

**COPELAND BOROUGH COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/22/2235/OF1	
2.	<b>Proposed Development:</b>	RELOCATION OF EXISTING VEHICULAR ACCESS	
3.	<b>Location:</b>	NURSERY GARDEN ADJACENT TO CROFT PADDOCK, KIRKSANTON	
4.	<b>Parish:</b>	Whicham	
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads, Gas Pipeline - Northern Gas Pipeline - 135m buffer	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	<b>Report:</b>		
	<b>Site and Location</b>		
	<p>This application relates to a site known as Nursery Gardens, located to the west of Kirksanton. The site covers an area of 0.5ha and has two access points, one from the northern end of the field from the A5093 and the other from the south end of the site from the single lane unclassified road U4074. The site has previously been used as a market garden, however all structures associated with this use have now been removed. The site is currently let to a local farmer who cuts the grass for silage and grazing stock.</p> <p>The site contains a number of trees and the northern boundary is fronted by a well established</p>		

hedgerow.

### **Relevant Planning History**

4/07/2025/0 – Erection of poly tunnel – Approve

### **Proposal**

This application seeks planning permission for the relocation of the existing vehicular access. At present the site is served by two accesses which are unsuitable for the type of machinery that is required to maintain the land and trees within the site. The main access onto the A5093 is located within the northern corner of the site and benefits from limited visibility in either direction. The proposal will relocate this existing access 7m south along this boundary of the site, in order to improve the access to the land. The proposed new access will be 3.05m wide and will provide visibility splays of 2.4m x 60m in both directions.

As part of this application four of the existing trees will be removed to accommodate the relocation of this access. The existing access point will be closed and fitted with a new fence and hedge of indigenous species to match the existing boundary treatment at this site. The rest of this boundary will be retained, with the hedge maintained at 1.05m in height within the proposed visibility splays.

### **Consultation Responses**

#### Millom Without Parish Council

*18<sup>th</sup> July 2022*

At the meeting of the Parish Council held on 6 July 2022 the above planning application was considered. Concerns were expressed on the inaccuracies/ misleading statements in the supporting documentation and the Parish Council requests that the planning application be considered by the planning committee and not assigned to an officer.

The following inaccuracies/misleading statements are as follows:

1. Photos on the front of the Planning statement are those pre-sale of the land and all structures shown were removed prior to the sale. The photos mislead that the land is currently being used as a nursery garden and this is not correct.
2. Previous owners of the land reported that energy company vehicles (including large vehicles) have accessed the land during their ownership without problems.
3. The previous owner of the land had used it as a specialist nursery garden and was not open to the public, the statement indicates that it was previously a market garden - untrue statement
4. Trees have already been removed prior to the application being submitted, although the application includes the removal of some trees. These trees were a known habitat for owls and bats and formed part of a shelter belt that was planted for the Croft Nursing Home from the prevailing

winds.

*25<sup>th</sup> August 2022*

There was one concern raised regarding owls and bats and the removal of trees. Please see the statement below, I am presuming that this would be a material consideration should planning consent be approved.

Can we request written confirmation from ENW regarding the removal of trees in the shelter belt ie. How many?

Regarding owls and bats. There have been for the last 15 years, and still are a breeding pair of barn owls in a very close location to the shelter belt of trees. These are monitored by a licensed person. The trees are used by them as are local tawny owls.

Bats use the trees for summer roosts.

Cumbria County Council – Cumbria Highways & LLFA

*27<sup>th</sup> June 2022*

The plan submitted (Drawing Number 10046/2 RevA) showing visibility splays should be resubmitted in more detail. Although the access is existing it has not been in use for some time and joins an A5093 therefore full visibility requirements will be required. It is noted that the left-hand splay is in line with the adjacent hedge. We have concerns that this hedge will cause an obstruction to the visibility splays, please could the applicant confirm whether they own the land adjacent that would enable them to maintain the hedge.

We need to see in detail that visibility splays of 60m in both directions measured from a point of 2.4m into the site from the carriageway edge and at a height not exceeding 1.05m above the highway are achievable.

It should also be noted that the minimum width requirements for an agricultural access is 3.65m and therefore the proposed access should be widened from 3m to 3.65m.

*13<sup>th</sup> July 2022*

Following the submission of Drawing Number 10046/2RevB showing the 60m by 2.4m by 60m visibility splays are outside of the hedgerow, I can confirm that the Local Highway Authority have no objections to this proposal subject to the inclusion of conditions relating to surfacing of the access drive, surface water discharge, access gate, and boundary treatments.

Northern Gas

*14<sup>th</sup> June 2022*

Northern Gas Networks has no objections to these proposals, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversionary works be required these will be fully chargeable.

### Electricity North West

*10<sup>th</sup> August 2022*

We have considered the above planning application submitted on the 26<sup>th</sup> July 2022 and find it could have an impact on our infrastructure.

The development is shown to be adjacent to or affect Electricity North West's operational land or electricity distribution assets.

Where the development is adjacent to operational land the applicant must ensure that the development does not encroach over either the land or any ancillary rights of access or cable easements. If planning permission is granted the applicant should verify such details by contacting Electricity North West, Land Rights & Consents, Frederick Road, Salford, Manchester M6 6QH.

The applicant should be advised that great care should be taken at all times to protect both the electrical apparatus and any personnel working in its vicinity.

The applicant should also be referred to two relevant documents produced by the Health and Safety Executive, which are available from The Stationery Office Publications Centre and The Stationery Office Bookshops, and advised to follow the guidance given.

The documents are as follows:-

HS(G)47 – Avoiding danger from underground services.

GS6 – Avoidance of danger from overhead electric lines.

The applicant should also be advised that, should there be a requirement to divert the apparatus because of the proposed works, the cost of such a diversion would usually be borne by the applicant. The applicant should be aware of our requirements for access to inspect, maintain, adjust, repair, or alter any of our distribution equipment. This includes carrying out works incidental to any of these purposes and this could require works at any time of day or night. Our Electricity Services Desk (Tel No. 0800 195 4141) will advise on any issues regarding diversions or modifications.

Electricity North West offers a fully supported mapping service, at a modest cost, for our electricity assets. This is a service which is constantly updated by our Data Management Team who can be contacted by telephone on 0800 195 4141 or access the website <http://www.enwl.co.uk/our-services/know-before-you-dig>

It is recommended that the applicant gives early consideration in project design as it is better value

than traditional methods of data gathering. It is, however, the applicant's responsibility to demonstrate the exact relationship on site between any assets that may cross the site and any proposed development.

*25<sup>th</sup> August 2022*

Whilst I'm unable to confirm whether the comments highlighted in yellow below were provided by ENWL, having undertaken a desktop review of the site I can confirm that they do reflect my own sentiments.

Essentially, any improvements to the existing access arrangements to the existing overhead line are welcomed by ENWL because this will ultimately assist us to maintain a safe and continuous supply of electricity to our customers.

#### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to one property. No comments have been received in relation to this statutory notification period.

#### **Development Plan**

##### **Copeland Local Plan 2013 – 2028 (Adopted December 2013)**

#### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy T1 – Improving Accessibility and Transport

ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscape

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Development

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 - Landscaping

#### **Other Material Planning Considerations**

National Planning Policy Framework (2021)

Wildlife and Countryside Act 1981.

### 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 application raises issues of the principle of the development; landscape and visual impact; highway safety; and ecology.

### Principle of the Development

Policy ST2 of the Local Plan supports development outside of settlement, which have a proven requirement for such location. This application seeks permission to relocate the access to the site known as Nursery Gardens, in order to improve the current access to the site which currently has poor visibility and is not suitable for the machinery which utilise the site for agricultural purposes. Access to the site is required by the farmer who currently rents the land and by Electricity North West, who maintain the existing electricity line and trees within the site. Comments of support have been received from ENW who support any improvements to the existing access arrangements to the site as this will assist in maintaining a safe and continuous supply of electricity to customers.

### Landscape and Visual Impact

Policy ST1, DM10 and section 12 of the NPPF seeks protection of residential amenity, a high standard of design, fostering of quality places, and proposals, which respond to the character of the site.

The proposed development will relocate the existing access further along the northern boundary of the application site. The land is on the western edge of the village of Kirksanton and does not directly adjoin the curtilage of any residential property, therefore the development is not considered to have a detrimental impact on residential amenity.

Policy ENV5 states that the Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.

The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within Sub Type 5b 'Lowland – Low Farmland'. The proposal will relocate the existing site access within the site. As part of the development the existing access will be closed and fitted with a new fence and

hedge of indigenous species to match the existing boundary treatment at the site. The rest of this well-established hedgerow boundary will be retained, and only lowered by 1.05m within the proposed visibility splays, which will mean that the development will have minimal impact on the overall landscape and the character of this area of the village.

Concerns have been raised by the Parish Council regarding the removal of trees from this site. The trees within the site are not protected by a TPO and are not located within a Conservation Area. Clarification has been sought from the agent that only two trees will be removed to accommodate this new access to the site; this is not considered to have a significant impact in terms of the overall character of the application site. Concerns have also been raised with regard to the potential number of trees to be removed by ENW, however these would fall under separate legislation which would not form part of the planning process.

On the basis of the above it is considered that the proposal complies with ST1, ENV5, DM10, and DM26 of the Local Plan and provisions of the NPPF.

#### Highway Safety

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. Section 9 of the NPPF promotes sustainable transport. Paragraph 102 states that transport issue should be considered from the earliest stages of development proposals, so that the potential impacts of development on transport networks can be assessed, opportunities to promote walking, cycling and public transport are identified and pursued, environmental impact of traffic can be identified, and patterns of movement, street and parking are integral to design of schemes, and contribute to making high quality places.

The relocation of the existing access to this site will improve the current access arrangement which currently benefit from poor visibility and are not suitable for the machinery required to maintain the land.

Initially Cumbria Highways requested more details with regard to the proposed visibility splays for this relocated access, and confirmation that the splays were in the applicant's ownership. Based on these comments amended plans were submitted to relocate the access slightly further south into the application site so that all splays were within ownership and control of the applicant, and to show required visibility could be achieved. Based on these amended plans Cumbria Highways confirmed that they have no objections to this proposal subject to the inclusion of conditions relating to surfacing of the access drive, visibility splays, surface water discharge, access gate, and boundary treatments.

Based on the inclusion of appropriately worded planning conditions, it is considered that the development would be in accordance with the aims and objectives of both the adopted Copeland Local Plan and the NPPF.

	<p><u>Ecology</u></p> <p>Policies ST1, ENV3 and DM25 of the Copeland Local Plan and section 15 of the NPPF outline how the Council will protect and enhance the biodiversity and geodiversity within the Borough. These policies set out the approach towards managing development proposal that are likely to have an effect on nature conservation sites, habitats and protected species.</p> <p>The application site is identified as a potential area for natterjack toads. The application is not supported by any ecology details as the site is not located within 200m of a watercourse (as indicated within the ALGE trigger list) and is located within a previously developed site on the edge of a residential area. On this basis it is considered that this is not a habitat that is likely to contain natterjack toads and so it would not be necessary to seek an ecological survey for this minor application.</p> <p>It is therefore considered that the development complies with policies ST1, ENV3 and DM25 of the Copeland Local Plan and NPPF.</p> <p><u>Planning Balance and Conclusions</u></p> <p>This application seeks permission to relocate the existing poor access at this site which is currently not fit for purpose. The access will be relocated further south along the northern boundary of the site to improve visibility and ensure access can be achieved by the machinery used to maintain the land and ENW assets located within the site.</p> <p>The existing well-established hedgerow will be retained along the site frontage and will be extended into the existing access once closed. The development is therefore not considered to have adverse impacts on the character of the area or the surroundings landscapes.</p> <p>Concerns have been raised with regard to the loss of trees within the site, however only a small number are to be removed to accommodate the new access point. Conditions will be attached to this permission to secure retention of visibility splays and landscaping.</p> <p>The proposal is considered to be an acceptable form of sustainable development which is compliant with policies of the Copeland Local Plan and the provisions of the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p><u>Standard Conditions:</u></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted must be commenced before the expiration of three years</li> </ol>



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. This permission relates to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:-
- Site Layout Plan, Location Plan and Proposed (Amended), Scale 1:250 & 1:1000, Drawing No 10046/2, Rev C, received by the Local Planning Authority on the 5<sup>th</sup> September 2022.
  - Planning and Access Statement (Amended), received by the Local Planning Authority on the 23<sup>rd</sup> 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

Pre Commencement Conditions:

3. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway must be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works must be implemented prior to the development being completed and must be maintained operational thereafter.

Reason

In the interests of highway safety and environmental management.

4. The development hereby approved must not commence before the existing highway boundary along the northeast of the site has been reduced to a height not exceed 1.05m above the carriageway level of the adjacent highway in accordance with the approved plan 'Site Layout Plan, Location Plan and Proposed (Amended), Scale 1:250 & 1:1000, Drawing No 10046/2, Rev C, received by the Local Planning Authority on the 5th September 2022'. This boundary treatment must be maintained in accordance with these details and must not be raised to a height exceeding 1.05m thereafter.

Reason

In the interests of highway safety.

5. The development hereby approved must not commence until visibility splays providing clear visibility of 60 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway in accordance with Drawing Number 10046/2RevC. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays must be constructed before general development of the site commences so that construction traffic is safeguarded.

Reason

In the interests of highway safety.

Prior to First Use Conditions:

6. The access must be surfaced in bituminous or cement bound materials, or otherwise bound and must be constructed and completed before the development is brought into use. This surfacing must extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason

In the interests of highway safety.

7. Prior to the first use of the access hereby approved at this site, the existing access to the A5093 should be closed up and the boundary treatment must be installed in accordance with the approved plan 'Site Layout Plan, Location Plan and Proposed (Amended), Scale 1:250 & 1:1000, Drawing No 10046/2, Rev C, received by the Local Planning Authority on the 5th September 2022'. The boundary treatment must be retained as such at all times thereafter.

Reason

In the interest of visual amenity.

Other Conditions:

8. Access gates, if provided, must be hung to open inwards only away from the highway.

Reason

In the interests of highway safety.

**Informative:**

1. Northern Gas Networks may have apparatus in the area that may be at risk during construction works and should the planning application be approved, then ENW require the promoter of these works to contact them directly to discuss their requirements in detail. Should diversionary works be required these will be fully chargeable.
2. The development is shown to be adjacent to or affect Electricity North West's operational land or electricity distribution assets. Where the development is adjacent to operational land the applicant must ensure that the development does not encroach over either the land or any ancillary rights of access or cable easements. If planning permission is granted the applicant should verify such details by contacting Electricity Northwest, Land Rights & Consents, Frederick Road, Salford, Manchester M6 6QH.

The applicant should be advised that great care should be taken at all times to protect both the electrical apparatus and any personnel working in its vicinity.

The applicant should also be advised that, should there be a requirement to divert the apparatus because of the proposed works, the cost of such a diversion would usually be borne by the applicant. The applicant should be aware of our requirements for access to inspect, maintain, adjust, repair, or alter any of our distribution equipment. This includes carrying out works incidental to any of these purposes and this could require works at any time of day or night. Our Electricity Services Desk (Tel No. 0800 195 4141) will advise on any issues regarding diversions or modifications.

Electricity Northwest offers a fully supported mapping service, at a modest cost, for our electricity assets. This is a service which is constantly updated by our Data Management Team who can be contacted by telephone on 0800 195 4141 or access the website

<http://www.enwl.co.uk/our-services/know-before-you-dig>

	<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>
<b>Case Officer:</b> C. Burns	<b>Date :</b> 03.10.2022
<b>Authorising Officer:</b> N.J. Hayhurst	<b>Date :</b> 05/10/2022
<b>Dedicated responses to:-</b> N/A	