

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/21/2565/OF1
2.	Proposed Development:	RETENTION OF NEW BUILDING TO BE USED AS A WORKSHOP AND STORE AND SURFACING OF YARD WITH CONCRETE (RETROSPECTIVE)
3.	Location:	UNIT 2, JOE MCBAIN AVENUE, MORESBY PARKS
4.	Parish:	Moresby
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Key Species - Bounds of Sensitive Area for Hen Harriers
6.	Publicity Representations & Policy	<p>Neighbour Notification Letter: YES</p> <p>Site Notice: YES</p> <p>Press Notice: NO</p> <p>Consultation Responses: See report</p> <p>Relevant Planning Policies: See report</p>
7.	<p>Report:</p> <p>SITE AND LOCATION</p> <p>This application relates to an existing building which is situated at Joe McBain Avenue on Moresby Commercial Park. The building is adjoined by residential properties to the north, a further commercial building to the west and unoccupied land to the east and south.</p> <p>The site covers a total area of 0.66 hectares.</p> <p>PROPOSAL</p> <p>Retrospective planning permission is sought for the retention of the building to be used as a workshop and store and to provide additional space to accompany the approved building known as Unit 2.</p> <p>The additional building has a floor space of 300 square metres. It measures 20.3m in length and 15.2</p>	

metres in width. There are two roller shutter doors on the southern elevation and a single pedestrian door in the western elevation.

The western part of the site is used as a storage yard in association with the hire of plant and tool equipment including the Unit 2 as a workshop, store and ancillary office with associated staff welfare facilities. The eastern part of the site is used as a storage yard in association with the hire of equipment and regularization.

The building – Unit 2 and associated yard was approved in 2021 under planning application reference 4/20/2369/0F1.

RELEVANT PLANNING APPLICATION HISTORY

2 no. factory units for classes B1, B2 and B8, approved in July 1994 (application reference 4/94/0339/0 relates);

The use of the western part of the site as a storage yard in association with hire of plant and tool equipment including the Unit 2 as a workshop, store and ancillary office, approved in July 2021 (application reference 4/20/2369/0F1 relates).

CONSULTATION RESPONSES

Environmental Health

1st Response

The recent planning application for GAP (4/20/2369/0F1) was dealt with by Thom Greer for EH at the time, but its subsequent approval does contain several conditions that address some of the residents' concerns highlighted in the objection letter –

- External Lighting – condition 2 relates to the standard of external lighting meeting guidance laid out in the Reduction of Obtrusive Lighting, and I presume that this condition would still apply to the proposed new building. I did visit Whinrigg Drive during hours of darkness on 06.10.21 and noted one light that was quite intrusive but works were ongoing to complete the site refurbishment at the time and it was agreed that we could assess more fully on their completion. The occupier has not contacted EH since then about this, though of course we are happy to attend. There is also the protection of provisions in s79 Environmental Protection Act 1990 relating to statutory nuisance from lighting.
- Planning approval 4/20/2369/0F1 also contains conditions relating to noise, namely (1) that an acoustic echo barrier was put in place on the northern boundary fence of GAP between

Whinrigg Drive and the site. This will give protection of perhaps 3 dBA from noise off the site (2) no machinery or plant should be left running on site after hours of working – the issues highlighted in the letter of objection relate to site preparation by contractors after the planning approval and were dealt with by Demi Crawford. No complaints have been received by EH about working after this. (3) general working hours of operation.

- The noise impact assessment submitted by JPM Acoustics was conducted from one day's activities (27.05.20) at GAP. Looking at levels measured, there is a range of noise activities. The GAP site is not intrinsically and consistently noisy in itself although there will be sporadic and temporary noisy activities like jet power washing and diesel compressors running. This can be expected to give off noise in the range of 60 – 70 dBA at Whnirigg Drive approx. 50 metres away. JPM's noise assessment does contain 1 x hour time period of noise at 66 DBA (between 10.00 to 110.00 hours 27.05.20 which could be a jet power washing event. The question would appear to be whether this isolated event is fully reflective of GAPs day-to-day activities.
- The noise values laid out in BS 8233 are for a 16 hours daytime average (from 07.00 – 23.00 hours) and I would not expect GAP to breach these given they are working only part of this time. If the current planning application is highly contentious from a noise perspective, because of the limited nature of JPM's noise impact assessment, we could either request or conduct a more thorough (say a full working week?) period of noise measurements and look at the subsequent BS4142 assessment results and compare it to what we have now. I am happy to organise this with the residents if it will help.

2nd response

Regarding the residents objections to this proposal and the noise impact assessment received from the applicant, the Council would wish to enlarge upon the scope of the acoustic data provided to fully endorse its conclusions, bearing in mind the Covid-related restrictions to working practices at the time when the noise assessment was initially conducted in 2020.

I would therefore request that the following condition is applied –

- No development shall take place until a detailed report (of at least one full working week Monday to Saturday) on the existing noise climate at the development site has been submitted to and approved in writing by the Council. The noise assessment shall be carried out by a suitably qualified person / acoustic consultant and shall take into account the provisions of BS 8233 : 2014 Guidance on Sound Insulation and Noise Reduction for Buildings and also be in accordance with BS 4142 : 2014 Methods for rating and assessing Industrial and Commercial Sound.

Reason : In order to safeguard the amenities of nearby residential occupiers. The details are needed so that any mitigating measures can be incorporated into the build / development.

If you're ok with this, please use it as EH response and let me know. I will organise a study to be conducted at Whinrigg Drive, though this will take several weeks to get completed and written up.

3rd Response

Please see attached a copy of the acoustic report from NCL, undertaken following recent noise monitoring of the GAP Plant Hire site.

The monitoring provided a fuller picture of the local acoustic environment than was previously available.

Its basic conclusions are that, whilst the background noise level of the locality is shown to be slightly louder than was the case during the period around the Covid-19 lockdowns, there are intermittent, sporadic and loud activities from the GAP Plant Hire site that impact unduly on residents at Whinrigg Drive.

As such, and notwithstanding that this development application is made retrospectively, I would comment as follows:

- The development shall not be permitted until a Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include, but not be limited to, such matters as - satisfactory maintenance of the noise barrier on the northern boundary of the GAP site (the barrier could be enhanced / replaced in the mid-term by a 2 m high close boarded and overlapping acoustic fence);
 - quiet/er site working methods that avoid undue loud shouting and the playing of amplified music;
 - avoiding noisy working activities inside the new skin / frame structure (this has very poor sound attenuation qualities);
 - no unnecessary idling of engines;
 - improved site layout to limit noisy working (avoiding use of car park for un / loading activities, relocate jet washing facility to south of site or, if not possible, to provide a localised noise barrier system between the jet wash activity and residents);

Reason: To safeguard the amenity of nearby residents and premises.

Cumbria Highways

It is considered that the proposal will not have a material effect on existing highway conditions. I can therefore confirm that the Highway Authority has no objection to the proposal.

Local Lead Flood Authority

It is understood that during the application 4/20/2369/0F1 for the same site, infiltration tests were carried out that demonstrated that the ground was not suitable for infiltration. It was agreed that surface water would be connected to and discharge to an existing watercourse in line with the drainage hierarchy and LLFA approval. It is proposed under the current application that surface water will connect to the ordinary watercourse as well. I can confirm that the LLFA have no objections to this proposal but it should be noted that ordinary watercourse consent may be required.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 5 no. properties.

4 responses have been received as a result of these advertisements raising concerns relation to the following:

- Visual impact;
- Noise pollution;
- Devaluation of surrounding residential properties;
- Parking issues due to associated wagons;
- Litter;
- Light pollution;
- Pollution from pressure washing oil;
- The building was erected in the wrong place.

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 ST2 – Spatial Development Strategy

Policy ER4 – Land and Premises for Economic Development
Policy ER5 – Improving the Quality of Employment Space
Policy ER6 – Location of Employment
Policy ER11 – Developing Enterprise and Skills
Policy ENV1 – Flood Risk and Risk Management
Policy ENV5 – Protecting and Enhancing the Borough’s Landscapes

Development Management Policies (DMP)

Policy DM3 – Safeguarding Employment Areas
Policy DM10 – Achieving Quality of Place
Policy DM11 – Sustainable Development Standards
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 (ELP):

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Publication Draft Consultation. The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Given the stage of preparation of the Copeland Local Plan 2017-2035 some weight can be attached to policies within the Publication Draft where no objections have been received. The Publication Draft 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 policies relevant to this application are as follows:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development
Strategic Policy DS3PU: Settlement Hierarchy
Policy DS6PU: Design and Development Standards
Strategic Policy DS8PU: Reducing Flood Risk
Policy DS9PU: Sustainable Drainage

Strategic Policy E1PU: Economic Growth

Strategic Policy E2PU: Location of Employment

Policy E7PU: Safeguarding of Employment Sites

Strategic Policy CO4PU: Sustainable Travel

Policy CO5PU: Transport Hierarchy

Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

ASSESSMENT

Principle of the Development

Policies ST1, ST2, ER4 and ER6 of the Copeland Local Plan are supportive of commercial development in this location. The site is already utilized by a large workshop and store in association with the same business seeking permission for this additional building. The site is within the Whitehaven Commercial Park, located at Moresby Parks, which has a number of existing units utilized by businesses.

The building fits neatly onto the site, with ample space remaining on the large plot. It is viewed in context with the existing buildings on the site and therefore it is not considered to create any visual amenity or landscape impact issues.

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

Noise Management

Policies ST1 and DM10 of the Copeland Local Plan seek to ensure that neighbouring amenity is unaffected by noise and lighting pollution. Several complaints have been received with regards to the proposed building from the dwellings to the north of the site. Despite the separation distance of around 30 metres between the commercial and residential buildings, neighbouring properties have been experiencing issues with noise relating to vehicles turning, banging, music and loud voices from workers.

During the previous application, approved in 2021, a noise assessment was carried out and submitted by the Applicant, which was approved by the Council's Environmental Health department. Several complaints have been received since then and therefore the Council's EH Officer has instructed an impartial noise assessment in order to gain a better understanding of the issues neighbours were experiencing. The report, surveyed from the garden of one of the neighbouring properties, detailed a background noise level of 36 dB. During the working hours of the business, the noise levels varied between 48 and 58 dB. The report concluded that the noise from the site results in a significant adverse impact on the nearby dwellings.

As a result, the Council's EH Officer requested that a noise management plan be submitted and

approved. It was considered prudent to request this prior to the determination of the application in order that noise issues are identified and mitigated as soon as possible. The plan included the maintenance of the noise barrier to the north of the site, site rules for employees and visitors and the use of sound reduced tools. Furthermore, the erection of a 3m acoustic barrier to the jet washing area was proposed in order to reduce the noise from this facility. The information was considered to be acceptable by the Environmental Health Officer with the provision of Statutory Nuisance Legislation available should excessive noise from the site persist after the implementation of this mitigation.

It is considered necessary to include a suitably worded planning condition to any approval to ensure that all details within the noise management plan are adhered to. This allows for the Planning Department to take enforcement action, should excessive noise be reported.

Overall, the proposal complies with policies ST1 and DM10 and the noise management plan should ensure that the neighbouring amenity is protected.

Parking and Access

Policy DM22 ensures that all new development includes sufficient access and parking. The proposal of a further building on the site will not reduce the number of available parking spaces and the number of employees on site will not be increased. Cumbria Highways considered that there was unlikely to be a material change to the existing highway conditions.

As a result, the proposal is considered to accord with this policy.

Drainage

In accordance with the agreed details for Unit 2, the site will drain to the ordinary watercourse. This was agreed by the Local Lead Flood Authority and it is considered that the proposal accords with Policies ENV1 and DM24 of the Copeland Local Plan and will not create flooding either on or off site.

Other Issues Raised by Objectors

Issues relating to litter and light and oil pollution are not material planning considerations and therefore have not been considered as part of this application. Environmental Health have powers in relation to these issues and may be able to enforce any ongoing issues experienced from the site.

Concerns with relation to the devaluation of residential properties cannot be considered as part of this application, as it is not a material planning consideration, however, the addition of a further building within a commercial site is unlikely to materially change the existing situation.

	<p><u>Planning Balance and Conclusion</u></p> <p>The addition of a further building on the site is in accordance with the aims of the Copeland Local Plan, where businesses are encouraged to expand and the Council seek to retain them within the Borough.</p> <p>Issues were raised by the occupiers of neighbouring properties relating to noise coming from the site and the adverse impact that this was having on residential amenity. As a result, an independent noise assessment resulted in the production of a noise management plan. This plan sets out mitigation measures to address the issues raised by local residents and can be secured through appropriately worded planning conditions.</p> <p>Overall, subject to the implementation of the mitigation measures proposed, this is considered to be an acceptable form of development that accords with the policies within the Copeland Local Plan and should be approved.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <p>1. 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 Location Plan, scale 1:1250, drawing number AL(0)001 C, received 29th December 2021; Site Plan, ownership and lease areas, scale 1:500, drawing number AL(0)1000, received 29th December 2021; Elevations 1 of 2, scale 1:100, drawing number 36646, received 29th December 2021; Elevations 2 of 2, scale 1:100, drawing number 36646, received 29th December 2021; Floor and roof plan, scale 1:100, drawing number 36646, received 29th December 2021; Sections of Building, scale 1:75, drawing number 36646, received 29th December 2021; CGI Images of Building, scale 1:100, drawing number 36646, received 29th December 2021; GAP Green Action Plan, received 29th December 2021; Planning Statement, written by Carter Jonas, received 29th December 2021; Noise Management Plan, written by JPM Acoustics, received 22nd July 2022.</p> <p>Reason</p> <p>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.</p>

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| | <p>2. Within 3 months of the decision date of this application, the existing noise barrier must be inspected, and any damaged panels replaced and any gaps filled. The fence must be inspected every 6 months thereafter and any maintenance required undertaken.</p> <p>Reason</p> <p>To ensure that the noise barrier is working effectively and to protect the amenity of the neighbouring dwellings in accordance with Policies ST1 and DM10 of the Copeland Local Plan.</p> <p>3. Within 3 months of the decision date of this application, the acoustic barrier must be erected around the jet washing area. The acoustic barrier must be inspected every 6 months thereafter and any maintenance required undertaken to ensure that it is retained in accordance with the approved details.</p> <p>Reason</p> <p>To ensure that the acoustic barrier is installed and is working effectively and to protect the amenity of the neighbouring dwellings in accordance with Policies ST1 and DM10 of the Copeland Local Plan.</p> <p>4. For the lifetime of the development hereby approved, all details and mitigation measures detailed within the submitted and approved Noise Management Plan, must be undertaken and retained. No changes to this document must be made without the written consent of the Local Planning Authority.</p> <p>Reason</p> <p>To ensure that noise from the site is mitigated for the lifetime of the development to protect the surrounding neighboring amenity and in accordance with policies ST1 and DM10 of the Copeland Local Plan.</p> |
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Informative

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

	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 : 16/09/2022
Authorising Officer: N.J. Hayhurst	Date : 16/09/2022
Dedicated responses to:-	