

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/22/2095/OB1
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 2 OF PLANNING APPROVAL 4/21/2301/OF1 - TERRACE TYPE HOUSING BLOCK CONTAINING 4X STUDIO APARTMENTS AND 4X TWO BEDROOM APARTMENTS, WITH PRIVATE CAR PARK FOR 8 CARS INCLUDING 1 DISABLED BAY (WITH ACCESS OFF TODHOLES ROAD)
3.	<b>Location:</b>	DENTHOLME, CRAGG ROAD, CLEATOR MOOR
4.	<b>Parish:</b>	Cleator Moor
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: YES  Site Notice: NO  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 a parcel of land that fronts onto Todholes Road in Cleator Moor. There are residential dwellings to the south, north-east and south west, with the former care home known as Dentholme to the north west. The site was previously open green space for the care home.</p> <b>PROPOSAL</b>  <p>Planning Permission was approved for the erection of terraced housing containing 4 x studio apartments and 4 x two bedroomed apartments with private car parking for 8 cars including 1 disabled bay (application reference 4/21/2301/OF1 relates).</p> <p>A further application was approved to add two apartments and two additional parking bays</p>	

(application reference 4/21/2477/0F1 relates).

This application seeks alterations to condition 2 of the planning approval to incorporate both plans together to ensure that the layout is the same and the conditions for both can be discharged and development commenced together.

### **CONSULTATION RESPONSES**

#### Cleator Moor Town Council

No objections.

#### Cumbria Highways

No objections.

#### Local Lead Flood Authority

No objections.

#### Rights of Way Officer

No response received.

#### Flood and Coastal Defence Engineer

No comments.

#### Public Representation

The application has been advertised by way of neighbour notification letters issued to 9 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

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

**Other Material Planning Considerations**

National Planning Policy 2021 (NPPF)  
National Planning Practice Guidance (PPG)

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 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.

	<p><b>ASSESSMENT</b></p> <p>The application will vary condition 2 to include the most recent site plan approved under 4/21/2477/OF1. This will allow the two applications on this site to align and be implemented once the conditions have been discharged in tandem.</p> <p>In accordance with the NPPG it is appropriate to repeat the conditions from the original permission which have yet to be discharged.</p> <p><b>CONCLUSION</b></p> <p>In my opinion, the revisions will not change the nature of the development and will allow for the two applications to align which should be supported in order to allow the whole site to be consistent.</p> <p>Overall this is considered to be acceptable and accords with the guidance set out in the NPPG and the policies within the adopted Local Plan.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li> <p>The development hereby permitted must be commenced before the expiration of three years from the 16<sup>th</sup> September 2021.</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 Location Plan, scale 1:1250, received 3<sup>rd</sup> November 2021;  Existing Site Plan, scale 1:200, received 3<sup>rd</sup> November 2021;  Proposed Site Plan, scale 1:500, received 3<sup>rd</sup> November 2021;  Site plan showing car park visibility, scale 1:500, drawing revision A, received 9<sup>th</sup> September 2021;  Proposed plans and elevations, scale 1:100, received 29<sup>th</sup> June 2021;  Street section, scale 1:100, received 29<sup>th</sup> June 2021;  Design and Access Statement, received 29<sup>th</sup> June 2021.</p> <p>Reason</p> </li> </ol>

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 conditions

3. Prior to the commencement of development hereby approved, a full surface water drainage scheme, including attenuation measures and with reference to the drainage hierarchy, 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.

Prior-use conditions

4. Prior to their use on the building hereby approved, representative samples of the materials to be used on the external surfaces of the development must be submitted to and approved in writing by the Local Planning Authority. Development must be carried out in accordance with the approved details and so maintained thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DM10 of the Copeland Local Plan.

Prior-occupation conditions

5. Prior to the occupation of the development hereby approved, full details of boundary treatments including access gates, planting and fencing must be submitted to and approved in writing by the Local Planning Authority. The boundary treatments must be erected and maintained in accordance with the approved plans at all times thereafter.

Reason

To ensure a satisfactory appearance of the building in the interests of visual amenity and in order to ensure highway safety in accordance with Policies DM10 and DM22 of the Copeland Local Plan.

6. Prior to the occupation of the building hereby approved, the designated off street

parking must be constructed and brought into use in accordance with the approved plans. The parking must remain operational at all times thereafter.

**Reason**

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

**Other conditions**

7. Foul and surface water must be drained on separate systems.

**Reason**

To ensure the provision of a satisfactory drainage scheme and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification) no external alterations or extensions, conservatories, dormer, or enlargement must be carried out to the building, nor must any detached building, enclosure, domestic fuel containers, pool or hardstandings be constructed within the curtilage other than those expressly authorised by this permission.

**Reason**

To safeguard the character and appearance of the development in the interests of visual amenity and in accordance with Policy DM10 of the Copeland Local Plan.

**Informative**

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

- 2) Public Footpath 403013 follows an alignment to the south side of the proposed development area and must not be altered or obstructed before or after the development has been completed, if the Footpath is to be temporarily obstructed, then a formal temporary closure will be required, there is a

12 week lead in time for this process, please contact [Sandra.smith@cumbria.gov.uk](mailto:Sandra.smith@cumbria.gov.uk) for further information.

**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 a variation of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

**Case Officer: Sarah Papaleo**

**Date: 07/04/2022**

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

**Date: 22/04/2022**

**Dedicated responses to: N/A**