

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/22/2423/OG1	
2.	Proposed Development:	REMOVAL OF CONDITION 3 (OCCUPANCY RESTRICTION) OF PLANNING APPROVAL 4/13/2156/0F1 CONVERT BARN/EX COTTAGE TO HOLIDAY LET PROPERTY	
3.	Location:	THE BYRE AT HIGH LOWSCALES FARM, MILLOM	
4.	Parish:	Millom Without	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change	
6.	Publicity Representations &Policy	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report:	<p>Site and Location</p> <p>This application relates to a traditional stone barn conversion, known as The Byre, which is sited within High Lowscapes Farm to the north of Millom. The barn is located within a group of farm buildings which have been converted to residential units and holiday let accommodation. The site is accessed via a shared single access track.</p> <p>Relevant Planning History</p> <p>4/13/2156/0F1 – Proposed conversion of existing farm structure to holiday let residence – Approved</p> <p>Proposal</p> <p>In July 2013, planning permission (ref: 4/13/2156/0F1) was granted to convert the barn to a holiday let residence. A condition was attached to this planning approval, which restricted the occupation of</p>	

the dwelling to the provision of holiday accommodation only and stated that the property should not be occupied as permanent residential accommodation. This current application seeks to remove this occupancy condition to allow unrestricted residential use and is supported by details of previous marketing with this restriction in place.

Consultation Responses

Millom Town Council

No objections.

Cumbria County Council – Cumbria Highways & LLFA

The Highway Authority did not recommend this condition therefore we have no comments to make.

Public Representation

This application has been advertised by way of a site notice, and neighbour letters issued to six properties. Three letters of objections have been received in relation to this application which raise the following concerns:

- The access road is not owned by the applicant.
- The change of the site at High Lowscales to residential use would increase the use of the existing access track with traffic on all days plus associated deliveries.
- Over the last 10 years the use of the road has changed from one farm to 7-8 residential properties.
- The road will not be changed from anything other than a gated cart track to a farm. If residents want to change this it will be subject to negotiation with the owners of the access track.
- The first 600m of the track is owned by three different people none have been consulted on the planning applications.
- The application and increase in access would not comply with the Core Strategy and DPD DM15a.
- It is not clear how many residential units will be sellable, three are applied for under three separate applications.
- This will result in the maintainer of the cart track to have multiple users who have different visions as to the maintenance of the track.
- Multiple residential units will increase the winter usage of the track.
- The novelty of a gated track is ok for a couple of months in the summer but not in the winter

by permanent residents.

- There are already issues of the gate being left open which will get worse with more residents.
- A cattle grid will not be installed by the owners.
- Gates are being left open and stock is getting mixed up. Adding more residential use will increase this problem.
- The holiday lets are not making the income hoped for. Is this a planning issue?
- The letter from the estate agent suggests a lot of interest but no sale. Is this a planning issue? If the properties were put up for auction with no reserve, then they would make the market price on the day.
- The site is not suitable for permanent residential use.
- Preferred solution is High Lowscales but the access track between the site and the public highway and upgrades it to include fences and cattle grids.
- Second option would be that High Lowscale continues with a restriction that it cannot sell part or breakup the ownership of the High Lowscales lot thus the track will continue to have a single point of contact user.
- Will these properties be restricted to local residency only?
- If the removal is approved could a condition be put in place to resolve the issues with gates being left open. i.e. installation of cattle grids?

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

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Development Management Policies (DMP)

Policy DM17 – Removal of Occupancy Conditions

Policy DM15a – Conversions of Rural Buildings to Residential Use

Other Material Planning Considerations

National Planning Policy Framework (2021)

Town and County Planning Act 1990 – Section 73

National Planning Practice Guidance (NPPG)

Strategic Housing Market Assessment 2021 (SHMA)

Copeland Borough Council Housing Strategy 2018 – 2023 (CBCHS)

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.

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS2PU: Reducing the impacts of development on Climate Change

Strategic Policy DS3PU: Settlement Hierarchy

Strategic Policy DS4PU: Settlement Boundaries

Strategic Policy DS5PU: Planning Obligations

Strategic Policy H1PU: Improving the Housing Offer

Strategic Policy H2PU: Housing Requirement

Strategic Policy H3PU: Housing delivery

Strategic Policy H4PU: Distribution of Housing

Strategic Policy H5PU: Housing Allocations

Policy H6PU: New Housing Development

Policy H7PU: Housing Density and Mix Strategic

Policy H8PU: Affordable Housing

Policy H17PU: Conversion of Rural Buildings to Residential Use

Policy H20PU: Removal of Occupancy Conditions

Assessment

Procedural Matters

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 planning 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, 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.

In terms of the conditions attached to the previous decision notice (4/13/2156/0F1), development has commenced on site therefore it is not necessary to repeat the condition relating to timescales. Conditions 2, and 5 will be repeated to ensure that works are carried out as per the approved details. Condition 4 will not be repeated as this condition has been fully discharged in October 2013 and the building recorded as part the requirements of the condition.

Removal of Condition

This application seeks to remove condition 3 associated with the previous planning approval at this site (ref: 4/13/2156/0F1). This condition restricts the occupation of the dwelling to holiday accommodation only and states that the property should not be occupied as permanent residential accommodation. This application is supported by details of previous marketing with this restriction in place and a planning statement from the agent to support the condition removal.

Policy DM17 of the Copeland Local Plan states that planning permission for the removal of occupancy conditions will only be granted where it can be demonstrated that there is no longer a need for housing for the particular group that the occupancy relates to within the local housing market area. Furthermore, it is stated that where removal of a specific occupancy condition is justified, the Council may require that it be replaced with a condition, supported by a planning obligation, relating to general local occupancy.

Policy ST1 and ST2 of the Copeland Local Plan seeks to concentrate development within the defined settlement boundaries in accordance with the Borough's settlement hierarchy. Policy ST2 restricts development outside of defined settlement boundaries other than that which have a proven requirement, including conversion of rural buildings to residential use. Policy DM15a aims to restrict development that involves the conversion of rural buildings, to those that are structurally sound and capable of conversion works, conserve the traditional appearance and character, incorporate reasonable standards of amenity, and are within or well related to a village or existing group of buildings.

The previous permission at this site established the principle for changing the use of the traditional farm building to a C3 use with a holiday let use restriction and confirmed that the development complied with Policy DM15 of the Copeland Local Plan, in terms of its capability for conversion, the conversion works conserved the character of the building and the site benefitted from a suitable access.

The agent for this application has submitted a Planning Statement which states that, in line with the NPPF, planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The agent also states that as per paragraph 54 of the NPPF planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The agent argues that condition 3 applied to the original planning approval does not meet the required test as it limits the use of the site to those which fall within the same use class. A number of the surrounding farm buildings are also already used for residential purposes suggesting this use is suitable in the area, and the condition was not justified as part of the decision-making process. The agent also states that the condition is impacting on the marketability of the property which is supported by a statement from an estate agent. Therefore, the condition is not reasonable or necessary.

From a review of the original Officer report for this planning approval, there is no justification provided for the inclusion of the condition to restrict the use of the application site to holiday use. The condition was applied as the original application sought permission for a holiday let use only. The original approval is supported by plans which show the external layout of the site, including a garden/amenity space and off-street parking. The agent for this application has confirmed that these are still associated with the property in question and additional space is also available. The property is therefore considered to incorporate a reasonable standard of amenity.

Whilst concerns have been raised with regard to the access to the site and its increased use should this condition be removed, the access was deemed suitable as part of the original planning approval. The change from holiday let to residential use is not considered to intensify the use of the access as there were no limits on the lettings of the property meaning it could have been occupied all year round. Issues regarding ownership and maintenance are not material planning considerations and are

	<p>civil legal matters.</p> <p>Based on the above, the application site is considered to comply with Policy ST2 and DM15a of the Copeland Local Plan. It is therefore not considered appropriate to restrict the occupancy of this dwelling further through condition or S016 agreement.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. – 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:- <ul style="list-style-type: none"> - Location Map, scale 1:1250, received on 25 April 2013. - Proposed Site Plan, drawing no. SK11, received on 25 April 2013. - Existing Plans & Elevations, drawing no. 01, received on 25 April 2013. - Proposed Sketch Scheme, drawing no. SK10, received on 25 April 2013. - Bat, Barn & Nesting Bird Survey, prepared by Andrew Gardner, Envirotech, Ref: BAT/12/1452 dated 24 April 2013, received on 25 April 2013. - Structural Survey Report prepared by Arron Atmore, dated January 2013, received on 25 April 2013. - Design & Access Statement, Ref: 13:01, dated January 2013, received on 25 April 2013. <p>Reason</p> <p>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.</p> 3. - 4. - 5. The development shall implement all of the mitigation measures set out in the Bat, Bran Owl & Nesting Bird Survey Report (BAT/12/1452) prepared by Envirotech, dated 24 April 2013 and submitted as part of the planning application. These measures shall be maintained at all times following their implementation. <p>Reason</p> <p>To protect the ecological interests evident on the site.</p>

	<p>Informative</p> <p>The applicant should ensure all public rights of way remain open for use during the development of the site.</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. Burns</p>	<p>Date : 19.12.2022</p>
<p>Authorising Officer: N.J. Hayhurst</p>	<p>Date : 19.12.2022</p>
<p>Dedicated responses to:-</p>	