



COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2157/0B1
2.	Proposed Development:	VARIATION OF CONDITION 2 (TO CHANGE WINDOWS FROM TIMBER FRAMED TO ALUMINIUM) OF PLANNING APPROVAL 4/17/2431/0F1 - ERECTION OF 2 EXECUTIVE DWELLINGS
3.	Location:	LAND AT MILL HILL, CLEATOR MOOR
4.	Parish:	Weddicar
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See Report
7.	<p>Report:</p> <p>Site and Location:</p> <p>This application relates to a rectangular area of land which covers approximately 0.4 hectares that lies on the western edge of Cleator Moor.</p> <p>The land is adjoined immediately to the east by a cluster of existing residential properties and to the south by a large agricultural building. The hamlets of Keekle, Galemire and Summergrove lie in close proximity to the west of the site.</p> <p>Relevant Planning Application History:</p> <p>The following planning applications have previously been submitted on the site: -</p> <p><u>4/07/2497/0</u> – Planning permission was granted for the reinstatement and extension to an existing mill house, and the conversion of existing mill buildings and barns to form 7 holiday units in 2007.</p> <p><u>4/12/2368/0F1</u> – planning permission was refused in 2012 for the erection of 9 executive homes on the current application site in 2012 as it was considered to be contrary to housing policies and would result in unjustified development in the open countryside.</p> <p><u>4/16/2320/001</u> – an outline application for residential development on the site was withdrawn in 2016.</p>	

4/17/2431/OF1 – full planning permission was approved on 14th March 2018 for the erection of two executive style dwellings on the site. This decision was made on the basis that the Council could not demonstrate a 5 year land supply.

Proposal:

This application seeks to vary Planning Condition 2 attached to application ref. 4/17/2431/OF1 to secure a revision to the materials to be used for the window frames within the new dwellings which are currently under construction. It is proposed to replace the previously specified timber frames with dark coloured powder coated aluminium frames.

Consultation Responses:

Parish Council

No response received

Neighbour Responses:

The application has been advertised by way of neighbour notification letters issued to 4 no. neighbouring properties.

One representation has been received in objection. The material planning issues raised comprise the following:

- Raises concerns about the consultation process on the original application
- Loss of light
- Loss of privacy
- Out of character with surrounding properties

Development Plan:

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy Policy

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

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 Developments

Policy DM22 – Accessible Developments Policy

DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping Policy

Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

National Planning Practice Guidance (NPPG).

Emerging Copeland Local Plan (ECLP).

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.

Assessment:

Principle

Full Planning Application Ref. 4/17/2431/0F1 was approved on the 14th March 2018.

The following conditions were formally discharged:-

Condition 4 – Materials – discharged on 06/08/2019

Condition 6 and 7 – Landscaping and Landscape Maintenance – discharged on 24/06/2019

Conditions 9 and 11 – Drainage – discharged on 28/06/2019

Work is well underway on site and the bulk of the two dwellings have now been constructed.

The proposal comprises a variation in the wording of condition 2 of the planning permission reference 4/17/2431/0F1 to allow the use of powder coated aluminium window frames. The original specification was for the use of timber windows.

Design

The two dwellings are of a modern “contemporary” design and do not lie within any designated area. The dark coloured powder coated window frames are recessed into the reveals and are considered to be appropriate in this location.

Impact on Residential Amenity

As part of the application process the applicant’s agent has agreed to the installation of obscure glazing within three window openings at first floor level on the north elevation of the dwelling on Plot 1. This will reduce the impact of the development on the occupiers of the immediate neighbouring property. A condition is proposed to ensure the obscure glazing is maintained once installed.

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.

Reconciliation of Planning Conditions

PLANNING CONDITION	RETAIN/AMEND
1.	-
2.	Amend to refer to revised plans
3.	Retain
4.	Amend to reflect change to window spec
5.	Retain
6.	Amend to reflect details agreed previously in discharging condition
7.	Amend to reflect details agreed previously in discharging condition
8.	Retain
9.	Amend to reflect details agreed previously in

		discharging condition
	10.	Retain
	11.	Amend to reflect details agreed previously in discharging condition
	12.	New condition to secure obscure glazing
	<p><u>Planning Balance</u></p> <p>The proposed revisions are minor and will not adversely impact on the design or appearance of the two new dwellings.</p> <p>Improvements have been secured to reduce the impact of the windows on the elevation facing the adjoining dwelling.</p>	
8.	<p>Recommendation: Approve amendment to condition</p>	
9.	<p>Conditions:</p> <p>1. -</p> <p>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> <p>Site Location Plan, scale 1:1250, drawing number 16057-09, received on 11th December 2017 Proposed Site Plan, scale 1:200, drawing number 16057-06B, received on 11th December 2017 Plot 1 Plans and Elevations, scale 1:100, drawing number 16057-07D, received on 11th December 2017 Plot 2 Plans and Elevations, scale 1:100, drawing number 16057-08C, received on 11th December 2017 Design and Access Statement prepared by Architects Plus, reference Rev A, dated November 2017 Planning Statement prepared by Taylor and Hardy, reference JTD/17/026, dated November 2017 Preliminary Environmental Risk Assessment prepared by Elliott Environmental Surveyors Ltd, reference EES17-019, dated 06th March 2017 Supporting Statement prepared by Architets Plus, dated March 2022 and received on 15th March 2022 Supporting Photographs, received on 28th June 2022</p>	

North Elevation Plan, scale 1:200, drawing number 16057-130A, received on 29th June 2022

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. 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 5.0metres inside the site, as measured from the carriageway edge of the adjacent highway and shall be maintained as such at all times once complete.

Reason

In the interests of highway safety.

3. The development shall be completed in accordance with the schedule of materials agreed by the Local Planning Authority on 6th August 2019. The windows shall be completed in accordance with the specification set out on the Supporting Statement prepared by Architects Plus dated March 2022 as submitted with the application.

Development shall 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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the dwellings / buildings, nor shall 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.

4. The development shall be carried out in accordance with the Arboricultural Method Statement set out in the Tree Survey prepared by Elliott Environmental Surveyors Ltd, reference EES17-019, dated 6th March 2017

The approved Arboricultural Method Statement shall be implemented in its agreed form, unless the local planning authority gives written approval to any variation.

Reason

To ensure that existing trees are protected in accordance with Policy DM 28 of the Copeland Local Plan 20013-2028.

7. Landscaping shall be undertaken in accordance with the planting details illustrated on the following plans and documents:-

6. Site Plan, drawing number 16057-101A, prepared by Architects Plus,

7. Tree Survey prepared by Elliott Environmental Surveyors Ltd, reference EES17-019, dated 6th March 2017

8. Proposed Landscaping Plan, drawing number 16057-10, prepared by Architects Plus.

Once implemented this landscaping shall be maintained in accordance with the Planting and Maintenance Report prepared by Ronnie Phizacklea dated 25th January 2019.

The approved scheme shall be implemented in its agreed form prior to the end of the first planting season following completion of the. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason

To ensure that existing trees are protected in accordance with Policy DM 26 of the Copeland Local Plan 20013-2028

	<p>5. Details of the proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority before they are brought into use. Development shall be carried out in accordance with the approved details and so maintained thereafter. No other external lighting shall be erected within the site without the prior written approval of the Local Planning Authority.</p> <p>Reason To minimise the risk of light pollution and to protect residential amenity.</p> <p>6. The development shall be drained in accordance with the following details:-</p> <p>8. Document – 1808-71 – Plot 1 Attenuation Rev A 3.3.2 9. Document – 1808-71 – Plot 2 Attenuation Rev A 3.3.3 10. Document - Proposed Drainage Strategy 11. Drawing – 16057–101 12. Proposed Site Plan 3.4.2 Document - Proposed Drainage Strategy</p> <p>Reason To protect and enhance the natural environment surrounding the watercourse.</p> <p>10. Foul and surface water shall be drained on separate systems.</p> <p>Reason To secure proper drainage and to manage the risk of flooding and pollution.</p> <p>7. The development shall be completed in accordance with the surface water drainage scheme set out in the following plans and documents:-</p> <p>11. Document – 1808-71 – Plot 1 Attenuation Rev A 3.3.2 12. Document – 1808-71 – Plot 2 Attenuation Rev A 3.3.3 13. Document - Proposed Drainage Strategy 14. Drawing – 16057–101 15. Proposed Site Plan 3.4.2 Document - Proposed Drainage Strategy</p> <p>Reason</p>
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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.

8. Prior to the first occupation of the dwelling on Plot 1 the windows at first floor level on the north elevation of the dwelling on Plot 1 shall be fitted with obscure glazing in accordance with the details illustrated on the North Elevation Plan, drawing number 16057-130A prepared by Architects Plus and received by the Local Planning Authority on 29th June 2022.

Once installed the obscure glazing shall be maintained in accordance with the approved details at all times thereafter.

Reason

For the avoidance of doubt and in the interests of residential amenity.

Informatives

9. 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

2. Guidance on the requirements for the Land Drainage/Ordinary Watercourse consent is available from the Cumbria County Council – LFRM.consent@cumbria.gov.uk

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.

Conditions:

1. -
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: -

Site Location Plan, scale 1:1250, drawing number 16057-09, received on 11th December 2017
Proposed Site Plan, scale 1:200, drawing number 16057-06B, received on 11th December 2017
Plot 1 Plans and Elevations, scale 1:100, drawing number 16057-07D, received on 11th December 2017

Plot 2 Plans and Elevations, scale 1:100, drawing number 16057-08C, received on 11th December 2017

Design and Access Statement prepared by Architects Plus, reference Rev A, dated November 2017

Planning Statement prepared by Taylor and Hardy, reference JTD/17/026, dated November 2017

Preliminary Environmental Risk Assessment prepared by Elliott Environmental Surveyors Ltd, reference EES17-019, dated 06th March 2017

Supporting Statement prepared by Architects Plus, dated March 2022 and received on 15th March 2022

Supporting Photographs, received on 28th June 2022

North Elevation Plan, scale 1:200, drawing number 16057-130A, received on 29th June 2022

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. 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 5.0metres inside the site, as measured from the carriageway edge of the adjacent highway and shall be maintained as such at all times once complete.

Reason

In the interests of highway safety.

4. The development shall be completed in accordance with the schedule of materials agreed by the Local Planning Authority on 6th August 2019. The windows shall be completed in accordance with the specification set out on the Supporting Statement prepared by Architects Plus dated March 2022 as submitted with the application.

Development shall 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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the dwellings / buildings, nor shall 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.

6. The development shall be carried out in accordance with the Arboricultural Method Statement set out in the Tree Survey prepared by Elliott Environmental Surveyors Ltd, reference EES17-019, dated 6th March 2017

The approved Arboricultural Method Statement shall be implemented in its agreed form, unless the local planning authority gives written approval to any variation.

Reason

To ensure that existing trees are protected in accordance with Policy DM 28 of the Copeland Local Plan 20013-2028.

7. Landscaping shall be undertaken in accordance with the planting details illustrated on the following plans and documents:-
- Site Plan, drawing number 16057-101A, prepared by Architects Plus,
 - Tree Survey prepared by Elliott Environmental Surveyors Ltd, reference EES17-019, dated 6th March 2017
 - Proposed Landscaping Plan, drawing number 16057-10, prepared by Architects Plus.

Once implemented this landscaping shall be maintained in accordance with the Planting and Maintenance Report prepared by Ronnie Phizacklea dated 25th January 2019.

The approved scheme shall be implemented in its agreed form prior to the end of the first planting season following completion of the. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

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8. Details of the proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority before they are brought into use. Development shall be carried out in accordance with the approved details and so maintained thereafter. No other external lighting shall be erected within the site without the prior written approval of the Local Planning Authority.

Reason

To minimise the risk of light pollution and to protect residential amenity.

9. The development shall be drained in accordance with the following details:-

- Document – 1808-71 – Plot 1 Attenuation Rev A 3.3.2
- Document – 1808-71 – Plot 2 Attenuation Rev A 3.3.3
- Document - Proposed Drainage Strategy
- Drawing – 16057–101
- Proposed Site Plan 3.4.2 Document - Proposed Drainage Strategy

Reason

To protect and enhance the natural environment surrounding the watercourse.

10. Foul and surface water shall be drained on separate systems.

Reason

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

11. The development shall be completed in accordance with the surface water drainage scheme set out in the following plans and documents:-

- Document – 1808-71 – Plot 1 Attenuation Rev A 3.3.2
- Document – 1808-71 – Plot 2 Attenuation Rev A 3.3.3
- Document - Proposed Drainage Strategy
- Drawing – 16057-101
- Proposed Site Plan 3.4.2 Document - Proposed Drainage Strategy

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.

12. Prior to the first occupation of the dwelling on Plot 1 the windows at first floor level on the north elevation of the dwelling on Plot 1 shall be fitted with obscure glazing in accordance with the details illustrated on the North Elevation Plan, drawing number 16057-130A prepared by Architects Plus and received by the Local Planning Authority on 29th June 2022.

Once installed the obscure glazing shall be maintained in accordance with the approved details at all times thereafter.

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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.
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Statement

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Authorising Officer: N.J. Hayhurst**Date :** 08/07/2022**Dedicated responses to:-** Letter to objector