received 23rd November 2021;
- Design and Access Statement, written by South North Group, received 23rd November 2021;
- Phase 1 Environmental Desk Study, written by Rogers Geotechnical Services Ltd, reference number C2064/21/E/3181, received 1st August 2022;
- Mine Entry Positional Review, written by RGS, received 3rd November 2022;
- Flood Risk Assessment and Drainage Management Strategy, written by Betts Hydro, received 31st August 2022;
- Flood Risk Assessment and Drainage Management Strategy Appendices, written by Betts Hydro, received 31st August 2022;
- Refuse Lorry Tracking Plan, scale 1:500, drawing number SNG-SBOP-PSP22RLT, received 3rd November 2022;
- Road Safety Audit, written by RG Parkins, reference K39555.RSAS2/001b, received 3rd November 2022;
- Road Safety Audit Appendices, written by RG Parkins, reference K39555.RSAS2/001b, received 3rd November 2022;
- Swept Path Analysis Fire Appliance Entering/Turning, scale 1:500, drawing number SK22283-003, received 3rd November 2022;
- Swept Path Analysis Fire Appliance Leaving, scale 1:500, drawing number SK22283-004, received 3rd November 2022;
- Swept Path Analysis Refuse Collection Vehicle Entering/Turning, scale 1:500, drawing number SK22283-001, received 3rd November 2022;
- Swept Path Analysis Refuse Collection Vehicle Leaving, scale 1:500, drawing number SK22283-002, received 3rd November 2022;
- Sequential and Exception Tests, written by South North Group, received 24th January 2023.

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.

4. Prior to, or concurrent with, the reserved matters submission for Plot 11, the

findings of a scheme of intrusive site investigations to locate the mine entry within the plot must be submitted to the LPA for consideration. The information submitted must include recommendations for remedial works and mitigation measures necessary to ensure the safety and stability of the development. A plan must also be submitted to the LPA to show the location of the mine entry, as established, its calculated zone of influence and its relationship to the siting of the dwelling on Plot 11.

Reason

In order to ensure that the potential mining issues are dealt with safely and satisfactorily and in accordance with Policy ST1 of the Copeland Local Plan.

Prior to the commencement of development

5. Prior to the commencement of development hereby approved, a full surface water drainage scheme, including attenuation measures, must be submitted to and approved in writing by the Local Planning Authority. The approved scheme must become operational before the development is brought into use and must be so maintained thereafter.

Reason

To ensure a satisfactory scheme of surface water disposal from the site and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

6. Prior to the commencement of development hereby approved, a Phase 2 Intrusive Investigation must be undertaken and submitted in writing to the Local Planning Authority. Development must be carried out in accordance with any findings, recommendations and mitigation measures within the report for the entirety of the lifespan of the development.

Reason

Due to the potential range of potential soil / ground contaminants, the risk of mine gas migration and further study to substantiate the risk associated with historical mine shafts on the site and in accordance with Policy ST1 of the Copeland Local Plan.

7. Prior to the commencement of the development hereby approved, a construction management plan or construction method statement must be submitted to and

approved in writing by the Local Planning Authority. The approved / plan statement shall be adhered throughout demolition / construction period.

Reason

To ensure a satisfactory level of demolition and construction and in accordance with Policy ST1 of the Copeland Local Plan.

8. Prior to commencement of the development, a scheme of intrusive site investigations must be carried out on site to establish the risks posed to the development by the mine entry and its zone of influence. The findings of these investigations, including any remedial works necessary, must be submitted to the LPA for consideration and approval in writing.

Reason

To ensure that the site ground conditions are safe and in accordance with Policy ST1 of the Copeland Local Plan.

9. No development approved by this planning permission must commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
 1. A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
 2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme must be implemented as approved.

Reason

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, full details of the landscaping scheme for the development, including details of trees and hedgerows to be removed and replacement trees, their planting and maintenance, must be submitted to and approved in writing by the Local Planning Authority. The development must be carried out in accordance with the approved details and retained and managed as such at all times thereafter.

Reason

In order to ensure that the site includes net gain and in accordance with Policies ENV3, DM26 and DM28 of the Copeland Local Plan.

11. Prior to the commencement of the development hereby approved, the carriageway, footways, footpaths, cycleways etc must be designed, constructed and drained to the satisfaction of the Local Planning Authority and in this respect further details, including longitudinal/cross sections, must be submitted for approval. No work will be commenced until a full specification has been approved. Any works so approved must be constructed before the development is complete.

Reason

To ensure a minimum standard of construction in the interests of highway safety and in accordance with Policies T1 and DM22 of the Copeland Local Plan.

12. Prior to the commencement of the development on site, a 2.0 metre x 2.0 metre pedestrian visibility sight splay as measured from the highway boundary (or footpath boundary), must be provided on both sides of the vehicular access. There must be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

Reason

To provide adequate inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access and in accordance with Policies T1 and DM22 of the Copeland Local Plan.

Prior to the commencement of works on Plot 11

13. If the mine entry is found to be located outside of Plot 11 remedial works must be carried out on site to stabilise this feature prior to the infrastructure (access road and turning head) being constructed to the front and side of this plot. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason

To ensure that historic mining issues on the site are dealt with effectively and in accordance with Policy ST1 of the Copeland Local Plan.

14. Prior to commencement of the development on Plot 11 the remedial works necessary to ensure the stability and safety of the mine entry and the development as a whole, including any mitigation measures required must be implemented on site. The intrusive site investigations and remedial works must be carried out in accordance with authoritative UK guidance.

Reason

To ensure that historic mining issues on the site are dealt with effectively and in accordance with Policy ST1 of the Copeland Local Plan.

Prior occupation conditions

15. Prior to the occupation of Plots 10 and 11, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development must be submitted to the Local Planning Authority for approval in writing. This document must confirm the completion of any remedial works and/or mitigation necessary to address the risks posed by the mine entry.

Reason

To ensure that historic mining issues on the site are dealt with effectively and in accordance with Policy ST1 of the Copeland Local Plan.

16. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

- 17. Prior to the first occupation of the dwellings hereby approved, the access drive must be surfaced in bituminous or cement bound materials, or otherwise bound. This surfacing must extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason

In the interests of highway safety and in accordance with Policies T1 and DM22 of the Copeland Local Plan.

- 18. Prior to the first occupation of the dwellings hereby approved, footways must be provided that link continuously and conveniently to the nearest existing footway.

Reason

To ensure highway safety and in accordance with Policies T1 and DM22 of the Copeland Local Plan.

Other conditions

- 19. Foul and surface water must be drained on separate systems.

Reason

To secure proper drainage and to manage the risk of flooding and pollution and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

20. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development must be carried out in accordance with the approved details.

Reason

To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants and in accordance with Policy ST1 of the Copeland Local Plan.

Informatives

1. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

2. Japanese Knotweed has been identified on the site. The site should be thoroughly inspected and reference made to Code of Practice For The Treatment of Japanese Knotweed PCA 2018 and INNSA 2017 respectively.

3. The development lies within an area of elevated Radon potential, with a maximum potential of 10 – 30%. Please refer to UKradon.org.
4. It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.
5. The intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary.

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of any Permit application.

6. The granting of planning permission would not give the applicant the right to block or obstruct the right of way adjacent to the development site.

The right of way as shown on the definitive map and statement must be kept open and unaltered for public use, unless or until an order is made to divert, stop up or to temporarily close it comes into effect.

The applicant should contact Copeland Borough Council in the first instance if they wish to discuss the process for an application for an order to divert, stop up or temporarily close a right of way shown on the definitive map and statement.

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.