

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/21/2511/OF1
2.	<b>Proposed Development:</b>	500 METRES LONG FIELD ACCESS TRACK
3.	<b>Location:</b>	CASTLERIGG FARM, MORESBY PARKS
4.	<b>Parish:</b>	Distington
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Development Referral Area - Data Subject to Change
6.	<b>Publicity Representations &amp;Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>  <b>SITE AND LOCATION</b>  <p>This application relates to Castlerigg Farm, located north of Moresby Parks. The farm is accessed from the road leading from Moresby Parks to Distington and is located off a small access road which only serves Castlerigg Farm.</p> <b>PROPOSAL</b>  <p>Planning Permission is sought for the formation of a 500m long hardcore access track. The track will cross three fields owned by the Applicant and follow the fence with the dismantled railway along the ? boundary. The track will be 2.8m wide and constructed from recycled crushed stone with a short section requiring excavation. The removed earth will be used as a ramp.</p> <b>RELEVANT PLANNING APPLICATION HISTORY</b>	

4/09/2133/0 : Change of use of agricultural land for levelling of garden area to rear & improved access to transmitter - 11/05/2009 - approve (commence within 3 years)  
4/13/2125/0F1 : Erection of one wind turbine (up to a maximum height of 77m to blade tip) and associated infrastructure including: turbine foundation, crane hard-standing, substation, electrical cabinet, new access track and underground cabling.  
4/13/2125/0F1 : Erection of one wind turbine (up to a maximum height of 77m to blade tip) and associated infrastructure including: turbine foundation, crane hard-standing, substation, electrical cabinet, new access track and underground cabling - 16/04/2014 - Approve (commence within 3 years)  
4/14/2309/0F1 : Variation of condition 9 of planning ref 4/13/2125/0f1 (erection of wind turbine) regarding noise.  
4/14/2309/0F1 : Variation of condition 9 of planning ref 4/13/2125/0f1 (erection of wind turbine) regarding noise - 12/11/2014 - Approve (commence within 3 years)  
4/15/2240/0F1 : Erection of general purpose building - 28/07/2015 - Approve (commence within 3 years)  
4/21/2123/0F1 : Erect two storey extension to north elevation, approved  
4/21/2296/0F1: Erect agricultural general purpose workshop building, approved  
4/21/2303/0F1: Erect cattle cubicle building including underfloor slurry store, approved

## **CONSULTATION RESPONSES**

### Parish Council

No objections

### Cumbria County Highways

The proposed access track will not connect to the highway and is unlikely to have an effect on the existing highway conditions. I can therefore confirm that the Highway Authority have no objections to this proposal.

### 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.

A 250m section of proposed access track in field number 3294 follows the line of FP 404004, see attached plan.

We would advise that:

- The granting of planning permission would not give the applicant the right to block or obstruct any of the rights of way within fields no. 3294 & 4905.

- The right of way within the fields 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 them comes into effect.
- The applicant should contact Copeland Borough Council in the first instance to discuss the process for an application for an order to temporarily close the right of way shown on the definitive map and statement for the duration of away works affecting FP404004.

#### Flood and Coastal Defence Engineer

##### 1<sup>st</sup> response

With regards to the above application there is insufficient information with regards to drainage.

The application simply states surface water will be disposed of by means of a sustainable drainage system and a note has been added saying free draining soils.

Although not familiar with the site itself, my experience of soils locally is that they are not free draining and rapidly become saturated.

The use of crushed stone to form the track will reduce the permeability of the land.

Although outside my remit, where the track will need to be dug out of the field, I'm concerned about slope stability, as the fields are already described as steep, so increasing the slope could cause stability problems.

##### 2<sup>nd</sup> response

I really don't know whether it is adequate or not.

I did speak to the LLFA after the initial consultation and similarly it is a bit of a grey area.

#### Local Lead Flood Authority

The applicant has stated that the proposed site is of a steep nature and given the reduction in existing permeable surface we do recommend that the applicant considers the a drainage strategy to ensure there is no increased flood risk as a result of this proposal. We therefore recommend the submission of a full surface water drainage plan, prior to the commencement of works.

#### The Coal Authority

I have reviewed the site location plans and the proposals and supporting information submitted and available to view on the LPA website and can confirm that the site falls within the defined Development High Risk Area.

The Coal Authority records that the site is in an area of likely historic unrecorded coal workings at

shallow depth. If shallow coal workings are present then these pose a potential risk to surface stability and public safety.

As you will be aware, the Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application.

However, when considering the nature of this particular development proposal, it does not appear that the 500 meter long field access track and associated excavations will require significant foundations or earthworks. On this basis we do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the nature of the development proposed in this particular case and do not object to this planning application.

#### Public Representation

The application has been advertised by way of a site notice.

No consultation responses have been received.

#### **PLANNING POLICIES**

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

#### **Development Plan**

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

#### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ENV1 – Flood Risk and Risk Management

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

#### **Other Material Planning Considerations**

National Planning Policy Framework 2021 (NPPF)

### Emerging Copeland Local Plan

The emerging Copeland Local Plan 2017-2035 was recently the subject of a Preferred Options Consultation. The Preferred Options Consultation builds upon the completed Issues and Options Consultation which finished in January 2020. Given the stage of preparation, the emerging Copeland Local Plan 2017-2035 has only limited weight in decision making, but provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the National Planning Policy Framework.

## **ASSESSMENT**

### Principle of the Development

Policy ST2 of the Copeland Local Plan sets out a spatial development strategy which seeks to allow development within the defined settlement boundary and restricts development outside of the designated settlements to that which has a proven requirement for such a location. The site is located close to Low Moresby, but not within any of Copeland's identified settlement boundaries, however, Policy ST2 allows for land uses characteristically located outside settlements within the open countryside, such as agriculture. The track is required to provide safe access for the farmers across a number of fields. It is considered that the justification provided is sufficient in this case.

On this basis, the principle of the development is considered to be acceptable in this location.

### Access and Impact on Public Right of Way

The existing access to the farm will remain in use and unaffected by this proposal. Cumbria Highways raised no objections to the proposal stating that there is unlikely to be a material effect on the existing situation.

The Countryside Access Officer noted the location of the proposed track in relation to the existing PROW and has requested that informative notes are added to any decision notice.

Overall, the proposal complies with Policy DM22 of the Copeland Local Plan in relation to accessibility.

### Drainage

The proposed development is unlikely to have any significant effect on the existing drainage situation as infiltration will still be possible through the proposed hardcore surface material, however the Local Lead Flood Authority have requested a full surface water drainage scheme be submitted prior to the commencement of the development. Subject to the submission of this information It is considered that the proposal will comply with Policies ENV1 and DM24 of the Copeland Local Plan, protecting the Borough from flood risk.

	<p><u>Land Stability</u></p> <p>Concerns with regards to land stability were raised by the Council's Coastal and Flood Defence Engineer. The Agent responded that the track follows the lowest section of the fields and is relatively level, except for a small section. As it will run adjacent to the disused railway cuttings that have been in situ for 150 years, it is considered unlikely that stability issues would arise. The Coal Authority considered land stability in their response and concluded that the works would be shallow and therefore unlikely to create issues.</p> <p><u>Planning Balance and Conclusion</u></p> <p>No objections have been received to the proposal.</p> <p>The principle of an agricultural development in this location is acceptable as it requires a siting outside of the Borough's defined settlements. There will be a neutral impact on the surrounding landscape due to the proposed surface materials, its siting adjacent to a railway embankment and the narrow width of the track proposed. Access to the site will remain as existing and the development is unlikely to create a significant impact on the surrounding road network. A full surface water drainage plan is required to be provided prior to the commencement of development to ensure that flooding issues do not arise.</p> <p>The proposal will encourage the continued use and expansion of the working farm.</p> <p>Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPF and policies within the adopted Local Plan.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li> <p>The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</p> <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p> </li> <li> <p>Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -</p> <p>Site Plan and Section, scale 1:2500 and 1:200, drawing number 1720, received 23<sup>rd</sup> November 2021;</p> </li> </ol>

Design and Access Statement, written by RA. Walker, received 23<sup>rd</sup> November 2021.

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.

Pre-commencement condition

3. 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.

**Informatives**

1. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. 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 a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) <<http://www.groundstability.com>> or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

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4. The applicant should contact Copeland Borough Council in the first instance to discuss the process for submitting an application for an order to temporarily close the right of way shown on the definitive map and statement for the duration of any works affecting FP404004.

#### **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.

**Case Officer: Sarah Papaleo**

**Date : 17/01/2022**

**Authorising Officer: N.J. Hayhurst**

**Date : 17/01/2022**

**Dedicated responses to:- N/A**



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