

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

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| 1. | Reference No: | 4/22/2364/0F1 |
| 2. | Proposed Development: | CONSTRUCTION OF NEW WAREHOUSE UNIT WITH ANCILLARY OFFICES |
| 3. | Location: | FORMER CLEATOR MILLS SITE, CLEATOR |
| 4. | Parish: | Cleator Moor |
| 5. | Constraints: | <p>ASC;Adverts - ASC;Adverts,</p> <p>Flood Area - Flood Zone 2, Flood Area - Flood Zone 3,</p> <p>SSSI - SSSI,</p> <p>Coal - Standing Advice - Data Subject To Change,</p> <p>Outer Consultation Zone - Sellafield 10KM</p> |
| 6. | Publicity Representations &Policy | See report. |
| 7. | <p>Report:</p> <p>Site and Location:</p> <p>The Application Site comprises part of the former Cleator Mills site in Cleator.</p> <p>The Application Site comprises the location of a number of former mill buildings which have previously been demolished.</p> <p>The Application Site is located within Flood Zone 2/3.</p> <p>The Application Site is located adjacent to the River Ehen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).</p> <p>Directly Relevant Planning History:</p> | |

App. ref. 4/14/2190/001 – Outline application for erection of 79 dwellings and associated infrastructure/landscaping – Land to the north of Cleator Mill, Cleator – Approved.

App. ref. 4/14/2191/001 – Outline application for site redevelopment for the erection of new office accommodation – Former Kangol Site, Cleator Mills, Cleator – Approved.

App ref. 4/14/2192/0F1 – Extensions alterations and conversion of former mill buildings into office accommodation - Approved.

App. ref. 4/14/2480/001 – Outline for the erection of offices (B1) - Approved.

App. ref. 4/18/2312/0F1 – Creation of a 600 Space Car Park - Former Kangol Factory - Approved.

Proposal:

This application seeks Full Planning Permission for the erection of a warehouse building with ancillary office accommodation.

The description of the development initially proposed 'demolition of dilapidated former mill buildings'. This demolition was completed before the Full Planning Application was submitted on health and safety grounds.

The proposed comprises an I shaped two storey building. The main element of the building comprises warehousing, with the smaller element comprising ancillary office accommodation, conference facilities, a trade counter and staff accommodation/facilities.

The building is under a shallow dual pitched roof with parapet walls.

It is proposed to finish the building externally black cladding with grey features/accents.

A number of commercial roller doors and personnel doors are proposed to the front and rear elevations of the building.

Access is proposed via the existing highways serving the wider site.

A customer and visitor parking area is proposed to the site frontage.

A storage yard enclosed by low level stone walls and fencing is proposed to the rear of the building.

An illustrative scheme of planting has been prepared.

It is proposed to dispose of surface water to watercourse and foul water to the public main.

| Consultee: | Nature of Response: |
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| Town Council | No objection. |
| Cumberland Council – Highways and LLFA | Acceptable subject to the imposition of planning conditions in relation to specification of highways, Construction Traffic Management Plan and specification of detailed drainage scheme. |
| Environment Agency | <p>The revised Flood Risk Assessment is acceptable for their remit.</p> <p>A pre-commencement planning condition proposed in relation to ground conditions and land contamination.</p> |
| United Utilities | <p>Further to our review of the submitted site plan (drawing 1701C PL-200, Revision B, dated 13.10.2023), United Utilities note the drainage proposals appear to have changed but no updated drainage strategy has been provided to detail this or justify why. It appears there will be a discharge to watercourse rather than a discharge to ground, but there is also another surface water drain shown and it is not clear what this is draining or where it is draining to.</p> <p>An updated detailed drainage strategy should be provided.</p> <p>Should planning permission be granted we request the imposition of planning conditions requiring the approval of a detailed drainage scheme and maintenance and management scheme.</p> |
| Environmental Health | Requests the imposition of a planning condition to ensure controls in relation to unexpected land contamination, hours of construction and hours of operation. |
| Natural England | <p>No objections subject to appropriate mitigation being secured.</p> <p>Consider that without appropriate implementation and adherence to mitigation, the application would pose significant pollution risks and have an adverse effect on the integrity of The River Ehen Special Area of Conservation (SAC) and River Ehen Site of Special Scientific Interest (SSSI).</p> <p>To mitigate these adverse effects and make the development appropriate, the following mitigation measures are required, or the following mitigation options should be secured:</p> |

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| | | <ul style="list-style-type: none"> - A suitably qualified Ecological Clerk of Works (ECoW) will be required to oversee the construction phase of the development to provide ongoing monitoring and ensure that all mitigation measures are secured as set out in the Appropriate Assessment and Construction Environmental Management Plan (CEMP). <p>An appropriate planning condition or obligation is attached to any planning permission to secure these measures.</p> <p>The competent authority should consider the certainty with which mitigation can be secured in perpetuity, specifically the monitoring, long-term maintenance, and special waste final disposal for both the SuDS scheme and containment interceptor.</p> |
| | Cumbria Police | <p>Initial Response:</p> <p>Unfortunately, there is no information that indicates how the application complies with Council Policy.</p> <p>The following is recommended:</p> <ul style="list-style-type: none"> - 3m Galvanised security fence. I interpret this to imply a palisade type. Many palisades can be easily breached without the use of cutting tools. I therefore recommend a 3m welded mesh or extruded metal type, certified to LPS 1175 C3. Matching gates to be secured with security rated locking devices, e.g. padlocks certified to LPS 1654 or 'Sold Secure' Gold standard. - Security lighting scheme – to gently illuminate the elevations throughout darkness, utilising low-energy LED sources, controlled by photocell (NOT passive infrared motion sensor that can be falsely triggered by wildlife) - All exterior doors, roller shutters and ground floor windows certified to LPS 1175 C3 and fitted with laminated glazing (BS EN 356:2000) or 'Hammerglass'™ as appropriate - Consideration for installing anti-ram raid obstructions (internal or external) - Internal access controls – robust separation of communal and retail spaces from staircase, private offices / staff rooms etc. - Provision of secure storage for staff personal belongings - Presence and configuration of intruder alarm system – connected to all exterior doors and roof voids (if police attendance required, the equipment and selected Alarm Receiving Centre must be compliant with national Police Chiefs' Council Security Systems Policy) - Secure storage of external waste bins – to mitigate against exploitation as climbing aid and source for arson. |

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| | | <p>Subsequent Response:</p> <p>The newly published 'Site Plan as Proposed' depicts the boundary fence as a 2.4m palisade type and the Amended Details 'Covering Letter' (Item 12 – Design ii. a. advises of the revised and reduced boundary enclosure.</p> <p>Item 7 v. advises of the provision for cycle storage and this is located within direct view of the office unit.</p> <p>It would be helpful if the applicant could advise which of the recommended security measures shall be implemented (or will adopt alternative measures, such as CCTV), that will demonstrate compliance with DS7PO.</p> |
| | Council for British Archaeology | <p>Object.</p> <p>Cleator appears to have massively expanded in the early C19th, most likely in relation to the mills site, which employed 600 people. As such this mill site will make a significant contribution to a local sense of place within the village and surrounding area. Industrial sites, such as this, hold historical and evidential value about the development of the area along with its social and economic backdrop. Further significance is contained within its social history, including the 1915 women's strike, and use as a forces beret factory during the Second World War under Kangol ownership.</p> <p>Despite not being listed, the importance of such a large flax mill site to the historic development of the village will be substantial. The CBA note another building on site has been demolished within the last year. Additional loss of heritage assets at this site should require clear and convincing justification. We strongly recommend that Building 3 at Cleator Mills should be considered as a non-designated heritage asset (NDHA), which provides a substantial contribution to both the character and identity of the village. The CBA believe this application should be considered against the requirements of chapter 16 of the NPPF. Paragraph 203 requires that <i>"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."</i></p> <p>The CBA advise that incremental loss of buildings at Cleator Mills will</p> |

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| | | <p>collaterally amount to substantial harm to the heritage and identity of not only the site but also the village. This application lacks sufficient information about the significance of Cleator Mill and its remaining buildings or its condition.</p> <p>Furthermore, this application has not taken into account the embodied carbon within the structure as well as the carbon emissions that would be released through its demolition and created in the construction of the proposed new warehouse. The majority of these carbon emissions could be avoided by adapting the existing building for a new sustainable use. Considering the whole life carbon in the built environment is a fundamental part of reaching net zero targets by 2050.</p> <p>Whilst the CBA recognises that the remaining mill buildings are in poor condition the total demolition of Mill Building 3 amounts to substantial harm of an NDHA, which articulates the village's past industrial role and importance. An alternative strategy for the site that includes repair and maintenance of mill building 1, which we note is in the same ownership, and seeks to adaptively reuse both structures should achieve considerably enhanced public benefits for the local community.</p> <p>The CBA maintain the same recommendations for this application. An appropriate condition survey should be undertaken, reporting on both the interior and exterior of (ideally) both buildings 1 and 3. This survey should help inform alternative options for the site with greater public benefits than 15 jobs. We recommend that the condition survey should be undertaken by a qualified, independent, professional with relevant historic building experience. An appropriate condition survey should also supplement the distinct lack of interior and exterior photographs of both remaining buildings from the application. This will help determine if the proposed demolition of the building is justified, or if / how it could be adaptively repurposed. It will also create a record of these locally significant buildings, as per NPPF paragraph 205.</p> <p>Adaptively reusing building 3 is a far preferable strategy to its demolition on both heritage and environmental grounds. The CBA recommend that no further demolition at Cleator Mills should be permitted without an options appraisal and viability assessment that considers options for the reuse of this structure and contains a strategy for mill building 1.</p> |
| | SPAB | <p>The Society for the Protection of Ancient Buildings Mills Section is a statutory body in respect to proposals affecting listed buildings in the case of windmills and watermills.</p> <p>Cleator Mills is a site of substantial local historical significance. The site</p> |

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| | | <p>started life as a flax mill employing 600 people. It also set the stage for a leap forward in rights for women workers when the female workforce went on strike in 1915. The SPAB Mills Section is supporting the letter from the Council for British Archaeology (CBA) from 1st February 2023 and the following comment:</p> <p><i>'The CBA believe building 3 at Cleator Mills should be considered as a None Designated Heritage Asset (NDHA) that is instrumental to the character and identity of its location.'</i></p> <p>The SPAB Mills Section is also requesting that the applicant provides a Heritage Impact Assessment Statement.</p> <p>Recommendation The SPAB Mills Section is objecting to the demolition of the existing mill buildings and recommends a reuse of the buildings.</p> |
| | Association for Industrial Archaeology | <p>The Association for Industrial Archaeology notes that this application is for the demolition of the dilapidated Former Mill Buildings and Construction of New Warehouse Unit with ancillary offices. It would appear that the plans show only the demolition of one of the surviving buildings on this site – Mill Building 3 although it would appear the application refers to mill buildings in the plural. Therefore these comments although referring specifically to Mill Building 3 apply to all the original buildings on this site.</p> <p>These mill buildings are not listed and therefore fall to be considered as Non-Designated Heritage Assets. As such this site still falls to be considered under the NPPF (2021 revision) at Section 16 which sets out the criteria for conserving and enhancing the historic environment.</p> <p>The first paragraph, Paragraph 189, sets the initial comments: "Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations."</p> <p>Given the value of this site (see below) paragraph, 190, is also applicable: "Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:</p> <p>a) the desirability of sustaining and enhancing the significance of</p> |

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| | | <p>heritage assets, and putting them to viable uses consistent with their conservation;</p> <p>b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;</p> <p>c) the desirability of new development making a positive contribution to local character and distinctiveness; and</p> <p>d) opportunities to draw on the contribution made by the historic environment to the character of a place.”</p> <p>The next relevant paragraph is 194 which specifies that “In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”</p> <p>Paragraph 194 is particularly relevant because there is no description of the significance of Cleator Mills. Furthermore there may be associated below ground archaeology (see below).</p> <p>The next three paragraphs also have some relevance to this application.</p> <p>“195. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.</p> <p>196. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.</p> <p>197. In determining applications, local planning authorities should take account of:</p> <p>a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their</p> |
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| | | <p>conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.”</p> <p>The relevance of paragraph 197 is demonstrated by some details on the buildings on this site. Cleator Mill was a flax mill built by Thomas Ainsworth in 1859 on the site of an earlier mill. The description in Pevsner refers to it being monumental and that with its crenellations gave the impression of a country house set in meadows. There follows a description of the buildings and the detached chimney all constructed in red sandstone.¹ Such an extensive entry on industrial buildings in Pevsner is indicative of their importance, both visual and historical. Further details are given and show that continued in production of linen thread until 1924.² This source also mentions the possibility of an iron smelting furnace of a late 17th century date located “not far from the forecourt of the flax mill, on the north side of the entrance lane”.³</p> <p>The above details indicate that the site is of some importance in respect of both the surviving buildings and potentially below ground archaeology. Therefore paragraph 203 is of particular relevance. “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”</p> <p>Furthermore, given the potential significance of this site it is essential that paragraph 205 is implemented: “Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.”</p> <p>Finally it is should be noted that the retention and reuse of mill buildings is dealt with in a Historic England publication “Driving Northern Growth Through Repurposing Historic Mills”, link herewith: https://historicengland.org.uk/images-books/publications/driving-northern-growth-repurposing-mills/</p> <p>Therefore the Association objects to this application which should be refused on the grounds that there is no heritage impact assessment to</p> |
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| | | enable the significance of the Mill to be determined |
| | Cumbria Industrial History Society | <p>Express disappointment that some of the iconic buildings on this site have already been demolished in advance of planning permission and apparently without any recording, contrary to the National Planning Policy Framework and our earlier comments on the original planning application.</p> <p>We echo the response of the Council for British Archaeology in asking that the remaining buildings be adapted for reuse rather than demolished, and we repeat our opinion that a professional assessment and record of the history of the site should be required.</p> |
| | Cumberland Council – Archaeologist | <p>It seems from the information submitted with the application that the description of the development stating ‘demolition of dilapidated former mill buildings’ is incorrect as the demolition has already taken place.</p> <p>Other than registering my disappointment that one of the most monumental industrial buildings in Copeland and indeed the whole county has been demolished without record, I have no comments to make.</p> |
| | Victorian Soc. | <p>Object to the proposals in their current form.</p> <p>It seems likely that the Hall itself is mostly out of our remit, and we are happy to defer to our colleagues at the CBA, the SPAB, and the Georgian Group about its proper treatment. We must, however, echo the objection of Historic Buildings and Places, especially with respect to the buildings numbered 7, 8, 9, and 10. These buildings are all clearly to be seen on the OS 25” map of 1898; all but building 8 are equally clearly visible on the first edition of this map (surveyed in 1860 — building 8 is there, but has a different footprint, and may have been replaced or altered post 1860). All these buildings clearly relate to the historic functioning of the farm and should be considered curtilage listed.</p> <p>The current application includes no assessment of the significance of these buildings, or of the harm that their total loss will entail both in itself and to Scalegill Hall through the impact on its historic functional setting. Furthermore, the application also does not include any meaningful assessment of the significance of the hall itself, or of the harm that will be done through the proposed alterations. It therefore clearly fails to meet the requirements of the NPPF, paragraph 194. We strongly urge your authority to withhold consent from the proposals and seek further information, and, if necessary, revisions to the plans. We recommend that the applicants engage a suitable conservation professional to undertake the necessary research and assessments.</p> |



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| | Cumberland Conservation Officer | <p>Initially recommended refusal of the application on grounds of the lack of submitted documentation, that the proposal cannot be considered well designed and that the proposals does not sustain and enhance the significance of the remaining Mill heritage assets</p> <p>Following successive revisions, including revisions to the proportions of the office volume of the building, the fenestration detailing, introduction of a parapet eaves details, development branding, repositioning in the plot and landscaping, confirmed support.</p> <p>Minor issues remain in relation to specific aspects of the design including the branding, landscaping and advertisement; however, these details are secured via planning conditions.</p> |
| | Neighbour Responses: | |
| | <p>The application has been advertised by way of a planning application site notice and letters sent to neighbouring properties.</p> <p>Six representations have been received, one in objection and five in comment/support.</p> <p>The planning issues raised comprise the following:</p> <p>The development of the former Kangol site is an area that is indeed long over due for development.</p> <p>The Park and Ride facility has not delivered the required speed limiters. This development should not be permitted to progress without speed limiter and proper street lighting the full length of estate road.</p> <p>We are now experiencing issues with vibration when heavy large vehicles are going over the speed ramps at speed. Our bedroom on the back of our property now suffers from the vibration, to the extent the wardrobes and ceiling lights rattle and this can be anywhere from 05:45am in the morning. This only started to occur from the installation of the speed ramp directly opposite our house on the Kangol Estate. The ramp is not high enough to slow the traffic down sufficiently and this in turn is causing us problems in our home. If the new development is going to create a greater number of larger vehicles using the Kangol Site then this will cause us further problems. The speed ramp needs either to be higher to slow down the traffic sufficiently or relocated away from residential property.</p> <p>Great to see investment brought to the area and this will also create new job opportunities in the area.</p> <p>Object due to the inaccuracies in the submitted documentation. The flood risk document</p> | |

in section 4.2 shows the development 97% appoximatetley in flood zone 3 and 3% in flood zone 2; however the text in 4.3 states partially in flood zone 2 and 3. This is repeated in section 7.11. This is an incorrect statement and should state this as such as not to mislead those reading the document. It should state that it is located approximately 97% in flood zone 3 or just located in flood zone 2. Not state partially in 3 and 2 as thus is misleading. The rest of the document states flood zone 3 and for consistency the beginning should state as such.

This letter provides additional information in relation to the above submitted planning application. Our company is to be the occupier of the proposed building. Prior to reaching an agreement to occupy this site, subject to planning permission, we have had a requirement for a suitable site in the north Copeland area for a substantial period of time and have been through a detailed site search process ourselves, without success. The proposed new building is designed exactly to suit our requirements, as we have previously been unable to find an existing building in the area that meets our needs. Other sites in the area have been assessed but discounted because of access arrangements, location in relation to the main road network, proximity to residential properties, road links through constrained residential/school areas and topography. While unrelated to the above site search, we would take this opportunity to detail the positives of the proposed development. It represents a significant investment into the area and will likely provide around 10 jobs to the area.

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 (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST4 – Providing Infrastructure

Policy ER3 – The Support Infrastructure for the Energy Coast

Policy ER5 – Improving the Quality of Employment Space

Policy ER6 – Location of Employment

Policy ER11 – Developing Enterprise and Skills

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV4 – Heritage Assets



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Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM21 – Protecting Community Facilities

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Policy DM27 – Built Heritage and Archaeology

Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP) Saved Policies:

Policy TSP8 – Parking Requirements

Emerging Copeland Local Plan 2017 - 2038 (ELP):

Cumberland Council are continuing the preparation and progression to adoption of the ELP.

The Local Plan Examination Hearing Sessions were completed in March 2023.

The appointed Planning Inspector issued their post hearing letter in June 2023, which identified the next steps for the examination.

The appointed Planning Inspector has now considered all representations and the discussions that took place during the Local Plan Examination Hearing Sessions in 2023 and has identified a number of amendments or 'modifications' that are required in order to ensure the ELP is sound i.e. positively prepared, justified, effective and consistent with national planning policy.

A six week public consultation seeking views on the proposed modifications to the ELP commenced on Wednesday 14th February 2024 and will close on the 28th March 2024.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Once the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.

Policy DS1PU - Presumption in favour of Sustainable Development
 Policy DS2PU - Reducing the impacts of development on Climate Change
 Policy DS3PU - Settlement Hierarchy
 Policy DS4PU - Settlement Boundaries
 Policy DS5PU - Planning Obligations
 Policy DS6PU - Design and Development Standards
 Policy DS7PU - Hard and Soft Landscaping
 Policy DS8PU - Reducing Flood Risk
 Policy DS9PU - Sustainable Drainage
 Policy DS10PU - Soils, Contamination and Land Stability
 Policy DS11PU - Protecting Air Quality
 Strategic Policy E1PU: Economic Growth
 Strategic Policy E2PU: Location of Employment
 Strategic Policy E6PU: Opportunity Sites
 Policy E7PU: Safeguarding of Employment Sites
 Policy SC1PU - Health and Wellbeing
 Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic
 Policy N2PU - Local Nature Recovery Networks Strategic
 Policy N3PU - Biodiversity Net Gain
 Policy N5PU - Protection of Water Resources
 Policy N6PU - Landscape Protection
 Policy N13PU - Woodlands, Trees and Hedgerows
 Policy BE4PU: Non- Designated Heritage Assets
 Strategic Policy CO1PU: Telecommunications and Digital Connectivity
 Policy CO4PU - Sustainable Travel
 Policy CO5PU - Transport Hierarchy
 Policy CO7PU - Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (NPPF).
 Planning Practice Guidance (PPG).
 National Design Guide (NDG).
 The Conservation of Habitats and Species Regulations 2017 (CHSR).
 Cumbria Development Design Guide (CDDG).
 Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).

Assessment:

Principle of Development

The Application Site comprises a former factory site.

It is understood that the Kangol factory closed in 2009 and since then the main of the buildings on the site have been reduced to only a shell and/or have been demolished.

In *The Trustees of Castell-y-Mynach Estate v Taff-Ely BC* [1985], the court established four criteria for assessing whether a use had been abandoned. These are: (1) the physical condition of the buildings; (2) the period of non-use; (3) whether there has been any other use; and (4) the owner's intentions. In *Hughes v SSETR & South Holland DC* [2000] the Court of Appeal held, on the authority of *Hartley*, that the test of the owner's intentions should be objective and not subjective. In this regard the test was the view to be taken by "a reasonable man with knowledge of all the relevant circumstances".

Given the condition of the site including the period of non-use and site clearance and in applying the above criteria, there is an argument for abandonment of the previous use across the main of the wider site.

The Application Site is located within the settlement boundary for Cleator as defined in Policy ST2 of the adopted Local Plan (LP).

Policy ST2 of the LP states that Cleator is a location where emphasis will be on retention; expansion potential may include tourism in some places, generally limited by environmental constraints; and, new provision most likely to be provided through conversion/re-use of existing buildings or completion of sites already allocated.

Policy ER6 of the LP states that outside Whitehaven, the Key Service Centres, and the allocated sites, smaller scale economic development proposals will be considered on their merits, with the following matters being particularly important: justification for rural location - transport impact - vulnerability to flooding - impact on residential amenity and - impact on landscape character, settlement character and biodiversity.

The Application Site is located in an area defined as an Opportunity Site in Strategic Policy E6PU of the emerging Local Plan (ELP), these being sites identified as the focus to help regenerate these towns. It is confirmed that a Masterplan will be required for larger Opportunity Sites to ensure a holistic development is brought forward.

Appendix C of the ELP states the following in relation to the Cleator Mills Opportunity Site:



Based upon the above, there is clear support for the principle of the proposed development subject to it being demonstrated how the proposed development would sit within and would not prejudice the delivery of other development within the wider site that delivers on the regeneration objectives for Cleator Moor.

A formal and defined masterplan has not been prepared; however, some schematic plans showing how development could be delivered has been prepared. The layout of the development as shown does not appear particularly well conceived; however, it does demonstrate how the proposed development would not prejudice the redevelopment of main mill building. A stronger developed character should be created, with greater consideration given the placement of the proposed smaller units, services spaces and parking etc..

Flood Risk and Drainage

The Application Site is located in Flood Zone 2/3.

The Environment Agency have confirmed no objections.

Given the proposed use comprises a less vulnerable use, the Exception Test is not applicable; however, the Sequential Test is still applicable.

Whilst the Application Site is located in an area defined as an Opportunity Site in Strategic Policy E6PU of the ELP, the proposed uses identified as potentially suitable for the site do not appear to have not been the subject of a Sequential Test as part of the allocations process.

A Sequential Test has been prepared and has demonstrated that the development could not be accommodated in areas at lower risk of flooding within the northern extent of the former Copeland area.

It is considered that the risk to users from flood risk is acceptable subject to the mitigation measures outlined within the Flood Risk Assessment. A planning condition is proposed to secure compliance.

It has been demonstrated that an acceptable scheme of foul water and surface water drainage is deliverable; however, a detailed drainage scheme has not been submitted. In accordance with the recommendations of United Utilities and the Lead Local Flood Authority, a planning condition is proposed to secure submission, approval and implementation of a detailed drainage scheme and a management/maintenance scheme for the lifetime of the development.

Ecology

The Bat Survey prepared in support of the planning application includes some general assessment of the ecological impacts and identifies the potential requirement for an HRA.

Natural England has confirmed that a Habitats Regulations Assessment (HRA) to assess the potential impacts of the development on the River Ehen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) is required.



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A Shadow HRA has been prepared by the Applicant in support of the planning application. The Shadow HRA demonstrates that the development will not result in unacceptable impacts upon the River Ehen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) subject to the mitigation identified.

The assessment and conclusions of the Shadow HRA are considered reasonable and the Shadow HRA is adopted by Cumberland Council as local planning authority.

Planning conditions are proposed to secure completion of the development in accordance with the provisions of the Bat Survey and mitigation detailed within the Shadow HRA. A planning condition is specifically proposed in relation to construction environmental management and the management and maintenance of the surface water drainage scheme to ensure long term maintenance and management and ensure that the local planning authority retains control over these matters for the lifetime of the development.

Given the nature and character of the Application Site and development, the proposals will not impact a priority habitat and impacts less than 25 square metres of on-site habitat and 5 metres of on-site linear habitats; therefore, a biodiversity net gain is not sought.

Design

The initial building design comprised a generic industrial building that did not respond to its context, which comprises a particularly attractive site, which is characterised by the castellated red sandstone of the surviving fragments of the locally significant mill building, mature deciduous woodland and riverbank.

The design of the proposed building and layout of the associated yards etc. have been the subject of review and revision, which has considerably improved the design of the building itself and how the building sits and operated within the site and context.

An indicative scheme of landscaping has been prepared. A planning condition is proposed to secure a detailed scheme of landscaping and boundary treatments.

Heritage

The former mill buildings on and adjacent to the Application Site comprised non-designated heritage assets.

The local planning authority sought to retain the buildings; however, the buildings were demolished before the Full Planning Application was submitted on health and safety grounds.

The description of the development initially proposed 'demolition of dilapidated former mill buildings' and this has caused some confusion during the application process, despite revisions and explanation in supporting documentation etc.. This has result in objections from a number of heritage bodies on grounds of the loss/demolition of the mill buildings.

The retention and reuse of the former mill buildings was a significantly preferable option for the development of the Application Site; however, the buildings have been demolished.

Notwithstanding the above, the Application Site comprises part of the setting of the remaining mill building.

The Conservation Officer raised objection to the initial design of the development; however, following review has confirmed general support for the design of the development, which is considered to better relate to the site and context. Minor issues remain in relation to specific aspects of the design including the branding, landscaping and advertisement; however, these details are secured via planning conditions.

Residential Amenity

Given the scale, form and layout of the development no adverse impacts upon existing or approved dwellings would result through loss of light, overshadowing or overbearing.

A planning condition is proposed in relation to construction working hours and operational hours to prevent unacceptable impacts upon nearby occupied dwellings during the construction and operational periods.

Highways

Cumberland Council Highways initially raised issues in relation to the design of the development; however, following revision they have confirmed no objections subject to the imposition of planning conditions in relation to specification of highways and the submission, approval and implementation of a Construction Traffic Management Plan.

Provision is made for cycle storage.

The Application Site is widely used by walkers on an informal basis. There is a natural desire line that exists between the Application Site and the remaining mill building. The proposed design and layout permits pedestrians to walk along and cut through this area in the form of made footways connecting to those to the site frontage and running along the main access road.

A riverside walk is identified as a potential development as part of a wider masterplan for the development of the wider site that would enhance linkages for walkers.

Ground Conditions

The Environment Agency has confirmed that the additional Phase 2 Ground Investigation submitted includes an assessment of soil leachability. The results have shown contaminant solubility of organic substances which marginally exceed generic assessment criteria;



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| | <p>therefore, either remediation or further data collation and interpretive assessment is required, which has not been undertaken.</p> <p>The Environment Agency have confirmed that a pre-commencement planning condition is required to secure further ground conditions and the submission, approval and implementation of a scheme of remediation.</p> <p>Environmental Health has requested the imposition of a planning condition to ensure controls in relation to unexpected land contamination.</p> <p>Planning Balance:</p> <p>The principle of the development is acceptable.</p> <p>The design of the development is appropriate to its context.</p> <p>No unacceptable impacts will result from the development in relation to amenity, highway, ecology, flood risk and drainage subject to the planning conditions imposed.</p> |
| 8. | <p>Recommendation:</p> <p>Approve (commence within 3 years)</p> |
| 9. | <p>Conditions:</p> <p>1. The development hereby permitted shall begin not later than three years from the date of this decision.</p> <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <p>2. The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Location Plan – Drawing No. 1701-EX-001 Rev. B Site Plan As Existing – Drawing No. 1701C-F07-001 Rev. A Site Plan – Drawing No. 1701CPL-200 Rev. C Floor Plans – Drawing No. 1701CPL-300 Rev. B Elevations – Drawing No. 1701CF10-500 Rev. B Bat Risk Assessment and Bat Survey Report – Cleator Mills Cleator – Report Ref. MEP-22-01 August 2022</p> |

Flood Risk Assessment and Surface Water Drainage Strategy for Planning – Report Ref. 92276-ManningElliott-CleatorMills v2
Sequential Test Report – Land at Cleator Mills, Cleator, Cumbria Planning Application 4/22/2364/0F1
Phase 1: Desk Top Study Report (Preliminary Environmental Risk Assessment) - Report Ref: 2023-5775
Phase 2: Ground Investigation Report Proposed Commercial Development of Land at Cleator Mills, Cumbria - Report Ref: 2023-5775
Report to Inform an Appropriate Assessment Cleator Mills - Report Ref: 23144-HRA – Version V2.5
External Finishes Schedule – Industrial Building, Cleator Mills – Project No. 1701C

Reason

For the avoidance of doubt and in the interests of proper planning.

Pre-commencement Planning Conditions

Highways

3. Notwithstanding the submitted details, no development shall commence until details, including longitudinal/cross sections of the carriageway, footways, footpaths etc. have been submitted to and approved in writing by the Local Planning Authority.

The development shall be completed in accordance with the approved details before the development is complete.

Reason

To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2021.

Drainage

4. Notwithstanding the submitted details, no development shall commence until details of a sustainable surface water drainage scheme and a foul water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

The drainage schemes must be based on the hierarchy of drainage options in the Planning Practice Guidance.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical



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Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage scheme shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason:

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

Construction Management

5. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted and approved in writing by the Local Planning Authority.

The CTMP shall include:

- details of proposed crossings of the highway verge;
- retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- the timing of deliveries by heavy goods vehicles to and from the site;
- the management of junctions to and crossings of the public highway and other public rights of way/footway; and,
- details of any proposed temporary access points (vehicular/pedestrian).

Reason

In the interests of highway safety in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2021.

Arboriculture and Landscaping

6. Notwithstanding the submitted details, no development shall commence until full details of the tree protection measures for all trees to be retained have been submitted to and approved in writing by the Local Planning Authority.

These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas and the measures to be used to prevent harm from such works, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction.

The Arboricultural Method Statement shall be implemented as approved throughout the construction period.

Reason

To ensure the protection and retention of important landscape features in accordance with the provisions of Policy DM28 of the Copeland Local Plan 2013 – 2028.

7. Notwithstanding the submitted details, no development shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

These details shall include:-

- means of enclosure including details of any walls/structures;
- other vehicle and pedestrian access and circulation areas; and,
- hard surfacing materials.

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers / densities; and an implementation programme.

The agreed scheme shall be carried out as approved to the agreed timetable.

Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Reason

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with the provisions of Policy DM26 of the Copeland Local Plan 2013-2028.

8. No development shall commence until a remediation strategy to deal with the risks



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associated with contamination of the site in respect of the development hereby approved, has been submitted to and approved in writing by the local planning authority.

This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and,
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The remediation strategy shall be implemented as approved.

Reason

To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013 – 2028.

Pre-Occupation Planning Conditions

Building Branding

9. Notwithstanding the submitted details, no development hereby approved shall be occupied until a detailed scheme of building branding has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented in full prior to first occupation of the development hereby approved.

Reason

To safeguard and enhance the character of the area and secure high quality design in accordance with the provisions of Policy DM10 of the Copeland Local Plan 2013-2028.

Lighting

10. No development hereby approved shall be occupied until a scheme for the provision of external lighting has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of the location, design, luminance levels, light spillage and hours of use of all external lighting within the site.

The approved lighting scheme shall be implemented in full prior to first occupation of the development hereby approved.

Reason

To safeguard and enhance the character of the area and secure high quality design, prevent amenity harm and prevent ecological impacts in accordance with the provisions of Policy ST1, Policy ENV3, Policy DM25 and Policy DM10 of the Copeland Local Plan 2013-2028.

Highways

11. No development hereby approved shall be occupied until the access including footways have been constructed in all respects to base course level.

Reason

To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2021.

12. No development hereby approved shall be occupied until the approved parking layout and turning space has been constructed, marked out and made available for use.

The parking spaces shall be used solely for the benefit of the occupants and visitors of the development hereby approved and for no other purpose and shall be retained for the lifetime of the development.

Reason

To ensure a minimum standard of parking provision and in the interests of highway safety in

accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2021.

Drainage

13. No development hereby approved shall be occupied until a Sustainable Drainage Management and Maintenance Plan (SDMMP) for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority.

The SDMMP shall include as a minimum:

- (i) Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and,
- (ii) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system and compensatory storage areas to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall be completed, maintained and managed in accordance with the approved SDMMP.

Reason

To ensure that management arrangements are in place for the sustainable drainage system and to manage the risk of flooding and pollution in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

Other Planning Conditions

Highways

14. There shall be no vehicular access to or egress from the site other than via the approved accesses.

Reason

To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

Drainage

15. Foul water and surface water shall drain on separate systems.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

16. The development hereby approved shall not proceed except in accordance with the flood risk mitigation strategy described in Flood Risk Assessment and Surface Water Drainage Strategy for Planning – Report Ref. 92276-ManningElliott-CleatorMills v2

Reason

To promote sustainable development and to manage the risk of flooding in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

Construction Management

17. No construction work associated with the development hereby approved shall be carried out outside of the hours of 07.30 hours -18.00 hours Monday-Saturday, nor at any time on Sundays and bank holidays.

Reason

In the interests of neighbouring residential amenity in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

Hours of Operation

18. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times:
07.00 hours -18.00 hours Monday-Saturday, nor at any time on Sundays and bank holidays.

Reason

In the interests of neighbouring residential amenity in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

Ecology



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Council**

19. The development hereby approved shall not proceed except in accordance with the mitigation strategy described in Bat Risk Assessment and Bat Survey Report – Cleator Mills Cleator – Report Ref. MEP-22-01 August 2022.

The required compensatory features shall be installed within 3 months of the first occupation of the development and shall be retained for the lifetime of the development.

Reason

For the avoidance of doubt and to prevent harm to protected species in accordance with the provisions of Policy ENV3 and Policy DM25 of the Copeland Local Plan 2013-2028.

20. The development hereby approved shall not proceed except in accordance with Construction Environmental Management Plan For The Former Cleator Mills Site Cumbria – Report Ref. EES-CEMP 2023 contained within Report to Inform an Appropriate Assessment Cleator Mills - Report Ref: 23144-HRA – Version V2.5.

Reason

For the avoidance of doubt and to prevent harm to protected species in accordance with the provisions of Policy ENV3 and Policy DM25 of the Copeland Local Plan 2013-2028.

Ground Conditions

21. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason

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| | <p>To prevent harm to human health and the environment in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.</p> <p>Informative Note</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. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.</p> <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> |
| <p>Case Officer: C. Harrison</p> | <p>Date : 11.04.2024</p> |
| <p>Authorising Officer: N.J. Hayhurst</p> | <p>Date : 12/04/2024</p> |
| <p>Dedicated responses to:-</p> | |