

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/21/2553/OB1
2.	Proposed Development:	VARIATION OF CONDITIONS 2 (PLANS), 5 (GAS REGIME), 7 (SURVEY OF CULVERT), 8 (CONSTRUCTION MANAGEMENT PLAN), 9 (LANDSCAPING) AND 10 (ARBORICULTURAL METHOD SURVEY) OF PLANNING APPROVAL 4/21/2339/0F1 - CONSTRUCTION OF 14 DWELLINGS FOR AFFORDABLE RENT AND ASSOCIATED INFRASTRUCTURE, PARKING AND LANDSCAPING
3.	Location:	JEFFERSON PARK, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: YES Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>Site and Location This application relates to land at Jefferson Park.</p> <p>Outline planning permission was originally granted for the redevelopment of the site for residential use in 1998 (application reference 4/98/0311/0 relates). A subsequent application for the erection of 48 dwellings was approved in 2007 (application reference 4/06/2681/0 relates). Phase one of the development comprising 24 units has been complete.</p> <p>Full planning permission was granted by the Members of the Planning Panel in November 2021 for</p>

the erection of 14 dwellings on the site for affordable rent, including the associated infrastructure, parking and landscaping (application reference 4/21/2339/OF1 relates).

The Application Site covers an area of 0.32 hectares and includes land to the west of Rose Cottage and the undeveloped areas on the site between the existing estate road and the 24 dwellings that were erected under phase one.

Jefferson Park is accessed directly from Low Road and is adjoined by the cemetery to the south and open fields to the north and west.

Proposal

This application seeks alterations to the approved application (reference 4/21/2339/OF1) by way of variation of conditions as follows:

- Variation of condition 2 for alterations to the plot and parking positions and addition of retaining walls;
- Variation of condition 5 to allow for CS2/Amber 1 protection measures to be installed with a validation certificate to be provided by Copeland Borough Council;
- Removal of condition 7 due to the submission of CCTV information;
- Variation of condition 8 to allow works to be undertaken in accordance with the submitted Construction Method Statement;
- Variation of condition 9 to allow works to be undertaken in accordance with the soft landscaping scheme provided;
- Variation of condition 10 to allow works to be undertaken in accordance with the submitted Arboricultural Method Statement.

The application has been submitted with the following information:

- Proposed site layout;
- Plot elevational drawings;
- Boundary and materials plan;
- Landscaping plan;
- Construction/Environmental management plan;
- Arboricultural method statement;
- CCTV Inspection report.

Relevant Planning Application History

Outline application for residential development, approved in July 1998 (application reference 4/98/0311/0 relates);

Access and site layout details for private housing estate, approved in June 2003 (application

reference 4/03/0450/0 relates);

48 dwellings, approved in February 2007 (application reference 4/06/2681/0 relates);

Variation of conditions 6, 12, 13, 18 and deletion of condition 23 of planning approval 4/06/2681/0F1 for 48 dwellings, approved in December 2012 (application reference 4/12/2482/0F1 relates);

Construction of 14 dwellings for affordable rent and associated infrastructure, parking and landscaping, approved in November 2021 (application reference 4/21/2339/0F1 relates)

Consultation Responses

The Coal Authority

As you are aware, the Coal Authority raised no objections to the Local Planning Authority (LPA) granting planning permission for application: 4/21/2339/0F1. This was subject to the LPA imposing a suitable worded condition to secure the undertaking of remediation and / or mitigation measures to address the land instability arising from former coal mining activity at this site, identified by the applicant's geotechnical consultants: E3P Ltd, report author of the Coal Mining Risk Assessment, 19 July 2021. We are pleased to note that the LPA imposed such a condition(s): Conditions 3 and 11.

We note that Condition 3 is being considered as part of this application (Cover Letter dated 09 December 2021, Home Group) however, it would appear that this relates to Condition 5 and not Condition 3.

Accordingly, the Coal Authority has no objections to this variation of condition application however, we would request that the existing Conditions (3 and 11) be re-imposed on any new planning permission granted.

Local Lead Flood Authority

1st response

CCTV surveys have been carried out on the existing drainage system further to our response to 4/21/2339/0F1. The section that we were interested in was downstream of the site and the CCTV survey has been carried out within the site only. The report states that they were unable to survey Pow Beck. If this section cannot be surveyed then we would need the applicants to prove that the existing system is currently functioning through other means such as dye testing.

The LLFA therefore cannot recommend that this condition is removed at this stage.

2nd response

Following our response dated 02.02.2022 there have been discussions between the LLFA and the agent who presented evidence of dye testing in Pow Beck from this site. The information provided shows that the existing system is function and we therefore raise no concerns with the discharge of this condition.

During conversations with the agent, they have stated that the applicant is proposing to combine the three attenuation tanks into two as shown on Drawing Number 20RevA. They have confirmed that the discharge rate will remain 1.2lit/sec and that there will be no reduction in parking as a result of this amendment. I can confirm that the LLFA have no objections.

Flood and Coastal Drainage Engineer

Condition 7 (Survey of Culverts)

A CCTV survey report has been submitted showing a survey of the culvert downstream of the proposed connection point. The survey extends downstream to just short of the next manhole, which lies off site. The survey did not extend the full length of the culvert due to the off site manhole being a back drop connection. Capacity wise, the survey only noted the estimated amount of water within the culvert at the time of the survey. No defects requiring remedial action were identified in the surveyed section of the culvert.

Cumbria Highways

Condition 2

I can confirm that the LHA raise no objections to the variations to this condition.

Condition 8

The LHA did not recommend this condition but having reviewed the Construction Management Statement, I can confirm we raise no concerns that the condition has been satisfied.

Housing Strategy and Inclusion Officer

The new documents do not alter the original comments from strategic housing re this application, so nothing further to add.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 36 no. properties.

No consultation responses have been received as a result of this advertisement.

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)

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 for New Residential Development

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements

HSG2 – New Housing Allocations

Proposals Map including settlement boundaries.

Other Material Planning Considerations

National Planning Policy 2021 (NPPF)

National Planning Practice Guidance (PPG)

National Design Guide (NDG)

Manual for Streets

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

Cumbria Development Design Guide (CDDG).

Strategic Housing Market Assessment 2021 (SHMA)

Copeland Housing Strategy 2019

Copeland Borough-Wide Housing Needs Survey 2020

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.

The Planning Practice Guidance (NPPG)

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

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

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

ASSESSMENT

Amendments to plot and parking layout and addition of retaining walls (condition 2)

The plot layout and parking has been amended to allow for the addition of retaining walls due to the site topography. This has repositioned plots 1-3 further north in the site, however the layout remains similar to what was previously approved. Retaining walls will be required surrounding plots 1-3 and 4-8 with a further retaining wall between plots 12 and 13-14.

Overall, the principles of the previously approved dwellings remain the same, with some minor alterations that are considered to be acceptable in this situation.

All other details of the previously approved development are unchanged.

Gas regime (condition 5)

The Applicants have requested a variation to the following condition:

Prior to the commencement of works, the current gas regime on site following Ciria 665, undertaking monitoring for a minimum of 3 months with at least 1 measurement below 1000 millibars must be submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that the site is suitable for residential development in accordance with Policy ST1 of the Copeland Local Plan.

The Applicants state that the site is underlain by known voids related to historic coal workings. The wells installed historically were shallow with monitoring response zones in the drift deposits and as such, the potential for mine gas was not recorded with the previous monitoring. The Applicant states that the site needs to be grouted and stabilized to facilitate development, as such, there is a potential for the displacement of gas and associated migration pathways.

The Applicant has suggested a condition to ensure that CS2/Amber 1 protection measures are installed.

Pre-application discussions were undertaken with the Environmental Health Manager, whereby the following was stated:

“The pre commencement condition can be revised based on the proposal to install CS2/Amber 1 protection measures with a validation certificate submitted.

The information provided by e3p and the covering letter of 9th December 2021 detail that the CS2/Amber 1 protection measures are for a Type A Building (private housing), where it is envisaged that a point score of 3.5 will be required in accordance with BS8485 (2015) +A1 (2019). The 3.5 points will be achieved by a combination of the following mitigation measures:

- *Cast in-situ monolithic reinforced ground-bearing raft or reinforced cast in-situ suspended floor slab with minimal penetrations (1.5 Points); and*
- *Installation of a suitable gas resistant membrane independently validated by E3P (2 Points).*

The ground gas membrane will be installed by the contractors’ specialists and independently validated by E3P where a validation certificate will be issued.

Planning will be advised that the following condition is proposed:

Prior to the occupation of the development , a validation report shall be submitted to the Local Planning Authority once all remediation works are completed. All work shall be undertaken in

accordance with current UK guidance, particularly Land Contamination Risk Management (LCRM) guides.

The validation report will be required to include details of the gas membrane installed, details of all grouting and location plans, report from the approved installer, independent validation certificate and monitoring results.”

The application also includes 2 further conditions with regards to historic coal mining which are likely to highlight any issues with ground gas. As a result, it is recommended that condition 5 is varied to the wording requested by the Applicants.

CCTV exploration (condition 7)

A CCTV exploratory report has been submitted to show investigations within the site. The LLFA requested further information to show that the pipes off site had also been considered. The Applicant submitted information showing dye testing at Pow Beck and that the systems were all functioning correctly.

This condition can therefore be removed as it has been complied with.

Construction method statement (condition 8)

The construction method statement details a hierarchy of contractors, the method of construction, risk assessments, construction parking, working hours, site security, welfare facilities, the storage of substances, visual amenity and communication with the public. The document is considered to be very comprehensive and should allow for the construction to be undertaken with as little impact on the surrounding properties as possible.

It is considered that this condition should be varied to ensure that the construction is undertaken in accordance with the Construction Method Statement.

Soft landscaping (condition 9)

A soft landscaping plan has been submitted to show large areas of amenity grassed open space and individual turfed gardens for each property. The removal of some of the trees was agreed during the full planning application and the plan shows the retention of the majority of the dense tree area to the west of the site. Overall, the scheme is considered to be acceptable for a residential area in this location and the scheme will tie in with the dwellings already in situ.

Condition 9 should be varied to ensure compliance.

Arboricultural information (condition 10)

The information provided is comprehensive and suitable for a housing development in this location. The submitted Arboricultural Method Statement includes recommendations for tree protection and

	<p>the removal of 4 trees within the site. The trees have been identified as Category C under the BS5837 Tree Retention Categories. Trees that fall under this category are considered to be of very low quality and their loss is not considered to be a planning risk.</p> <p>As a result of the information submitted, the condition can be varied to ensure that development is undertaken in accordance with the submitted Arboricultural Method Statement.</p> <p>CONCLUSION</p> <p>In my opinion, the revisions are minimal and considered to be acceptable to vary condition 2. Sufficient information has been submitted to justify the revision of or comply with conditions 5, 7, 8, 9 and 10 and it is considered that the variation of these conditions to include the submitted information will ensure ongoing compliance for the future of the development.</p> <p>In accordance with the guidance set out in the NPPG it is appropriate to repeat the relevant conditions from the original permission that have not been discharged. As a Section 73 application cannot be used to vary the time limit for implementation condition 1 has been amended to ensure that the 3 year time period remains intact from the date of the original permission date.</p>
8.	<p>Recommendation: Approve</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. The development hereby permitted must be commenced before the expiration of three years from the date of 25th November 2021. <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> <ol style="list-style-type: none"> 2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: - <p>Site Location Plan, scale 1:1250, drawing number 101, received 22nd July 2021; Block Plan, scale 1:200, drawing number 201A, received 16th December 2021; Site Plan, scale 1:200, drawing number 202A, received 16th December 2021; HT01 Floor Plans and Elevations, scale 1:100, drawing number 203, received 22nd July 2021; HT01 Floor Plans and Elevations, scale 1:100, drawing number 204, received 22nd July 2021; Plot 1-3 Overall Elevations, scale 1:50, drawing number 21039-90003A-A, received 16th December 2021; Plot 4-8 Overall Elevations, scale 1:50, drawing number 21039-90004A-A, received 16th</p>

December 2021;
Plot 4-8 Overall Elevations 2, scale 1:50, drawing number 21039-90005A-A, received 16th December 2021;
Plot 9-12 Overall Elevations, scale 1:50, drawing number 21039-90007A-A, received 16th December 2021;
Plot 13-14 Overall Elevations, scale 1:50, drawing number 21059-90008A-A, received 16th December 2021;
Materials and Boundary plan, scale 1:200, drawing number 205A, received 16th December 2021;
Site Sections, scale 1:200, drawing number 206, received 22nd July 2021;
House Types, scale 1:100, drawing number 207, received 22nd July 2021;
External Materials Schedule, drawing number 001, received 22nd July 2021;
Topographical Information, scale 1:200, drawing number 102, received 22nd July 2021;
Phase 1 and II Geo-Environmental Site Investigation, written by E3P, received 22nd July 2021;
Preliminary Ecological Appraisal, written by Hesketh Ecology, received 14th September 2021;
Coal Mining Risk Assessment, written by E3P, received 14th September 2021;
Flood Risk Assessment and Drainage Strategy Phase 2, written by RG Parkins, received 14th September 2021;
Operation and Maintenance Plan for Sustainable Drainage Systems Phase 2, written by RG Parkins, received 8th November 2021;
Affordable Housing Statement, received 22nd July 2021;
Transport Statement, written by Modal Highway Consultants Limited, received 22nd July 2021;
Pre-development Arboricultural Report, written by Treescapes Consultancy Ltd, received 22nd July 2021;
Design and Access Statement, written by Home Group, received 22nd July 2021.
Construction/Environmental Management Plan (CEMP), dated November 2021, received 16th December 2021;
Landscaping Plan, scale 1:200, drawing number 208, received 16th December 2021;
Arboricultural Method Statement, dated December 2021, written by Treescapes Consultancy Ltd, received 16th December 2021;
CCTV Inspection Report, written by SK Drainage Solutions Ltd, received 16th December 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.

3. No development must commence until the remediation works and/or mitigation measures to address land instability arising from coal mining legacy have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.
The intrusive site investigations and remedial works must be carried out in accordance with

authoritative UK guidance.

Reason

To ensure that land stability is ensured in accordance with Policy ST1 of the Copeland Local Plan.

4. Prior to the commencement of development, a full and detailed specification for the consolidation of abandoned mine workings must be submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure the stability of the land, in accordance with Policy ST1 of the Copeland Local Plan.

5. Prior to the occupation of the development, a validation report must be submitted to the Local Planning Authority once all remediation works are completed. All work must be undertaken in accordance with current UK guidance, particularly Land Contamination Risk Management (LCRM) guides.

The validation report is required to include details of the gas membrane installed, details of all grouting and location plans, report from the approved installer, independent validation certificate and monitoring results

Reason

To ensure that ground gas is considered and dealt with satisfactorily in accordance with Policy ST1 of the Copeland Local Plan.

6. 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. The results of the site investigation and the detailed risk assessment referred to in (2) 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.
 2. 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 (3) 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 and maintained as such at all times thereafter.

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 174 of the National Planning Policy Framework and in accordance with Policy ST1 of the Copeland Local Plan.

7. -

8. Construction must be undertaken at all times in accordance with the submitted Construction/Environmental Management Plan (CEMP), dated November 2021 and received 16th December 2021.

Reason

To safeguard the amenity of the existing occupants on Jefferson Park and in accordance with Policy ST1 of the Copeland Local Plan.

9. Development must be undertaken and retained in accordance with the Landscaping Plan, scale 1:200, drawing number 208, received 16th December 2021.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DM26 of the Copeland Local Plan.

10. Development must be undertaken at all times with the submitted Arboricultural Method Statement, dated December 2021, written by Treescapes Consultancy Ltd, received 16th December 2021.

Reason

To ensure a satisfactory appearance and method in accordance with Policy DM26 of the Copeland Local Plan.

11. Prior to the occupation of the development, or it being taken into beneficial use, 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 methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason

To safeguard the amenities of occupiers and in accordance with Policy ST1 of the Copeland Local Plan.

12. All external lighting must meet the guidelines and obtrusive limits details in the institute of lighting professionals Guidance Notes for the Reduction of Obtrusive light (GN01:2011) and be retained as such at all times thereafter.

Reason

To ensure the amenity of all occupants in accordance with Policy ST1 of the Copeland Local Plan.

13. The drainage for the development hereby approved, must be carried out in accordance with principles set out in the submitted Foul & Surface Water Drainage Design Drawing K38379 - 100, Rev 0 - Dated 02.07.2021 which was prepared by RGPARKNS. For the avoidance of doubt and unless otherwise agreed in writing by the Local Planning Authority. No surface water will be permitted to drain directly or indirectly into the public sewer. The development must be completed in accordance with the approved details.

Reason

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

14. The development must be constructed, maintained and managed in accordance with the Operation and Maintenance Plan for Sustainable Drainage Systems, written by R.G. Parkins, received 14th September 2021 for the lifetime of the use of the site.

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.

15. All recommendations and mitigations set out in the Preliminary Ecological Appraisal, written

by Hesketh Ecology, received 14th September 2021 must be considered and implemented at all times during the site clearance and ongoing development.

Reason

To ensure the protection of all species and possible species on site and in accordance with Policy ENV3 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:

<https://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 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

2. A PROW (public footpath/bridleway/byway) number 43101 lies adjacent to the site, the Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

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 : 07/03/2022

Authorising Officer: N.J. Hayhurst

Date : 09/03/2022

Dedicated responses to:- N/A