

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2402/0B1	
2.	Proposed Development:	VARIATION OF CONDITION 2 - AMENDMENTS TO LAYOUT AND LANDSCAPING INCLUDING RELOCATION OF PONDS AND ENLARGEMENT OF TOILET BLOCK FOR PLANNING APPROVAL REFERENCE 4/10/2387/0F1 - PROPOSED EXTENSION OF EXISTING HOLIDAY VILLAGE TO PROVIDE 100 NO. STATIC CARAVAN PITCHES, 20 NO. MOTOR HOME PITCHES, 30 NO. TOURING CARAVAN PITCHES, CAMPING AREA FOR UP TO 20 NO. TENTS, COMMUNAL FACILITIES BUILDING, 2 NO. SHOWER AND TOILET BLOCKS, PARK MAINTENANCE COMPOUND, TOURIST INFORMATION BUILDING INCORPORATING CAFE & PUBLIC TOILETS, ASSOCIATED LANDSCAPING AND INFRASTRUCTURE WORKS	
3.	Location:	PORT HAVERIGG HOLIDAY VILLAGE, STEEL GREEN, HAVERIGG	
4.	Parish:	Millom	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, SSSI - SSSI, Coal - Off Coalfield - Data Subject To Change, Key Species - Known Sites for Natterjack Toads,	
6.	Publicity Representations &Policy	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report

7.

## **Report:**

### **Site and Location**

This application relates to land to the north of Port Haverigg Holiday Village, located to the east of Haverigg. The application site is separated from the existing Holiday Village but the access road through the site, and directly adjoins Harbour Lights Campsite to the west.

### **Relevant Planning History**

4/10/2387/0F1 – Proposed extension of existing holiday village to provide 100 No. static caravan pitches, 20 No. motor home pitches, 30 No. touring caravan pitches, camping area for up to 20 No. tents, communal facilities building, 2 no. shower and toilet blocks, park maintenance compound, tourist information building incorporating café & public toilets, associated landscaping and infrastructure works – Approved.

### **Proposal**

In November 2010, planning permission (ref: 4/10/2387/0F1) was granted by Members of the Planning Committee for the proposed extension of the existing Port Haverigg Holiday Village to provide 100 No. static caravan pitches, 20 No. motor home pitches, 30 No. touring caravan pitches, camping area for up to 20 No. tents, communal facilities building, 2 no. shower and toilet blocks, park maintenance compound, tourist information building incorporating café & public toilets, associated landscaping and infrastructure works.

This current application seeks to vary condition 2 relating to the submitted plans for this planning approval to allow for amendments to the overall layout and landscaping for the scheme to include the relocation of ponds and the enlargement of the toilet block.

### **Consultation Responses**

#### Millom Town Council

I write on behalf of Millom Town Council in regard to the above planning application. It is noted that this was originally passed in 2010 and that they are now trying to alter things slightly, hence the revised application.

Concerns have been raised to the Millom Town Council in regard to the original application (for which I believe has not as yet been started). Residents especially in the Mainsgate Road and Haverigg areas are concerned about the sewage from the proposed additional caravans etc. At present the pumps in Haverigg are near to capacity and the sewage system also pumps into the Millom system, making when heavy rains etc there is nowhere for the excessive water to flow along with the sewage. There are already issues with raw sewage overflowing onto the road ways from what is already heavily used by Wyldecrest, adding additional waste systems into this old sewage system will, undoubtedly, cause more issues. Some of the properties where the sewage system runs have already been flooded out 3 times during heavy rainfall.



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Millom Town Council would like the planning authority to take into consideration these factors. At a local open day in Millom CCC to discuss flooding etc their representative Doug Coyle stated that no further developments/structures would be passed until the sewage issues were remedied.

At present MTC would like to see that as Mr Attwood has not yet sited all of these caravans or expanded that these plans be delayed until such time as Millom Sewage works have been completed. I believe that work is due to start within the next 2 years.

### Cumberland Council – Highway Authority & Lead Local Flood Authority

Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and our findings are detailed below.

#### Local Highway Authority response:

It is considered that the proposal will not have a material effect on existing highway conditions. I can therefore confirm that the Local Highway Authority has no objection to the variation of condition proposal.

#### Lead Local Flood Authority response:

Within the variation of condition 2 of the above application it is noted that the shower block will increase from 4 toilets and 1 shower, to 10 toilets and 10 showers which will increase the volume of foul water leaving the site and ultimately ending up in Millom's combined network. The LLFA is well aware of the flooding problems in Millom linked to the limited capacity and surcharging of United Utilities's combined system so we need to assess the impact of foul as well as surface water discharge, even though the increase in foul is minimal. However, in this area, foul water is pumped up to the Millom network via a pumping station with a sump which means that at the existing fixed pumping rate there will be no increase in the volume or rate at which the foul water is pumped from Haverigg to the treatment plant at Millom and therefore no increase or change to the flood risk in the town. Therefore we as the LLFA have no objections to the variation of condition proposal.

#### Conclusion:

I can confirm that the Highway Authority and Lead Local Flood Authority has no objection to the proposed variation of condition 2 of application 4/10/2387/0F1 as it is considered that the proposal does not affect the highway nor does it increase the flood risk on the site or elsewhere.

### Environment Agency

No comments received.

### Natural England

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. If you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require advice.

The lack of detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the local authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision making process.

Cumbria Wildlife Trust

No comments received.

Cumberland Council – Environmental Health

I have no objections to the amended proposals outlined in this planning application.

This site is licensed with the Council as a Caravan and Camping Site under the Control of Caravan Sites and Development Act 1960 and this process regulates much of the routine activity of the facility.

A basic desk top study of the site showed part of the site to be potentially affected by historically contaminated land – along part of the southern boundary from the old Moor Bank Ore Mine, and on the north western boundary from former clay pits at Moor Moss.

A detailed Phase 1 Desktop Geoenvironmental Study was carried out and included in the original 2010 planning application reference 4/10/2387/0F1,

This concluded that “The overall risk to the development associated with the pollutant linkages identified by the Phase 1 study is generally considered to be moderate to low...It is considered that the nature of potential contamination identified by the desk study should not preclude the granting of planning permission, providing appropriate remedial measures are identified and implemented”.

Further site investigation / testing was recommended in this study for made ground infill soils and ground gas monitoring.

I am not aware, however, if the Phase 2 testing was subsequently carried out.

Perhaps the Agent / applicant can follow this up.

Given the possibility of shallow ground works encountering potentially contaminated soil, I would advise that the following condition is imposed.

Cumberland Council – Flood and Coastal Defence Engineer

With regards to the above application, I have read through the updated Flood Risk



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Assessment and whilst it is generally a good document, there is an apparent lack of supporting information with the application, which raises a number of points:

- There appears to be no drainage plan submitted.
- There is no information supporting the design of the surface water system, in terms of sizing of the ponds and other features.
- As legislation and guidance has been updated, what may have previously been accepted will need to be updated in light of this and the updated Flood Risk Assessment.
- In the event of the proposed ponds not being able to cope with a rainfall event, it is proposed to pump to the lagoon, does this need permitted and if so is one being applied for?
- As I understand the situation, the existing lagoon is often pumped out to sea, suggested that increasing water going into during a heavy rainfall event.
- Ground conditions are deemed unsuitable for infiltration, yet soakaways and permeable paving are suggested.

Generally there is good evidence of mitigation, both existing and on site with regards to flood risk to site, it is issues are surface water disposal that remain to be clarified.

### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to six properties.

Five letters of objection have been received raising the following comments:

- Whilst we would normally encourage and support an expending business locally we feel we cannot back this planning application.
- Unacceptable and highly unsuitable sewerage drainage system in this area which in unable to cope with correct effluent before adding more to it with this planning application.
- Residents have constant worry about the risk of flooding.
- Development will increase flood risk.
- The applicant does not own the land where the tourist information/café is to be located and therefore does not have to permission to construct the building.
- The applicant does not own all the land within the red line and there has been no notice served on the current owner. This means the application is invalid.
- The Landscape and Visual Appraisal portrait 7 shows the recommendation for a bund

alongside the highway to the extreme west of the adjoining land. This is not on land included in this application.

- Regarding the latest application, Flood Risk Assessment, I am concerned about the suggestion that a pump be installed to convey foul water into Hodbarrow Lagoon. This Lagoon is a RSPB Reserve, Dudden Estuary SSSI, Morecombe Bay SAC and Duddon Estuary SPA. Does the applicant have permission to pump foul water across this land?
- The application address is incorrect.
- The application was controversial when it was approved in 2010 as the infrastructure and amenities are by no means adequate for the increase in visitors.
- Residents have been told there will be no new development in the area until a new sewage works is in place.

### **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**

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited the local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

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

#### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ER4 – Land and Premises for Economic Development

Policy ER6 – Location of Employment

Policy ER11 – Developing Enterprise and Skills

Policy SS1 – Improving the Housing Offer



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Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP)

Policy DM3 – Safeguarding Employment Areas

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposal and Flood Risk

Policy DM26 – Landscaping

Emerging Copeland Local Plan 2021 – 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 closed on the 28<sup>th</sup> 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. As the consultation on the main modifications to the ELP is now complete significant weight can also

be afforded to the policies of the ELP where modifications are proposed.

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

Policy DS6PU: Design and Development Standards

Policy DS7PU: Hard and Soft Landscaping Strategic

Policy DS8PU: Reducing Flood Risk

Policy DS9PU: Sustainable Drainage

Policy DS10PU: Soils, Contamination and Land Stability

Policy DS11PU - Protecting Air Quality Strategic

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 E1PU: Economic Growth Strategic

Policy E2PU: Location of Employment Strategic

Policy E5PU: Employment Sites and Allocations Strategic

Policy N3PU: Biodiversity Net Gain Strategic

Policy N6PU: Landscape Protection Strategic

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 (2023)





## Cumberland Council

National Design Guide (NDG)

Cumbria Development Design Guide (CDG)

The Cumbria Landscape Character Guidance and Toolkit (CLGC)

The Conservation of Habitats and Species Regulations 2017 (CHSR)

### **Assessment**

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that to assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

Following a review of the original application (ref: 4/10/2381/0F1) it is confirmed that confirmation has previously been provided from the Local Planning Authority that the permission is extant.

The proposed variations fall outside the scope of what is permitted under the provisions of Section 73 of the TCPA.

The previous permission (ref: 4/10/2381/0F1) at this site originally sought to extend Port Haverigg Holiday Village, located to the south. Confirmation has been provided by the agent for this application that this S73 application now seeks to extend the adjacent campsite, Harbour Lights. Following concerns raised by the agent for Port Haverigg, the red line for the current application has been reduced to reflect the current applicant's ownership.

This current application seeks to vary condition 2 relating to the submitted plans for this planning approval to allow for amendments to the overall layout and landscaping for the scheme to include the relocation of ponds and the enlargement of the toilet block. Further to a review of the information submitted for this current application the extent of the works proposed is greater than outlined within the application description. These works also include the relocation of the approved tourist centre/café the installation of a new access through the adjacent Harbour Lights campsite. Some of these details are not fully shown on the submitted plans, i.e. the relocation of the tourist information centre/café. Clarification has also been requested from the agent regarding several points in relation to the amendments to the development which are yet to be clarified, therefore it is not considered that the Local Planning Authority have been able to fully consider the full variations to the scheme and the impacts this will have on the site and the surrounding area.

Several technical details within the original application have also been approved via separate

discharge of conditions applications. The agent for this current application has been made aware that information will also be required to support the S73 application to vary these approved technical details to reflect the variation to the layout of the scheme. This detail has not been provided. These conditions and their nature are outlined below:

- Condition 4: required submission of a full sustainable water drainage scheme.
- Conditions 5: required the submission of a Flood Warning and Evacuation Plan.
- Condition 6: required the submission of measures to limit the effects of flooding on the site.
- Condition 7: required the submission of full details of the construction of all the new vehicular and pedestrian access, internal roads, footpaths and car parking areas.
- Condition 8: required full details of the design and construction of the proposed feature lake.
- Condition 10: required works to be carried out in accordance with the approved Landscape Mitigation Plan.
- Condition 11: required the retention of the woody flora area to the south west of the site proposed for development as part of the current S73 application.

Without securing amendments to these technical details the Local Planning Authority cannot confirm that the varied scheme provides an acceptable development in terms of flood risk, drainage, access, ecology or landscaping. It is considered that without this information to prove the contrary the development would be likely to have an unacceptable adverse visual impact on the surrounding landscape and countryside, flood risk within the surrounding area, highway safety, and impact on protected species particularly Natterjack Toads.

Based on a review of the previous application and the current submission, it is considered that the proposed variations to the approved scheme do not fall within the scope of what is permitted under the provision of Section 73 of the TCPA, due to the extent of changes required to the previous approval, the number of technical details and conditions requiring variation, and the proposed new access via the adjacent site which would fall outside the scope of the red line for the application. This has been discussed in length with the agent for the application and several requests have been made for the application to be withdrawn and a new full application submitted.

### Conclusion

Based on the information currently available to the Local Planning Authority, it is considered that the proposed variations to planning approval 4/10/2381/0F1 fall outside the scope of what is permitted under the provisions of Section 73 of the Town and Country Planning Act.



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8.	<b>Recommendation:</b> Refuse
9.	<b>Reason for Refusal</b>  Based on the information currently available to the Local Planning Authority within this application, it is considered that the proposed variations to planning approval 4/10/2381/0F1 fall outside the scope of what is permitted under the provisions of Section 73 of the Town and Country Planning Act, due to the extent of changes required to the previous approval, the number of technical details and conditions requiring variation, and the proposed new access via the adjacent site which would fall outside the scope of the red line for the application. It is considered that without the relevant technical information to prove the contrary the development would be likely to have an unacceptable adverse impact on the surrounding landscape and countryside, flood risk within the surrounding area, highway safety, and impact on protected species particularly Natterjack Toads.  <b>Statement</b>  The Local Planning Authority has acted positively and proactively in accordance with Copeland Local Plan policies and the National Planning Policy Framework in determining this application by identifying matters of concern with the proposal and raising those with the applicant. However, in this case it has not been possible to arrive at a satisfactory resolution for the reasons set out in the reason for refusal.
<b>Case Officer:</b> C. Burns	
<b>Date :</b> 16.09.2024	
<b>Authorising Officer:</b> N.J. Hayhurst	
<b>Date :</b> 18.09.2024	
<b>Dedicated responses to:-</b>	