

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/22/2216/OF1
2.	Proposed Development:	ERECTION OF NEW DWELLING
3.	Location:	LANE HEAD GARDENS, LANE HEAD, SANDWITH
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Standing Advice - 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</p> <p>The Application Site comprises a 0.17 hectare parcel of land located to the east of the property known as Lane Head Gardens. The site currently houses a building, previously in use as a horticultural nursery.</p> <p>The Application Site is bounded by a dwelling to the west, agricultural fields to the south and roads leading from Whitehaven to Sandwith to the north and east.</p> <p>Public right of way (PROW) number 431032 runs adjacent to the site to St Bees Road.</p> <p>The Site is enclosed by an established hedgerow to the south and east and a post and wire fence to the north.</p>

PROPOSAL

This full planning application seeks approval for the demolition of the existing horticultural nursery on the site and the erection of a dwelling.

The proposal is for the erection of a dwelling which is to be based on the footprint of the existing horticultural building and will be limited to a single storey. The dwelling will have an eaves height of 2.4m and an overall height to the pitch of 5m. It will be 10.5m in width and 14.5m in length and a further side projection of 2.4m.

It will comprise an open plan kitchen/dining room, living room, 3 bedrooms, one with shower room, a bathroom and a utility room.

The proposed dwelling will be finished with white render walls, with a grey tiled roof. The windows and doors will be white UPVC.

RELEVANT PLANNING APPLICATION HISTORY

Market garden with static caravan, approved in March 1990 (application reference 4/90/0107/0 relates);

Portacabin, approved in December 1990 (application reference 4/90/1086/0 relates);

Dwelling, approved in March 1994 (application reference 4/94/0027/0 relates);

Extension of greenhouse and potting shed, approved in August 1993 (application reference 4/93/0423/0 relates);

Dwelling and garage, approved in June 1994 (application reference 4/94/0348/0 relates);

Application for a lawful development certificate for an existing use, approved in November 2015 (application reference 4/15/2419/0E1 relates);

Application to determine if prior approval is required for a proposed change of use from commercial to a dwelling including replacement of main roof structure & replacement of roof on greenhouse structure approved in 2021 (application reference 4/21/2503/0F1 relates)

CONSULTATION RESPONSES

Consultees

Whitehaven Town Council

No objections.

Cumbria Highways

No comments.

Flood and Coastal Drainage Engineer

1st Response

The application states that it is proposed that the surface water is to be disposed of by means of a soakaway.

As there appears to be no alternative means of surface water disposal, evidence that the land is suitable for surface water disposal by means of a soakaway, in terms of percolation testing and soakaway design prior to any planning permission being granted.

As these have not been provided, I am objecting to the proposed development.

2nd Response

Hopefully everything should be OK with disposal by means of a soakaway.

Whilst from a planning perspective, conditioning percolation testing is the obvious answer, what is plan B?

Whilst previous properties may have been adequately drained by soakaways, Building Regulations are likely to be more stringent than when the soakaways were created.

Therefore, there is no guarantee that the proposed dwelling can be drained by means of a soakaway that would comply with Building Regulations.

The same is likely to apply to the drainage field for the private sewage treatment plant.

Hence, I would want proof that soakaway drainage can be used prior to planning permission being given.

United Utilities

No objections, subject to drainage being in accordance with the drainage hierarchy.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 4 no. properties.

One neutral letter has been received querying where the boundary for the garden will be and

whether the hedge will be maintained. Neighbour requested a condition to ensure that the hedge is regularly maintained.

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 ST4 – Providing Infrastructure

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

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 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 DM28 – Protection of Trees

Other Material Planning Considerations

National Planning Policy 2021 (NPPF)

Planning Practice Guidance (PPG)

National Design Guide (NDG)

The Conservation of Habitats and Species Regulations 2017 (CHSR)

Cumbria Development Design Guide (CDDG)

Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended) (GDPO)

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 following policies are relevant to this proposal:

- Strategic Policy DS1PU - Presumption in favour of Sustainable Development
- Strategic Policy DS2PU - Reducing the impacts of development on Climate Change
- Strategic Policy DS3PU - Settlement Hierarchy
- Strategic Policy DS4PU - Settlement Boundaries
- Strategic Policy DS5PU - Planning Obligations
- Policy DS6PU - Design and Development Standards
- Policy DS7PU - Hard and Soft Landscaping
- Strategic Policy DS8PU - Reducing Flood Risk Policy
- Policy DS9PU: Sustainable Drainage
- Strategic Policy H1PU - Improving the Housing Offer
- Strategic Policy H2PU - Housing Requirement
- Strategic Policy H3PU - Housing delivery
- Strategic Policy H4PU - Distribution of Housing
- Strategic Policy H5PU - Housing Allocations
- Policy H6PU - New Housing Development
- Policy H7PU - Housing Density and Mix Strategic
- Policy H8PU - Affordable Housing
- Policy H21PU – Residential Caravans
- Strategic Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity
- Strategic Policy N2PU - Local Nature Recovery Networks
- Strategic Policy N3PU - Biodiversity Net Gain
- Strategic Policy N6PU - Landscape Protection

ASSESSMENT

Introduction

Application to determine if prior approval is required for a proposed change of use from commercial to a dwelling was approved in 2021 under class MA of the GDPO.

Principle of the development

Policy ST2 of the CS identifies Sandwith as outside any settlement boundary and therefore location in open countryside.

Policy ST2 of the CS states that outside of the defined settlement boundaries, development is restricted to that which has a proven requirement for such a location, including... *housing that meets proven specific and local needs including provision for agricultural workers, replacement dwellings, replacement of residential caravans, affordable housing and the conversion of rural buildings to residential use.*

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to developments relating to the provision of housing, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

In 2021, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 5.6 year supply of deliverable housing sites against the emerging housing requirement and a 86 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.

Notwithstanding the above, the policies in the CS must still be considered out of date and only some weight can be given their content as far as they are consistent with the provisions of the NPPF.

Consultation on the Local Plan 2017-2035 Publication Draft Consultation ended on 18th March 2022. The ECLP will, once adopted, replace the policies of the adopted CS.

The ECLP has been drafted based upon an evidence base of documents which includes a updated Strategic Housing Market Assessment (SHMA). The SHMA calculates housing need in Copeland over the plan period 2017-2035 of 140 dwellings per annum. The ECLP confirms that to meet the housing need identified in the SHMA, development will be required beyond the existing development boundaries identified in Policy ST2 of the CS.

The ECLP continues to identify Sandwith as open countryside, reflective of the lack of services it contains. Sandwith will still not benefit from a settlement boundary.

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.

In the context of the above, Paragraph 11 of the NPPF is engaged with the policies of the Development Plan which are most important for determining the application to be considered out of date and it required that planning permission be granted unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

In applying the provisions of Paragraph 11:

- the Site would assist in a small way in boosting housing supply to meet the identified need for housing within the Borough;
- the site is considered to be largely unsustainable due to its location without the services required for day to day living and a heavy reliance on the motor car;
- Some sustainable travel options exist within the vicinity, with a bus stop adjacent to the site and a direct cycle route to Whitehaven.

Fallback position

The previous confirmation that Prior Approval was not required to convert the existing building to form a single storey dwelling has established the right to a residential use on the site. This is an extant approval and is capable of being implemented. Due to the nature of the building and the commitment set out in the Supporting Statement that accompanies the application there is considered to be a realistic prospect of scheme being delivered.

The existing building is of a utilitarian appearance and adds little merit to this rural location. The previously permitted conversion is of a basic design. The proposed dwelling now proposed would be based on the existing footprint of the existing building and is comparable in both scale and height to the existing structure, although a minor extension is proposed to the side elevation. The proposed design incorporates additional glazing on the front elevation which will add interest to its appearance and also allow the provision of a better standard of accommodation. This scheme offers a more visually pleasing design which is better suited to its location. The outcome would be a dwelling similar to that already approved on the site.

Class MA of the GDPO does not allow consideration of the sustainability of the location. On this basis the improvement on a realistic fall-back position is considered to carry substantial weight in this case. It also allows the consideration of other matters such as impacts on residential amenity which would help to improve the relationship with the adjoining property.

The other material issues are considered below:-

Design and Residential Amenity

Policy DM10 of the CS seeks a high standard of design whilst Policy DM12 prescribes the minimum acceptable separation distances to ensure that new dwellings do not create amenity issues for existing properties relating to overlooking or loss of light.

The proposed dwelling has been designed to sit neatly in the plot and respects the topography of the landscape being single storey and of a similar footprint to the existing horticultural building. Separation distances far greater than the minimum of 21m have been achieved, therefore protecting residential amenity for the surrounding properties.

Whilst materials have been specified by the Applicant, no samples or brochure details have been provided, therefore this detail should be secured for approval by way of a suitably worded planning condition in order to ensure that the dwelling will fit in with its surroundings. The design of the dwelling is modern but picks up on the local character using window banding and a vertical emphasis on the window fenestration.

In order to ensure that the dwelling remains as single storey, it is considered prudent to apply conditions to any approval to secure this.

Overall, the proposal is considered to be compliant with the policies within the CS with regards to respectful design and the protection of residential amenity.

Highway Safety and Parking

Access to the Application Site is deliverable via an access straight onto the road joining Whitehaven to Sandwith. This access is existing and currently serves Lane Head Gardens.

The driveway leads to the front of the dwelling, with space to enter and egress the site in a forward gear. Parking provision in accordance with the requirements of the Cumbria Design Guide is clearly deliverable on the Application Site.

The proposed development would not impact upon the route or cause unacceptable harm to the setting of the existing Public Right of Way to the east of the Application Site.

No objections have been received with regards to the access and it is considered that the proposal

complies with Policy DM22 of the Copeland Local Plan.

Flood Risk and Drainage

The Application Site is located within Flood Zone 1. The proposed comprises a more vulnerable use and is therefore a compatible use in Flood Zone 1.

The Application Site is not shown to be liable to surface water flooding.

The Applicant has indicated that surface water will be drained to a soakaway, however the Council's Flood and Coastal Drainage Engineer has raised concerns that this would not be possible and that a 2nd option should be considered should percolation tests be unfavourable. The Agent for the application has clarified that the existing dwelling at Lane Head Gardens is drained to a soakaway, therefore there is a high element of confidence that this solution will be effective. Notwithstanding this, a full surface water drainage plan, in accordance with the hierarchy should be submitted, prior to the commencement of the development in order to ensure that the drainage is suitable and will not have a negative effect on the site or the surrounding areas.

Landscaping

Full landscaping details have not been received as part of the application although the plans show that bin storage is available to the front of the property and the front drive will be surfaced with tarmac to meet with the existing.

A condition requiring full details of the landscaping is proposed to ensure details of landscaping is approved and secured prior to the occupation of the dwelling. This will ensure that any boundary treatments are in keeping with the surrounding area and to protect the amenity of the neighbouring property.

On the basis that the landscaping will be submitted and approved, it is considered to comply with Policy DM26 of the Copeland Local Plan.

Arboriculture and Ecology

The Site comprises an existing area of private garden, which is of limited ecological interest and the development will not require the removal of any existing mature trees.

The occupiers of a neighbouring property raised concerns with regards to the boundary hedge and its maintenance. This information was made available to the Applicant, however the trimming of the hedge is not a material planning consideration and therefore cannot be considered as part of this application.

The development is unlikely to adversely impact upon protected or local important species.

The Planning Balance

For the reasons outlined above, in assessing the proposed development, Paragraph 11 of the NPPF is engaged with the policies of the Development Plan which are most important for determining the application are to be considered out of date and it required that planning permission be granted unless:

- iii. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- iv. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The proposed development is in clear conflict with the provisions of Policy ST2 of the CS with regard to the location outwith any settlement boundary; however, given the importance of this policy to the determination of the application and its level of conformity with the NPPF, only limited weight can be given to this conflict in decision taking.

Despite the unsustainable location of the proposed dwelling the presence of a realistic fall-back position for the conversion the building under Class MA of the GDPO carries significant weight in the planning balance. The proposed scheme is comparable in terms of scale and height to that previously approved and offers significant advantages in terms of design and standard of accommodation which would be better suited to its rural location. These improvements on a realistic fall-back position are considered to outweigh the identified conflicts to Policy in this case. The submission of the full details of the dwelling also allows the LPA far greater control in terms of limiting the impact of the development on the amenities of the adjoining property.

In overall terms, whilst conflicts are identified, it is considered that these conflicts and impacts are collectively not sufficiently harmful to significantly and demonstrably outweigh the benefits of a superior development when assessed against the policies in the NPPF taken as a whole.

8. **Recommendation:**
Approve (commence within 3 years)

9. **Conditions:**

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
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 01002 01, received 17th May 2022;
Proposed Block Plan, scale 1:1250, drawing number 04003 03, received 29th July 2022;
Proposed Floor Plan, scale 1:50, drawing number 04001 03, received 17th May 2022;
Proposed Elevations, scale 1:100, drawing number 05001 02, received 17th May 2022;
Planning Statement, written by SRE Associates, received 17th May 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.

Pre-Commencement Condition

3. Prior to the commencement of development hereby approved, a full surface water drainage scheme written in accordance with the drainage hierarchy and including attenuation measures, 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. No superstructure must be erected until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development must be completed in accordance with the approved details of materials and must be retained for the lifetime of the development.

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.

5. Prior to the first use of the development hereby approved, full details of both hard and soft landscape works must be submitted to and approved in writing by the Local Planning Authority. These works must include hard surfacing and means of enclosure as a minimum.

Development must be carried out in accordance with the approved details and retained as such at all times thereafter.

Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with Policy DM26 of the Copeland Local Plan.

Other Conditions

6. 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 (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement must be carried out to the dwelling or garage, 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 Policies ST1 and DM10 of the Copeland Local Plan.

7. The dwelling must not exceed one storey in height.

Reason

In order to ensure that the impact of the development is kept to a minimum in accordance with Policies ST1 and ENV5 of the Copeland Local Plan.

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

	<p>Statement</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>
Case Officer: Sarah Papaleo	Date : 01/08/2022
Authorising Officer: N.J. Hayhurst	Date : 05/08/2022
Dedicated responses to:-	