

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/22/2437/0F1	
2.	<b>Proposed Development:</b>	PROPOSED NEW BUILD VEHICLE BODY REPAIR WORKSHOP FOR USE BY EXISTING BUSINESS & CREATION OF A NEW VEHICLE ACCESS	
3.	<b>Location:</b>	FOUNDRY ROAD GARAGE, KING STREET, MILLOM	
4.	<b>Parish:</b>	Millom	
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Off Coalfield - Data Subject To Change, Key Species - Known Sites for Natterjack Toads, Key Species - Potential areas for Natterjack Toads	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter Site Notice Press Notice Consultation Responses Relevant Policies	Yes Yes No See Report See Report
7.	<b>Report:</b>  <b>Site and Location</b>  This application site relates to an existing commercial property, known as Foundry Road Garage, which fronts Millom Road within the north east of Millom. The site is currently operated as a car repair garage and comprises one main building, car parking, and vacant land to the east of the site. The current business has operated on the site for 56 years.  <b>Relevant Planning History</b>		

No relevant planning history.

## **Proposal**

This application seeks planning permission for the erection of a new build vehicle body repair workshop for use of the existing business. The proposed building will have a ground floor area of 367.15m<sup>2</sup>, measuring 18m x 21m. The proposal building will be set back 0.6m from the front elevation of the existing main building and will benefit from an eaves height of 5m and an overall height of 6.6m.

Internally the development will house a new modern spray booth, paint mixing/store room, four new vehicle lifts and two modern WC's in order to develop the accident repair business currently operating from the site.

Externally, the proposal will be finished with anthracite metal sheets to the roof and walls, and will benefit from a large steel coated anthracite roller door to the front and rear elevation which will provide access to the building via new concrete ramps.

Three parking spaces are proposed at the front of the site and ten to the rear. A new vehicle access is also proposed to the north east of the site from the adjacent unadopted highway.

## **Consultation Responses**

### Millom Town Council

*1<sup>st</sup> December 2022*

No objections in principle to this application.

*26<sup>th</sup> January 2023*

No objections in principle to this application.

### Cumberland Council – Highway Authority & LLFA

*29<sup>th</sup> November 2022*

#### *Local Highway Authority response:*

The LHA have no objections to the principle of this proposal however there is a concern regarding the proposed parking provisions. It seems that there is currently sufficient space for parked vehicles and it is not clear if there will continue to be following the development. Ideally, I would ask that a plan showing the full extent of the applicant's land ownership at this site (blue line boundary plan) including any existing parking areas.

#### *Lead Local Flood Authority response:*

The application form states the site will utilise soakaways for the surface water disposal system however the site plan indicated it will connect to the existing combined system. The

applicant should confirm their drainage strategy whilst also considering the surface water drainage hierarchy, see below. Should they choose to discharge into a soakaway, I would request they submit the information and results from percolation tests carried out inline with BRE365 guidance.

The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer

*24<sup>th</sup> January 2023*

Local Highway Authority response:

Taking into account the existing use of the site, I can confirm that following the submission of the proposed parking arrangements, the Local Highway Authority raise no objections to this proposal from a highway safety point of view.

Lead Local Flood Authority response:

It is noted that soakaway testing was carried out and was unsuccessful. The next stage of the hierarchy would be to connect to a surface water body. It is noted that the Duddon Estuary and Salthouse Pool is to the rear of the site. The applicant proposing to discharge their treated surface water into this body of water would be the preferred option. Please could they submit information as to why this would not be viable leaving them to connect to the existing system? If they feel this option would not be suitable then, we would need to see permission from the company that owns the existing surface water/combined system showing they have no concerns in regards to this.

*6<sup>th</sup> April 2023*

Local Highway Authority response:

Taking into account the existing use of the property, it is considered that the proposal will be unlikely to have a material effect on existing highway conditions. I can therefore confirm that the Highway Authority has no objection to the proposal.

Lead Local Flood Authority response:

I can confirm the LLFA have no objections to the proposed drainage strategy reference K39647.DS/001 dated 28th February 2023. The surface water drainage shall be built in

accordance with this document.

*13<sup>th</sup> April 2023*

The location of the proposed access off an un-adopted road. I can confirm the LHA and LLFA have no further comments to make.

Environment Agency

*24<sup>th</sup> November 2022*

We have no objection to the proposed development but we wish to make the following comments:-

Flood risk

The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by R G Parkins (ref: K39647.FRA/001; dated 2 November 2022). We have reviewed the FRA in so far as it relates to our remit, and we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.

The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA.

Trade effluent discharge - advice to applicants

The discharge of trade effluent associated with this development will require an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016 from the Environment Agency. You can find more information online at <https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit> or contact us on 03708 506506 for further advice. You should be aware that the permit may not be granted. A permit will only be granted where the risk to the environment is acceptable.

*17<sup>th</sup> January 2023*

We have reviewed the additional information and amended plans in so far as they relate to the remit of the Environment Agency. We have no objection to the proposed development, but we request that any subsequent approval is conditioned to address the following issue:

Contaminated Land

The existing repair garage and its proposed extension for development of land on made ground presents an unknown risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is on a secondary A aquifer and close



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proximity to the Duddon estuary.

The application's amended drainage strategy and trial pit investigation demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken as there is no chemical testing of soils or made ground. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 183 of the National Planning Without this condition we would object to the proposal in line with paragraph 174 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

*17<sup>th</sup> March 2023*

From a land quality perspective, the additional information on operation and maintenance plan for the SUDs is acceptable as attenuated flow discharges to the public water sewer.

The amendments do not materially affect the environmental constraints outlined in our response letter (NO/2022/114868/02-L01, dated 17 January 2023) and the contaminated land condition still applies.

*18<sup>th</sup> April 2023*

The environmental constraints outlined in our response letter (NO/2022/114868/02-L01, dated 17 January 2023) and the contaminated land condition are still outstanding.

We have reviewed the Phase 2: Ground Investigation Report (dated 2 march 2023) in so far as it relates to our remit. The report has not addressed the potential risk to Controlled Waters. The groundwater monitoring undertaken was limited to groundwater levels , which may be acceptable from a SUDs assessment.. However, there was no groundwater quality laboratory analysis from groundwater samples to determine potential contaminant concentration from organic and inorganic contaminants leached from made ground and operational use.

Therefore, we do not recommend the condition outlined in our previous response to be discharged until sampling, analysis, interpretation and risk assessment has been undertaken as per the condition.

*9<sup>th</sup> August 2023*

We have reviewed the ground investigation report 2023-5901 (dated 20.07.2023) and its findings have been assessed. Despite the occurrence of made ashy/clinker ground outside the footprint of the planning application (which should be dealt with by other legislative mechanisms), this consultation can only assess the area of the development proposal.

The ground investigation report highlights soluble contaminants in soils that could cause detriment to water quality. Therefore, we will object to any soakaway proposal and request remediation of soils in support of the proposal to excavate and dispose of the ash-clinker materials encountered in boreholes BH01 and BH02. This would remove the source of the contamination.

The pollution prevention measures outlined in the recommendations of the report are acceptable.

### United Utilities

*12<sup>th</sup> December 2022*

Following our review of the submitted Site Layout Plan (ref MIL.JM.02 (D), dated June 22) which shows drainage proposals, the plans are not acceptable to United Utilities. This is because we have not seen robust evidence that the drainage hierarchy has been thoroughly investigated. If it is demonstrated a surface water connection to the public sewer network is required, we would expect this to be restricted to the greenfield QBAR rate.

Should planning permission be granted we request the inclusion of a pre commencement condition requiring details of a sustainable surface water drainage scheme and a foul water drainage scheme.

*31<sup>st</sup> March 2023*

Following our review of the submitted Drainage Strategy, we can confirm the proposals are acceptable in principle to United Utilities and therefore should planning permission be granted we request the drainage is conditioned based on the submitted information.

We would recommend a non-return valve is considered on the surface water connection, to protect the proposed surface water attenuation from any surcharge from the combined sewer network.

### Cumberland Council – Flood and Coastal Defence Engineer

*21<sup>st</sup> November 2022*

#### FLOOD MAPPING

The Flood Map for Planning shows the proposed development lies in Flood Zone 3a.

The Flood Map for Planning show that the proposed development falls into an area benefitting from flood defences.

Flood Zone 3a comprises land assessed as having a 1.0% or greater annual probability of river flooding, or a 0.5% or greater annual probability of sea flooding.

The water-compatible and less vulnerable uses of land are appropriate in this zone. The highly vulnerable uses of land should not be permitted in this zone.



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The more vulnerable uses and essential infrastructure uses should only be permitted in this zone if the Exemption Test is passed. Essential infrastructure permitted in this zone should be designed and constructed to remain operational and safe for users in times of flood.

All development proposals in this zone must be accompanied by a Flood Risk Assessment.

In this zone developers and Local Authorities should seek opportunities to:

- Reduce the overall level of flood risk in the area and beyond through the layout and form of the development and the appropriate application of sustainable drainage systems.
- Relocate existing development to land in zones with a lower probability of flooding.
- Create space for flooding to occur by restoring functional floodplain and flood flow pathways by identifying, allocating and safeguarding open space for flood storage.

The Flood Risk for Surface Water Map shows the proposed development lies in an area at a medium to very low risk of surface water flooding.

### COMMENTS ON FLOOD RISK ASSESSMENT

Main Points made:

[1.3] The site is to be developed for a motor body works (i.e. general industry) and is therefore classified as less vulnerable.

[2.4] The relative low elevation of the site relative to Millom saltmarsh means that groundwater levels in the site are likely to be close to the surface.

[3.5] The Flood Map for Planning shows the site is located within Flood Zone 3 and is protected against small to medium floods by an embankment. However, if these were overtopped, or failed, the site and much of Millom would be flooded.

[3.6] Based on EA modelling, if the embankment is maintained to the current standard of protection, the site is not at tidal flood risk up to the 0.5% AEP event, although with climate change, a 0.5% AEP event would overtop the embankment.

[3.8] The EA's surface water flood risk map shows part of the site is at risk of surface water flooding, with potential depths of between 300mm and 600mm on the southern part of the site.

[3.9] BGS data shows the site to be outside the area at risk from groundwater flooding. However, due to the proximity of saltmarshes, it is likely that groundwater will be close to the surface and this should be considered should the proposals include excavation below ground.

[3.10] There is no risk of flooding from artificial sources.

[3.11] The site is considered at risk from sewer flooding, especially during high tide events when sewers may discharge.

[4.3] It is projected that in future for a 0.5% AEP event, the site could flood to a maximum depth of 0.8m and 1.2m for the higher central and upper end undefended scenarios for the modelled sea level rise with climate change.

[4.4] The practical way to manage flood risk is for the new facilities to include flood resistance and resilience features.

[4.6] It is advised that the owners of the sit sign up to the EA Floodline Warnings Direct service.

#### GENERAL COMMENTS

The Application Form states that surface water will be disposed of by means of a soakaway, yet the Site Layout Plan shows the surface water discharging to the existing combined sewer. Based on the submitted information, there is no evidence that the drainage hierarchy has been considered.

Until work is undertaken to reduce the flood risk to Millom from surface water and sewer flooding, no development should be undertaken that increase the flood risk. Therefore it is imperative that the development considers the drainage hierarchy, with particular consideration given to the site's proximity to the sea.

*12<sup>th</sup> January 2023*

#### COMMENTS ON PROPOSED DRAINAGE STRATEGY

The Proposed Drainage Strategy states that ground investigations found shallow groundwater and evidence of contamination beneath and therefore soakaway drainage would not be effective.

Instead the surface water is to be discharged directly to the existing combined sewer, with a revised plan from that originally submitted, to avoid a gully that has historically flooded.

#### GENERAL COMMENTS

Consideration of discharge to a surface water body has been not been included in the Proposed Drainage Strategy. Given that the site is very close to the Duddon Estuary this would be an option. However, this would require going through third party land and levels on site may actually be lower than some of the tidal levels.

Until work is undertaken to reduce the flood risk to Millom from surface water and sewer flooding, no development should be undertaken that increase the flood risk. Based on the site's location, the surface water discharge will be one of the very last connections into the combined sewer. As such, should there be another flood event, it could be the case that rather than the surface water from the development contributing to the flooding, surcharging of the surface water system may occur, bringing flooding to the site. The fact that the existing gully is subject to historic flooding could indicate that this already occurs at this site. It would be prudent to consider the fitting of a non return valve in the new surface water connection



into the combined sewer.

*17<sup>th</sup> March 2023*

## COMMENTS ON DRAINAGE STRATEGY

Main Points made:

[2.4] The relative low elevation of the site relative to Millom saltmarsh means that groundwater levels in the site are likely to be close to the surface.

[2.5] Based on existing topography, any site runoff would follow the contours into Millom Road, enter the highway gullies and ultimately discharge into the combined sewer.

[2.6] In-situ percolation testing was not possible due to the presence of shallow groundwater, so infiltration will not be effective at the site.

[2.7] A 50% climate change allowance is used for the surface water drainage design.

[3.5] As previously stated, surface water disposal by infiltration is not considered feasible. Due to the size of the development and the sensitivity of the Duddon Estuary and tidal influences, discharge into the Duddon Estuary is also not considered feasible. Instead the nearby 225mm public sewer is deemed the most suitable discharge point for the site.

[3.6] It is proposed that surface water runoff from all positively drained surfaces will be attenuated within a single cellular tank located beneath the car parking area to the rear of the development. The detailed design and installation will need to take due consideration of groundwater inflow and potential infiltration. A mini flow control chamber will restrict discharge to the greenfield runoff rate of 0.4l/s. Car parking to the front be of conventional construction and drain to a channel at the rear of the highway kerb. Car parking at the rear will be reconstructed using an open graded stone / gravel surface finish, to mimic and improve the current situation, although it is recognised shallow groundwater will impact infiltration.

[3.7] The critical storm event has been calculated to be the 480 minute winter storm requiring 34.2m<sup>3</sup> of storage.

[3.8.1] In the unlikely event of a blockage in the geocellular tank, exceedance flows will flow from the silt trap inspection chamber and to the lane to the east.

[3.10] All on site drainage will remain private and the responsibility of the site owner.

[4] It is proposed that the foul drainage will discharge to the combined 1200mm diameter sewer, subject to a Section 106 agreement.

## GENERAL COMMENTS

Until work is undertaken to reduce the flood risk to Millom from surface water and sewer flooding, no development should be undertaken that increase the flood risk. With regards to this application, the restriction of discharge rates to the greenfield rate should be considered as most appropriate course of action, given that other options for surface water disposal are

not feasible.

Based on the site's location, the surface water discharge will be one of the very last connections into the combined sewer. As such, should there be another flood event, it could be the case that rather than the surface water from the development contributing to the flooding, surcharging of the surface water system may occur, bringing flooding to the site. The fact that the existing gully is subject to historic flooding could indicate that this already occurs at this site. It would be prudent to consider the fitting of a non return valve in the new surface water connection into the combined sewer.

*21<sup>st</sup> March 2023*

The documentation for the last consultation was fairly comprehensive, so there wasn't much to add.

With the amended drainage a non return valve may not actually be needed.

It was only a suggestion, not a requirement in my comments.

*14<sup>th</sup> April 2023*

There has been a lot of amendments and additional information submitted with this application.

Based on what I believe is the most up to date, the latest Site Layout Plan does not correspond with the latest Proposed Foul & Surface Water Drainage Plan.

It would appear that I had missed this in the past.

There is a drainage run show on the latest Proposed Foul & Surface Water Drainage Plan which is show on the latest Site Layout Plan.

The attenuation tank isn't show either and that's without looking in too much detail.

However, to be fair the latest Site Layout Plan does say that it is to be read with the latest Proposed Foul & Surface Water Drainage Plan, so if that will suffice from a planning perspective, then I think it is OK.

Natural England

*27<sup>th</sup> January 2023*

Natural England is not able to provide specific advice on this application and therefore has no comment to make on its details. Although we have not been able to assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes, we offer the further advice and references to Standing Advice.

*23<sup>rd</sup> March 2023*

Natural England is not able to provide specific advice on this application and therefore has no comment to make on its details. Although we have not been able to assess the potential



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impacts of this proposal on statutory nature conservation sites or protected landscapes, we offer the further advice and references to Standing Advice.

### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to eight properties. No comments have been received in relation to the statutory notification procedure.

### **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 ER5 – Improving the Quality of Employment Space

Policy ER6 – Location of Employment

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other Service Areas: Roles and Functions

Policy ER9 – The Key Service Centres, Local Centres and other small centres

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 ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposal and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Emerging Copeland Local Plan (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 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. 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.

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 DS6PU: Design and Development Standards

Policy DS4PU: Settlement Boundaries

Strategic Policy DS8PU: Reducing Flood Risk



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Policy DS9PU: Sustainable Drainage

Strategic Policy E1PU: Economic Growth

Strategic Policy E2PU: Location of Employment

Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy

Strategic Policy R2PU: Hierarchy of Town Centres

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N2PU: Local Nature Recovery Networks

Strategic Policy N3PU: Biodiversity Net Gain

Strategic Policy CO4PU: Sustainable Travel

Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

### **Other Material Planning Considerations**

National Planning Policy Framework (2023)

Cumbria Development Design Guide

The Conservation of Habitats and Species Regulations 2017 (CHSR).

### **Assessment**

The key issues raised by this application relate to the principle of the development; growth of business; scale, design and impact of the development; impact on landscape and settlement character; impact on highway safety and accessible developments; flood risk and drainage; ecology.

#### Principle of Development

Policy ST1 of the Copeland Local Plan seeks to support development that provides or contributes to the Borough's social and community infrastructure enabling everyone to have good access to jobs, shops, services, and recreational/sport facilities. This policy also seeks to support the development of tourism in appropriate locations.

Policy ST1, ST2 and ER6 of the Copeland Local Plan seeks to concentrate development within the defined settlement boundaries in accordance with the Borough's settlement hierarchy. The application site lies within the designated settlement boundary for Millom, which is identified as one of the Borough's Key Service Centres in Policy ST2 of the Copeland Local Plan. This policy seeks to encourage opportunities for expansion of existing employment sites.

Policy DS3PU of the Emerging Local Plan continues to identify Millom as a Key Service, where the focus will be on town centre and employment development, and medium scale housing extensions, windfall and infill developments. Policy DS4PU of the Emerging Local

Plan states that development within the identified settlement boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise.

On this basis the principle of development is considered to be acceptable.

#### Growth of Existing Business

Policy ST1, ST2, and ER6 of the Copeland Local Plan seek to facilitate growth of the Borough's local economy.

Policy ER7 seeks to protect and enhance services and facilities provided in the Key Service Centres.

Policy ER11 seeks to promote the diversification of the Borough's economy by working with partners to support new and expanding employment sectors. This policy also seeks to support the development of commercial units, which meet the needs of business, encourage start up and promote further expansion in order to retain enterprise, jobs and skills within the Borough.

Within the Emerging Local Plan, Policy E1PU states the economy of Copeland Borough will be strengthened and broadened to provide a diverse range of employment and economic opportunities that will attract new key industries and provide the flexibility to accommodate existing businesses and new initiatives by maintaining, enhancing, regenerating and where appropriate extending the employment base in our towns and settlements in accordance with the Development Strategy, prioritising high-quality office provision within Whitehaven and the Key Service Centres to meet inward investment needs, and supporting flexible workspace, collaborative spaces and touch down zones.

The NPPF also states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Foundry Road Garage is a well-established business operating within one of the Borough's Key Service Centres. The business has operated from the site for 56 years, and benefits from an existing building which forms the car service garage. The proposed new building will provide the space and modern facilities to develop the accident repair business currently operating from the site. The proposal will allow the business to become more efficient and reduce downtime through being able to repair numerous vehicles simultaneously. There will also be an increase in employment opportunities as the business grows into this expanded space.

On this basis it is considered that the proposal complies with the policies ST1, ST2, ER6, ER7 and ER1 of the Copeland Local Plan, Policy E1PU of the Emerging Local Plan and provisions of the NPPF.



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### Scale, Design and Impact of Development

Policy SS1 of the Copeland Local Plan seeks to make Copeland a more attractive place to build homes and to live through requiring new development to be designed and built to a high standard.

Policy DM10 of the Copeland Local Plan expects high standards of design and the fostering of quality places. It is required that development responds positively to the character of the site and the immediate and wider setting and enhance local distinctiveness. It is required that development incorporate existing features and address vulnerability to and fear of crime and antisocial behaviour.

Policy DS6PU of the Emerging Local Plan requires all new development to meet high-quality standards of design. This includes creating and enhancing locally distinctive places, the use of good quality materials that reflect the local character, including high quality and useful open spaces, providing high levels of residential amenity, adopting active travel principles, creating opportunities for social interaction, and effective use of land whilst maintaining amenity and maximising solar gain.

The proposal seeks to build a new workshop adjacent to the existing business premises at this site. Although the proposed building will be large in scale it is set back from the principal elevation of the existing workshop and will be of a similar scale. Although the proposed building is located within an industrial area the site of the development is located approximately 50m from the nearest residential dwelling. The proposal is however not considered to have a significant detrimental impact on the amenity of residential properties given the existing workshop is located closer to these dwellings. No objections have been received from any nearby residential property. The proposed operation hours of the building will be controlled by an appropriately worded planning condition to minimise potential disturbance to nearby residences and to safeguard the amenities of the locality.

On the basis of the above it is considered that the proposal complies with ST1 and DM12 of the Copeland Local Plan, Policy DS6PU of the Emerging Local Plan, and the provisions of the NPPF.

### Impact on Landscape and Settlement Character

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

Policy DM26 of the Copeland Local Plan stated that where necessary development proposals will be required to include landscaping schemes that retain existing landscape features, reinforce local landscape character, and mitigate against any adverse visual impact. Care

should be taken that landscaping schemes do not include invasive non-native species.

Within the Emerging Local Plan, Policy N6PU states that the Borough's landscapes will be protected and enhanced by supporting proposals which enhance the value of the Borough's landscapes, protecting all landscapes from inappropriate change by ensuring that development conserves and enhances the distinctive characteristics of that particular area in a manner commensurate with their statutory status and value. It is stated that proposals will be assessed according to whether the proposed structures and associated landscaping relates well in terms of visual impact, scale, character, amenity value and local distinctiveness and the cumulative impact of developments will be taken into account as part of this assessment and that consideration must be given to the Council's Landscape Character Assessment, Settlement Landscape Character Assessment and the Cumbria Landscape Character Guidance and Toolkit at the earliest stage.

The application site is a brownfield site which lies within an industrial area to the north west of Millom and lies directly adjacent to a number of other commercial properties and site. As the development site lies directly adjacent to the existing car repair garage and other commercial sites the proposal is not considered to have an impact on the overall landscape. The proposal is therefore considered to comply with policies ST1, ENV5 and DM26 of the Copeland Local Plan, Policy N6PU of the Emerging Local Plan, and provisions of the NPPF.

#### Impact on Highway/Parking

Policy T1 of the Core Strategy requires mitigation measures to be secured to address the impact of major housing schemes on the Borough's transportation system. Policy DM22 of the Copeland Local Plan requires developments to be accessible to all users and to meet adopted car parking standards, which reflect the needs of the Borough in its rural context.

Policies CO4PU, CO5PU and CO7PU of the ELP promotes active travel.

As part of this proposal a new access is proposed to the rear of the site from the unadopted access road to the north east of the site. The Highway Authority have confirmed the status of this road and have stated that they would have no comment on this as it is located within an unadopted area.

The Highway Authority initially raised concerns regarding the proposed parking provision at this site, therefore the applicant submitted plans to show their ownership and parking proposed as part of this development, including three parking spaces to the front of the building and ten to the rear. On the basis of the additional information the Highway Authority have confirmed that given the existing use of the site they have no objections to the proposal from a highway safety point of view. To ensure the proposed parking provision is implemented and retained for use for the business it will be secured by an appropriately worded planning condition.

On this basis, the proposal is considered to be compliant with the Policies T1 and DM22 of the Copeland Local Plan, Policies CO4PU, CO5PU and CO7PU of the Emerging Local Plan



and provisions of the NPPF.

#### Flood Risk and Drainage

Policy ST1 of the Copeland Local Plan and paragraph 165 of the NPPF seek to focus development on sites that are at least risk of flooding and where development in flood risk is unavoidable, ensure that the risk is minimised or mitigated through appropriate design for the lifetime of the development.

Policy ENV1 and DM24 of the Copeland Local Plan, and Policy DS8PU of the Emerging Local Plan state that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.

Policy DM11 of the Copeland Local Plan and Policy DS9PU of the Emerging Local Plan requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.

This application site is located within Flood Zone 2 and 3, therefore a Flood Risk Assessment has been produced to support this scheme. This assessment also includes a sequential test for this development.

The submitted sequential test for this development concludes that there are no other 'reasonably available' sites for commercial purposes located within a lower flood risk zone, other designated development sites for employment are located within flood zone 3a. The test also states that there are currently no other suitable areas of land in the Millom area, extending to Millom without. The proposed development is therefore deemed to pass the Sequential Test, however as the development is classed as less vulnerable the development is not considered to need to pass an Exception Test.

A Flood Risk Assessment has been submitted to support this application which demonstrates that the proposed development will not adversely affect flood risk elsewhere. The FRA also demonstrates that the proposed development would include risk management measures which will be accommodated within the development including, finished floor levels, flood resilience and resistance measures, the creation of a flood plan, and access and egress routes.

The EA have been consulted on this application and have offered no objections to the development as they considered it would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented. These measures will be secured by an appropriately worded planning condition.

As part of the original application concerns were raised with regard to the proposed drainage scheme for this development as the submitted detail was contradictory. Based on this the LLFA, UU and the Council's Flood and Coastal Defence Engineer stated that the proposed drainage scheme required clarification and should be based upon the drainage hierarchy. Following extensive discussions with the applicant the proposed drainage scheme was amended to include the attenuation of surface water within a single geocellular tank located

under the car parking area to the rear of the development. Attenuated discharge from the site will be into the existing public water sewer to the south of the site. Following reconsultation on this amended scheme no objections were received from UU or the Flood and Coastal Defence Engineer, however it was recommended that a non-return valve should be considered on the surface water connection to protect the proposed surface water attenuation from any surcharge from the combined sewer network. This will be secured by an appropriately worded planning condition.

The LLFA have also confirmed that they have no objections to the amended drainage strategy for this scheme.

On this basis, the proposal is therefore considered to comply with policies ST1, ENV1, DM11 and DM24 of the Copeland Local Plan, Policy DS9PU of the Emerging Local plan, and provisions of the NPPF.

#### Ecology

Policies ST1, ENV3, and DM25 seeks to ensure that new development will protect and enhance biodiversity and geodiversity.

Policy N1PU of the Emerging Local Plan LP defines a mitigation hierarchy.

Policy N3PU of the Emerging Local Plan requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

The application site is identified as a potential area for natterjack toads, therefore a Preliminary Ecological Appraisal has been submitted to support this application. This survey concludes that the features of ecological interest which could be affected by the proposed works include nearby statutory protected sites, nesting birds, and terrestrial amphibians on south facing bank. It is concluded that impacts are unlikely on the protected sites, or the habitats of nesting birds, however widespread amphibian species (not natterjack toads) may use the south-facing bank to forage and rest therefore it is recommended that this banking is left undisturbed during development to avoid impact on these animals. The appraisal also recommends other mitigation measures including a nesting bird check prior to vegetation removal, ensuring that no dangers are left for wildlife overnight or weekends, minimising the footprint of the development, and turning off lights. Biodiversity net gain recommendations are also made which include the installation of at least four bird boxes, and the retention of the existing habitat on the bank at the north end of the site. An appropriately worded planning condition will be included on this decision notice to secure both the mitigation measure and net gains as part of this development.

Subject to the planning conditions set out above the proposal is considered to achieve the



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requirement of Policies ST1, ENV3 and DM25 of the Copeland Local Plan, Policies N1PU and N3PU of the Emerging Local Plan and the provisions of the NPPF.

### Contaminated Land

Policy ST1 of the Copeland Local Plan includes provisions requiring that new development addresses land contamination with appropriate remediation measures.

Policy DS6PU and Policy DS10PU of the Emerging Local Plan includes provisions requiring that development addresses land contamination and land stability issues with appropriate remediation measures.

The north west corner of this application site is identified as potentially contaminated land. The area identified however will not be affected by the proposed development.

EA have been consulted on this application and have stated that the proposed development is located on land which presents an unknown risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is on a secondary A aquifer and is in close proximity to the Duddon estuary. On this basis the EA have requested that a pre commencement condition is included which requires the submission of a remediation strategy to ensure the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Based on these comments a Phase 2: Ground Investigation Report was submitted to support this application. This assessment concludes:

- During the investigation, GEO did not identify any visual or olfactory evidence of fuel/oil type contamination.
- Due to the shallow groundwater, falling head tests could not be completed and the site is not considered suitable for soakaway drainage. An alternative drainage solution should be sought.

Following the submission of this report the EA have confirmed that the report has not addressed the potential risk to Controlled Waters, therefore they were not happy to remove the requirement for the pre commencement condition requiring a remedial strategy to be produced prior to commencement of any works. Based on these comments the applicant submitted an amended Phase 2: Ground Investigation Report which included a groundwater risk assessment. The EA have reviewed this amended document and have confirmed that although the pollution measures outlined in the recommendations of the report are acceptable, they request remediation of soils in support of the proposal to excavate and dispose of the ash-clinker materials encountered in boreholes BH01 and BH02. The EA also confirmed that they would not accept the use of soakaways at this site, however the application has already been amended to utilise attenuation methods.

Subject to the planning conditions set out above the proposal is considered to achieve the requirement of Policy ST1 of the Copeland Local Plan, Policies DS6PU and Policy DS10PU

	<p>of the Emerging Local Plan and the provisions of the NPPF.</p> <p><b><u>Planning Balance &amp; Conclusion</u></b></p> <p>This application seeks to improve existing facilities within a business located within one of the Bourgh's Key Service Centres. The site currently operates as a car repair garage, the proposed development will increase the level of services provided to the local community and will increase job opportunities.</p> <p>Although large in scale the development is set back from the principal elevation of the existing workshop and will be similar in scale. The site is located within a predominantly industrial area and is not considered to have a detrimental impact on any nearby residential dwellings as the existing car repair workshop is located in closer proximity.</p> <p>The application includes a new access and additional car parking, however there are no objections in terms of highway safety given the existing use of the site and as the area is unadopted.</p> <p>A suitable drainage scheme has now been achieved and can be controlled by an appropriately worded planning condition.</p> <p>The proposal is therefore considered to be an acceptable form of sustainable development which is compliant with policies of the Copeland Local Plan and the provisions of the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p><b><u>Standard Conditions:</u></b></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted must 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. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them:- <ul style="list-style-type: none"> <li>- General Arrangement Drawing: Location Plan &amp; Proposed Floor Plan and Elevations (Amended), Scale 1:20 &amp; 1:1250, Dwg No: MIL.JM.01(C), received by the Local Planning Authority on the 9<sup>th</sup> December 2022.</li> </ul> </li> </ol>



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- Site Layout Plan (Amended), Scale 1:200, Dwg No: MIL.JM.02(F), received by the Local Planning Authority on the 7<sup>th</sup> March 2023.
- Flood Risk Assessment, Prepared by R G Parkins November 2022, received by the Local Planning Authority on the 3<sup>rd</sup> November 2022.
- Flood Risk Sequential Test, Prepared November 2022, received by the Local Planning Authority on the 26<sup>th</sup> November 2022.
- Design & Access Statement, received by the Local Planning Authority on the 3<sup>rd</sup> November 2022.
- Exploratory Hole Location Plan, Prepared by GEO Environmental Engineering, received by the Local Planning Authority on the 16<sup>th</sup> December 2022.
- GEO2022-5585: Millom Road (Complete Logs) (Amended), Prepared by GEO Environmental Engineering, received by the Local Planning Authority on the 16<sup>th</sup> December 2022.
- Land Ownership, received by the Local Planning Authority on the 9<sup>th</sup> December 2022.
- Preliminary Ecological Appraisal, Prepared by South Lakes Ecology January 2023, received by the Local Planning Authority on the 7<sup>th</sup> January 2023.
- Proposed Drainage Strategy (Amended), Prepared by R G Parkins February 2023, Ref: K39647.OM/001, received by the Local Planning Authority on the 6<sup>th</sup> March 2023.
- Operation and Maintenance Plan for Sustainable Drainage Strategy, Prepared by R G Parkins February 2023, Ref: K39647.OM/002, received by the Local Planning Authority on the 6<sup>th</sup> March 2023.
- Proposed Foul & Surface Water Drainage Plan, Scale 1:100, Drawing No: 100, received by the Local Planning Authority on the 6<sup>th</sup> March 2023.
- Phase 2: Ground Investigation Report (Amended), Prepared by Geo Environmental Engineering July 2023, received by the Local Planning Authority on the 31<sup>st</sup> July 2023.

### Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### Pre Commencement Conditions:

3. No development approved by this planning permission shall commence until a

remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, 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 receptor
  - 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.

Any changes to these components require the written consent of the local planning authority. The scheme 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 line with paragraph 174 of the National Planning Policy Framework.

#### Prior to First Use/Occupation Condition:

4. The drainage for the development hereby approved must be carried out in accordance with the principles/details outlined within the approved documents:
  - Proposed Drainage Strategy (Amended), Prepared by R G Parkins February 2023, Ref: K39647.OM/001, received by the Local Planning Authority on the 6th March 2023.
  - Operation and Maintenance Plan for Sustainable Drainage Strategy, Prepared by

R G Parkins February 2023, Ref: K39647.OM/002, received by the Local Planning Authority on the 6th March 2023.

- Proposed Foul & Surface Water Drainage Plan, Scale 1:100, Drawing No: 100, received by the Local Planning Authority on the 6th March 2023.

Prior to the first use/occupation of the development hereby approved, the drainage scheme must be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

**Reason**

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

5. Prior to the first use of the building hereby approved and prior to the first connection into the public combined sewer network, a non-return valve must be installed on the proposed surface water connection and retained at all times thereafter.

**Reason**

To secure proper drainage and to manage the risk of flooding and pollution.

6. The development hereby approved must not be occupied/used until the parking requirements have been constructed in accordance with the approved plan 'Site Layout Plan (Amended), Scale 1:200, Dwg No: MIL.JM.02(F), received by the Local Planning Authority on the 7<sup>th</sup> March 2023'. The approved parking provision must be retained at all times thereafter and must not be removed or altered without the prior consent of the Local Planning Authority.

**Reason**

In the interests of highway safety.

7. Prior to the first use of the development hereby approved the biodiversity enhancement measures set out in the approved document 'Preliminary Ecological Appraisal, Prepared by South Lakes Ecology January 2023, received by the Local Planning Authority on the 7<sup>th</sup> January 2023' must be installed. The enhancement measure must be retained at all times thereafter.

Reason

To protect the ecological interests evident on the site.

Other Conditions:

8. The use of the building hereby approved must only be permitted to the public/customers between:

- 08:00am – 17:00pm Monday to Saturday;

Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality.

9. The development must be carried out in accordance with and implement all of the details and measures set out within the approved document 'Flood Risk Assessment, Prepared by R G Parkins November 2022, received by the Local Planning Authority on the 3<sup>rd</sup> November 2022'. Once installed these measures shall be retained at all times thereafter.

Reason

To secure proper drainage and to manage the risk of flooding and pollution.

10. The development hereby approved must implement all of the mitigation and compensation measures set out in the approved documents 'Preliminary Ecological Appraisal, Prepared by South Lakes Ecology January 2023, received by the Local Planning Authority on the 7<sup>th</sup> January 2023'.

Reason

To protect the ecological interests evident on the site, in accordance with policies ST1, ENV3 and DM25 of the Copeland Local Plan and section 15 of the NPPF.

11. The development must be carried out in accordance with and implement all of the details and mitigation measures specified within approved document 'Phase 2: Ground





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Investigation Report (Amended), Prepared by Geo Environmental Engineering July 2023, received by the Local Planning Authority on the 31<sup>st</sup> July 2023', and must be maintained as such at all times thereafter.

### Reason

To ensure the protection of controlled waters from potential land contamination.

12. The development hereby approved must be constructed in accordance with the materials specified within the following approved plans:

- General Arrangement Drawing: Location Plan & Proposed Floor Plan and Elevations (Amended), Scale 1:20 & 1:1250, Dwg No: MIL.JM.01(C), received by the Local Planning Authority on the 9<sup>th</sup> December 2022.

The development must be carried out and maintained in accordance with this approved detail at all times thereafter.

### Reason

In the interest of visual amenity.

13. Any access gates installed within the site must be of a style which do not open onto the highway and must be retained as such at all times thereafter.

### Reason

In the interest of highway safety.

### **Informatives:**

A PROW (public footpath/bridleway/byway) number 415035 lies adjacent to the site, the applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

### **Statement:**

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.	
<b>Case Officer:</b> C. Burns		<b>Date :</b> 05.04.2024
<b>Authorising Officer:</b> N.J. Hayhurst		<b>Date :</b> 09.04.2023
<b>Dedicated responses to:-</b> N/A		