

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2199/OF1	
2.	Proposed Development:	RETROSPECTIVE APPLICATION FOR REAR STEP, GRAVEL ACCESS ROUTE AND 1.8M HIGH BOUNDARY TIMBER FENCE (NO GATES)	
3.	Location:	4 RICHMOND CRESCENT, ST BEES	
4.	Parish:	St. Bees	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Key Species - Known Site for the Small Blue, Key Species - POTENTIAL AREA for the Small Blue	
6.	Publicity Representations &Policy	Neighbour Notification Letter	Yes
		Site Notice	No
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report:		
	Site and Location		
		This application relates to one of the six terrace properties located on Richmond Crescent, situated within the south west of St Bees. The property benefits from a rear yard with a large single storey rear extension, and a detached rear garden area which is separated from the curtilage of the dwelling by an access lane.	
	Relevant Planning History		
		4/18/2128/OF1 – Single storey rear extension – Approved.	

## **Proposal**

This application seeks retrospective planning permission for a rear step and gravel access route. In May 2018, planning permission was granted (ref: 4/18/2128/0F1) for a single storey rear extension at this property. This extension has now been constructed and completed. The Council's Enforcement Officer has confirmed that the development has been completed in accordance with the approved plans, however the rear double doors weren't constructed high enough to open out onto the rear access therefore a step has been created to allow rear access to the extension. The step projects from the rear of the extension 1.025m into the rear access lane, is set down 0.225m, and extends along the width of the curtilage of the dwelling. The edging of this step is finished in brickwork, with a width of 0.215m. As part of these works 1.95m of the access lane to the rear of the property is maintained and has been covered with gravel.

This application also seeks retrospective planning permission for the erection of a 1.8m high post and panel fence within the rear garden of the property along the east and west boundaries. Permission is required for these works as the garden is separated from the main dwelling by the access lane, therefore the land does not benefit from permitted development rights.

## **Consultation Responses**

### St Bees Parish Council

The Parish Council notes that the application is retrospective and is aware that some residents living nearby have concerns about the impact of the works. Whilst rights of access across private land are not within the remit of planning rules, the Parish Council hopes that a solution can be found which meets planning and building regulation requirements and will also allay the concerns of neighbours.

### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to eight properties. Eight letters of objection have been received which raise the following concerns:

- The extension should never have been built.
- Deeds for properties states that you cannot build something which blocks light for neighbouring properties.
- The access is shared by the whole community. Deeds and title covenants submitted to highlight this point.
- The law has been flouted.
- The application is retrospective.
- The development is onto a public right of way/access road which they have no right.

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|  | <ul style="list-style-type: none"><li>- Residents have right of access over the lane which is being impeded by the development.</li><li>- Right of way of beach goer and public also removed by this development.</li><li>- Parking and access to No 5 has been blocked. Photos submitted to illustrate this.</li><li>- Parking is already an issue in this area, this is being made worse as owners cant access their garages to the rear of their properties.</li><li>- The hole prevents parking and turning into garages.</li><li>- Unsafe to attempt a pass over with a vehicle.</li><li>- Removal of access will devalue properties.</li><li>- Only the world's smallest car can use the access left as part of this development.</li><li>- The step should be removed and the right of way reinstated.</li><li>- Questions over the sign off of the building.</li><li>- Questions over the construction standards.</li><li>- Owner and architect has stated that no party wall agreement was necessary for the development. Although this is not a legal requirement this shows the owner is breaching a statutory duty and also shows that there is no safeguarding in relation to the development were put in place to reassure the neighbours.</li><li>- Health and safety a massive concerns throughout the development.</li><li>- The large hole next to the kitchen extension and retaining wall should not be a step as referred to in the submitted plans.</li><li>- Incorrect definition of a step.</li><li>- The gravel on the access is limiting access to residents who have health issues as health as safety issue.</li><li>- The retaining wall is dangerous and on the grounds of health and safety should not be permitted as it is easy to fall into and there is no lighting in the road at all.</li><li>- No warnings of hole which is dangerous.</li><li>- Why is responsible of a member of the public falls in the hole and hurts themselves?</li><li>- Previous plans for the extension show that the access is to remain unaltered.</li><li>- The plans do not fulfil the requirements of the accepted original plans and should be against Copeland Policy.</li></ul> |
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- The extension has not been built in accordance with the approved plans.
- Deliberate breach of planning control.
- This development has created an unacceptable negative and untenable impact in relation to neighbourhood relationships and by putting back the shared vehicle access road will help to restore this.
- Bullying of residents.
- Holiday home owners have no consideration for the full time residents.
- Damage to residents physical and mental health.
- The whole community is suffering because the extension was built incorrectly.
- The Council should make a complaint to Cumbria Police regarding someone purposefully attempting to obtain planning permission through fraud and deception/false representation.
- The Council should do what is fair and right by the community.
- Licence plates used within the application have not been pixelated and are now available online.
- The application needs to be rejected to restore neighbour relationships and community well-being. This is a golden opportunity and starting point for the planning department to deliver and lead the way on Copeland's 2040 vision of making our neighbourhoods a better place to live, work and visit.
- Large file with several objections, deed and titles, photographic evidence and tenancy agreement submitted to support objections to this application.

### **Planning Policy**

Planning law requires that 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 – Strategic Development Principles

#### Development Management Policies (DMP)

Policy DM18 – Domestic Extensions and Alterations

Policy DM22 – Accessible Developments

**Other Material Planning Considerations**

National Planning Policy Framework (2021)

Cumbria Development Design Guide

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.

**Assessment**

This main issues raised by this application relate to the principle of the development; scale, design and impact on amenity; and parking/access.

Principle of Development

The proposed application relates to a residential dwelling within St Bees and will provide access to an existing rear extension. Policy DM18 supports extensions and alterations to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable and the extension satisfies Policies ST2, DM18, and the NPPF guidance.

Scale, Design and Impact on Amenity

Policy ST1 and section 12 of the NPPF seek to safeguard good levels of residential amenity. Policy DM18 seeks to ensure domestic alterations are of an appropriate scale and design which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

The proposed alteration to the access lane at this site are considered minor and will not have a detrimental impact on the amenities of the adjoining properties as the development is at ground level. Concerns regarding access will be considered later within this report.

The erection of a 1.8m high boundary fence is also considered an acceptable form of development within the rear garden of this property, and only requires planning permission as the land does not benefit from permitted development rights as it is detached from the main dwelling by an access

lane. The fence is not considered to have a detrimental impact on neighbouring properties or the character of the areas as there are similar developments within the area.

As part of the consultation process for this application concerns have been raised by local residents with regard to the extension which has previously been constructed at this site. Planning permission was granted (ref: 4/18/2128/0F1) for this development in May 2018, therefore concerns relating to the impact of this extension cannot be considered as part of this current application. The Council's Enforcement Officer has confirmed that the development has been completed in accordance with the approved plans, however the rear double doors weren't constructed high enough to open out onto the rear access therefore a step has been created to allow rear access to the extension. Concerns have been raised regarding the construction of the extension and also health and safety issues throughout the development, again these are not planning matters and cannot be considered as part of this application.

On this basis the development is considered to comply with the requirements of Policy DM18 of the Copeland Local Plan and the provisions of the NPPF.

#### Parking/Access

Policy DM22 of the Copeland Local Plan requires developments to be accessible to all users and to meet adopted car parking standards, which reflect the needs of the Borough in its rural context.

The creation of a step to access the existing rear extension protrudes into the shared access lane to the rear of the site. The area of access lane within the applicant's ownership has also been gravelled as part of these works. Concerns have been raised from neighbouring properties regarding the existing rights of access over this land for all of the properties along Richmond Crescent. The Council's Solicitor has confirmed that this is a private legal matter and cannot be considered as part of the planning process.

As part of this application the agent has submitted a plan to show that 1.95m of the access lane will be retained and indicates that a car can still pass over this section of the lane. Cumbria Highways have not been consulted on this application as this is private access lane is not an adopted highway. The Cumbria Design Guide provides details of average widths of vehicles expected to require access on residential roads. This Guide indicates that an average light vehicle (car) would be 1950mm. Based on this and the information submitted as part of this application it appears that access can still be achieved over this land, therefore the development does not create any access issues for the adjoining dwellings.

The applicant does not dispute that neighbours have right to pass through his property freely by vehicle or by foot. The applicant's solicitor has also confirmed that there are no set measurements or accepted legal norms which prescribe a vehicle type or width to allow vehicle access to pass.

The proposal is therefore considered to comply with policies DM22 of the Copeland Local Plan 2013 –

	<p>2028 and the provisions of the NPPF.</p> <p><u>Planning Balance &amp; Conclusion</u></p> <p>The proposed alterations are of an appropriate scale and design and will not have any detrimental impacts on the amenities of the adjoining properties. Whilst concerns have been raised with regard to rights of access over the land, this is a private legal matter which cannot be considered as part of this current planning application. The agent for this application has demonstrated that access will be maintained and the development will not create access issues for the neighbouring properties.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:</b></p> <p><u>Standard Conditions:</u></p> <ol style="list-style-type: none"> <li>1. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them:- <ul style="list-style-type: none"> <li>- Site Location Plan, Scale 1:1250, Drawing No: 2122-010-01, Rev: A, received by the Local Planning Authority on the 27<sup>th</sup> April 2022.</li> <li>- Proposed Site Plan, Scale 1:200, Drawing No: 2122-010-02, Rev: A, received by the Local Planning Authority on the 27<sup>th</sup> April 2022.</li> <li>- Proposed Section and Photographs, Scale 1:50, Drawing No: 2122-010-03, Rev: A, received by the Local Planning Authority on the 27<sup>th</sup> April 2022.</li> </ul> </li> </ol> <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> <p><b>Informative:</b></p> <p>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.</p> <p>Further information is also available on the Coal Authority website at:  <a href="http://www.gov.uk/government/organisations/the-coal-authority">www.gov.uk/government/organisations/the-coal-authority</a></p>

	<p><b>Statement:</b></p> <p>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.</p>
<p><b>Case Officer:</b> C. Burns</p>	<p><b>Date :</b> 15.08.2022</p>
<p><b>Authorising Officer:</b> N.J. Hayhurst</p>	<p><b>Date :</b> 18.08.2022</p>
<p><b>Dedicated responses to:-</b></p>	