

## COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

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| 1. | <b>Reference No:</b>  | 4/22/2418/OF1   |
| 2. | <b>Proposed Development:</b>  | INSTALLATION OF NEW VEHICLE ENTRANCE  |
| 3. | <b>Location:</b>  | CHEZ NOUS, BROOKSIDE, CLEATOR   |
| 4. | <b>Parish:</b>  | Cleator Moor  |
| 5. | <b>Constraints:</b>   | <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>            |
| 6. | <b>Publicity Representations &amp;Policy</b>  | <p>Neighbour Notification Letter: YES</p> <p>Site Notice: YES</p> <p>Press Notice: NO</p> <p>Consultation Responses: See report</p> <p>Relevant Planning Policies: See report</p> |
| 7. | <p><b>SITE AND LOCATION</b></p> <p>This application relates to Chez Nous, a large, detached property which is situated at the end of a private road known as Brookside in Cleator Moor.</p> <p><b>PROPOSAL</b></p> <p>Planning Permission is sought to install a new vehicular access over an existing grassed verge to the side of the parent property, adjacent to the former Kangol estate road. As part of the proposal, a 3m section of existing boundary sandstone wall on the existing driveway is to be removed and replaced with gate, and a 5m length tarmac driveway is to be installed over the grassed verge. The grass verge is understood to have been recently purchased and is now believed to be within the applicant's ownership.</p> <p><b>RELEVANT PLANNING APPLICATION HISTORY</b></p> <p>There have been no previous planning applications at this site.</p> |   |

## **CONSULTATION RESPONSES**

Cleator Moor Town Council - No comments received.

### Local Lead Flood Authority & Cumbria County Council Highways

Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) can confirm as follows: We have no objections to the proposal as the proposed new access is on private land and not on the adopted highway, the applicant should seek permission from the landowner before any works are carried out.

### Flooding and Coastal Defense Engineer

1<sup>st</sup> Response - a number of points and / or questions raised relating to:

- The application states that the surface water will be drained to a watercourse.
- A culverted watercourse runs along the rough line of the wall / grass verge / access road to the former Kangol site which is a “Main River” and falls under the Environment Agency as far as consenting and permitting is concerned.
- It isn’t stated whether the surface water discharge will be directly to the culverted watercourse, the River Ehen, also “Main River”, or just onto the access road to the former Kangol site and via gullies in that road and this needs to be clarified.
- The proposed development will increase the impermeable surface area and marginally increase runoff.
- Consideration to flood routes from the removal of the wall should be given, as removal of a section of the wall may increase flood risk by providing an easy access to flood water from the River Ehen.
- The boundary wall to be partially removed may have been designated a flood defense wall by the Environment Agency.

2<sup>nd</sup> Response - Having visited the site and seen the location of the culvert and where it relates to the proposed works, I can confirm that I have no concerns that the proposed development will have a detrimental impact of flood risk on the area.

### Environment Agency

1<sup>st</sup> Response - Object as it involves building over and or within 8 meters of a culverted watercourse, which is a designated statutory main river. As submitted, it is unlikely that we would grant a flood risk activity permit for this application. The reason for objection is because the proposed development is

likely to adversely affect the construction and stability of the culverted watercourse, which will compromise its function. The proposal will therefore increase the risk of flooding to the Brookside Area of Cleator.

To overcome the objection, the applicant is required to:

1. Provide section and plan, showing any proposed intrusive works and construction details in relation to the development as proposed.
2. Provide a plan locating the line of the culvert in relation to any development proposals.
3. Provide any additional information in relation to depth of cover in relation to the culvert.

2<sup>nd</sup> Response - The additional information addresses the queries outlined in our previous response on 1 November 2022 (referenced NO/2022/114841/01-L01) has been sent to us (email copied) by the applicant. We are satisfied a flood risk activity permit will not be required for the proposed work and we can now remove our objection.

Public Representations - The application has been advertised by way of neighbour notification letters issued to 12 no. properties. No objections have been received as a result of this consultation process. 1 letter of support was received as a result of this consultation process which made reference to the fact that the current entrance to Brookside can be dangerous with mounting traffic from Sellafeld and speeding cars, which has resulted in collisions in the past. The proposed driveway would therefore be a safer alternative for the applicant property.

## **PLANNING POLICIES**

Planning law requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM22 – Accessible developments

Policy DM24 – Development proposals and Flood Risk

#### Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

#### Emerging Copeland Local Plan (ELP).

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.

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 stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) 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 NPPF.

The following policies are relevant to this proposal:

- Strategic Policy DS1PU - Presumption in favour of Sustainable Development
- Strategic Policy DS4PU - Settlement Boundaries
- Policy DS6PU - Design and Development Standards
- Strategic Policy DS8PU - Reducing Flood Risk Policy
- Strategic Policy R4PU: The Key Service Centres
- Policy H14PU – Domestic Extensions and Alterations

#### **ASSESSMENT**

The key issues raised by this proposal are the principle of development, its scale and design, the impacts on residential amenity and highway safety.

#### Principle of Development

The proposed application relates to a residential dwelling, and it will provide a new vehicular access to the side of the property. Policy DM18 supports extensions and alterations to residential properties subject to detailed criteria, which are considered below.

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

#### Scale and Design

Policy ST1 and section 12 of the NPPF seek to safeguard good levels of quality and attractiveness.

Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design

which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

The proposed vehicular access entrance is modest in scale, being 5m in length x 3m in width and is appropriately sited to the side of the parent property, adjacent to the former Kangol site road. The design will reflect the needs of the applicant who requires easier disabled access and will include partial removal of the existing sandstone boundary wall, which will be treated and covered with 100 mm of concrete for driving over. The main driveway will be of Tarmac construction.

The proposed access is not considered to be excessively prominent within the locality and it will not have an adverse impact on the local character or visual amenity of the area.

On this basis, the proposal will respect the character and appearance of the existing property and surrounding area, and therefore it is considered to meet Policy DM18(A) and the NPPF guidance.

#### Highway Safety

Policy DM22 encourages innovative approaches to manage vehicular access and parking. A site visit confirmed the lack of existing off-street parking provisions on this private road within this built-up residential area, with a large volume of vehicles parked both on the road, over the pavements and on a corner/close to a main road junction and within close proximity to a busy park and ride Scheme for Sellafield traffic. Therefore, the principle of off-street parking is both necessary and acceptable to avoid vehicles dominating the street scene. In addition, the creation of off-street parking is supported by the Copeland Local Plan and the Cumbria Development Design Guide.

Following the receipt of a consultation response with the Highway Authority, no objections to the proposal were raised as the proposed new access is on private land and not on the adopted highway. The proposed plans outline that the new access will be of tarmac construction which requires partial removal of the sandstone boundary wall and additional treatment for the ride over area to be 100mm of concrete. The proposed access and additional hard surface are to be connected to the existing driveway, which is unlikely to increase surface water discharge onto or off the highway.

In addition, the applicant may also be required to apply for a permit from the Cumbria County Council Street works department for the addition of a dropped kerb if required. It is therefore appropriate to include these details as an informative on the decision notice.

On this basis, the off-street parking is considered to meet Policy DM22 and the standards set out in the Cumbria Development Design Guide.

#### Residential Amenity

Policy ST1, Policy DM18 and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings. The proposed vehicular access will, in my

opinion, benefit residential amenity due to its modest scale and appropriate siting to the side of the property as the private road known as Brookside is already dominated with vehicles that access and egress onto the A5086, a busy main road with limited visibility. The proposed development is adjacent to a derelict factory site that is now used for a park and ride scheme with no residential dwellings, and therefore, any potential overlooking, and overshadowing issues are considered to be extremely minimal if at all.

On this basis, there will be little impact on amenity of occupiers of the adjacent properties and the proposal is considered to comply with Policy DM18(C).

#### Flood Risk and Risk Management

Policy ENV1 and DM24 seek to ensure that development in the Borough is not prejudiced by flood risk by ensuring that developments are designed to address the existing levels of flood risk without increasing flood risk elsewhere. The application site lies within Flood Zones 2 and 3. An application for householder developments in Flood Zones 2 & 3 (Flood Risk Assessment) was submitted by the applicant as part of the application, however, initial concerns following consultation with the Environment Agency as a statutory consultee led to an initial objection due to concerns relating to increased flooding as the development appeared to propose building over and/or within 8 meters of a culverted watercourse, which is a designated statutory main river.

Additional information/more technical drawings were submitted by the applicant to the EA to attempt to combat their concerns which confirmed that:

- The existing culvert is completely enclosed from the A5086 road, and travels down the length of Brookside and into the river Ehen.
- The depth of the culvert has been ascertained by measuring lawn coverage, and there is approximately 30cm of concrete drive coverage.
- All works are proposed to be undertaken manually by hand and will not involve mechanical equipment.

Based upon the additional information provided, the EA confirmed that queries raised within the previous objection had been addressed and they were satisfied that a flood risk activity permit would not be required for the proposed work and consequently, removed their initial objection.

Despite the new access and driveway being constructed within 8m of a culverted watercourse, having visited site and seen the location of the culvert and where it relates to the proposed works, it is my opinion and that of the Council's Flooding and Coastal Defence Engineer that the proposed development will not have a detrimental impact of flood risk to neighbouring properties or the surrounding area.

On this basis, it is reasonable to assume that the construction of the proposed vehicular access/driveway would not compromise the cultivated watercourse, and therefore, satisfies both policies

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|    | <p>ENV1 and DM24 as there would be, in my opinion, minimal impact to the existing culvert structure and stability, and therefore, the overall flood risk is not likely to increase from such a minor development.</p> <p><u>Ecology</u></p> <p>Policy ST1, ENV3 and DM25 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 proposals that are likely to have an effect on nature conservation sites, habitats and protected species.</p> <p>The application site is identified as being within a Site of Special Scientific Interest (SSSI) due to its close proximity to the Riven Ehen. The SSSI boundary falls just outside of this residential dwelling, and the proposal will not have any impact on this SSSI area.</p> <p>Furthermore, the development will be located to the side of the parent property at primarily ground floor level where there are already existing hard surfaces present, and therefore the proposal is unlikely to disturb any habitats.</p> <p>It is therefore considered that the development complies with Policies ST1, EV3 and DM25 of the Copeland Local Plan and the NPPF guidance.</p> <p><u>Planning Balance and Conclusion</u></p> <p>The proposed vehicular access is of an appropriate scale and design and will not have any detrimental impact on the amenities of the adjoining properties, highway safety, flood risk or ecology.</p> <p>It therefore represents an acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.</p> |
| 8. | <p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>  |
| 9. | <p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</li> </ol> <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p> <ol style="list-style-type: none"> <li>2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -</li> </ol>   |

Application Form, received 18<sup>th</sup> October 2022;  
Flood Risk Assessment, received 18<sup>th</sup> October 2022;  
Site location Plan, scale 1:2500, drawing number 1322-010, received 18<sup>th</sup> October 2022;  
Proposed Site Plan, received 18<sup>th</sup> October 2022;  
Proposed Works Detailed Plan (Additional), received 7<sup>th</sup> November 2022;  
Culvert 1 Diagram (Additional), received 7<sup>th</sup> November 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.

3. The driveway must be surfaced in accordance with the details set out in Proposed Works Detailed Plan (Additional) received by the Local Planning Authority on 7<sup>th</sup> November 2022, and it shall be constructed and completed before the development is brought into use. The surfacing of the driveway shall be maintained in accordance with these details thereafter.

**Reason**

In the interests of highway safety in accordance with Policy DM22 of the Copeland Local Plan.

**Informative Notes**

1. Any works within the Highway must be agreed with the Highway Authority.

Before any works commence, you should contact Cumbria Highway's Street Works team to obtain an appropriate permit.

Enquires should be made to Cumbria County Councils Streetwork's team  
[streetworks.west@cumbria.gov.uk](mailto:streetworks.west@cumbria.gov.uk)

2. Access gates, if provided, must be hung to open inwards only away from the highway.
3. The proposed development also 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](http://www.gov.uk/government/organisations/the-coal-authority)



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|  | <p><b>Statement</b></p> <p>The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p> |
| <p><b>Case Officer: Demi Crawford</b></p>        | <p><b>Date : 09/12/2022</b></p>  |
| <p><b>Authorising Officer: N.J. Hayhurst</b></p> | <p><b>Date : 13/12/2022</b></p>  |
| <p><b>Dedicated responses to:- N/A</b></p>       |  |