

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2440/OG1
2.	Proposed Development:	REMOVAL OF CONDITION 6 (PROVISION OF FOOTWAY TO FRONTAGE) OF PLANNING APPROVAL 4/21/2084/OR1 RESERVED MATTERS APPROVAL FOR ONE DETACHED BUNGALOW (ACCESS, APPEARANCE, LANDSCAPING, LAYOUT & SCALE)
3.	Location:	BLAKESIDE, BARWISE ROW, ARLECDON
4.	Parish:	Arlecdon and Frizington
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 Planning Policies: See report
7.	Report: SITE AND LOCATION <p>This application relates to a plot of land situated on Barwise Road in Arlecdon. The site is surrounded by agricultural fields, with a playing field on the opposite side of Barwise Road to the south. The dwelling occupying the site, known as Blakeside, is currently under construction.</p> <p>The land was subject to an outline approval with all matters reserved in November 2017 (application reference 4/17/2028/001 relates) followed by the approval of reserved matters in May 2021 (application reference 4/21/2084/OR1 relates).</p> PROPOSAL <p>Planning Permission was approved for the erection of a single dwelling on the site. A condition was</p>	

attached to the reserved matters approval to ensure that the proposed pavement was constructed and brought into use prior to the first occupation of the dwelling. This application seeks to remove this condition as the Applicants do not agree that a pavement to the frontage of the development is necessary.

RELEVANT PLANNING APPLICATION HISTORY

Outline application for a single dwelling, approved in November 2017 (application reference 4/17/2028/001 relates);

Reserved matters application for the erection of a detached dwelling, approved in March 2018 (application reference 4/18/2017/OR1 relates);

Reserved matters approval for one detached bungalow (access, appearance, landscaping, layout & scale) following outline approval 4/17/2028/001, approved in May 2021 (application reference 4/21/2084/OR1 relates).

CONSULTATION RESPONSES

Arlecdon and Frizington Parish Council

No response received.

Cumbria County Highways

1st Response

I am of the opinion that a footway on the northern side of the road, in front of the dwelling(s) would provide a more convenient and higher level of pedestrian provision than having to cross the road to use the existing footway on the southern side, hence the original request. However, in the context of the NPPF s106 tests, since the existing footway offers reasonable level of provision, especially in the context of the scale of the development (& use of the footway), road alignment, level of traffic and speed limit, adequate visibility to cross the road, this additional footway is not strictly necessary to make the development acceptable. It is noted that in order to walk to any of the village facilities and services (shop, school, memorial hall and bus stop) it is necessary to cross a road anyway.

The only proviso I would add is that if the footway requirement is removed, then a dropped kerb should be added to the existing footway on the southern side opposite every house to allow for the access to the footway for mobility scooters, wheelchairs and the like to ensure suitable accessible access is maintained to the new houses.

In summary then the LHA has no objection to the removal of the footway requirement but would suggest that the Condition is kept but re-worded to state that the existing footway on the southern side of the road must be amended to provide a dropped kerb access point opposite each dwellings' access / driveway to ensure that there is an accessible route to a footway without travelling in the road.

2nd Response

I am of the opinion that a footway on the northern side of the road, in front of the dwelling(s) would provide a more convenient and higher level of pedestrian provision than having to cross the road to use the existing footway on the southern side, hence the original request. However, in the context of the NPPF s106 tests, since the existing footway offers reasonable level of provision, especially in the context of the scale of the development (& use of the footway), road alignment, level of traffic and speed limit, adequate visibility to cross the road, this additional footway is not strictly necessary to make the development acceptable. It is noted that in order to walk to any of the village facilities and services (shop, school, memorial hall and bus stop) it is necessary to cross a road anyway.

In summary, the LHA has no objection to the removal of this Condition.

Public Representation

The application has been advertised by way of neighbour notification letters issued to 1 no. properties.

No consultation responses have been received as a result of this advertisement.

PLANNING POLICIES

Planning law requires 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

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards
Policy DM12 – Standards for New Residential Developments
Policy DM22 – Accessible Developments

Other Material Planning Considerations

National Planning Policy Framework 2021 (NPPF)

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 Planning Practice Guidance (NPPG)

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

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. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

ASSESSMENT

The proposal is to remove the condition which requires the installation of a pavement at the front of

	<p>the dwelling.</p> <p>The Agent has stated that the pavement will be the only stretch on this side of Barwise Row and has confirmed with Cumbria Highways that it will not be of benefit to the property. There is a pavement on the opposite side of the road fronting the Community Centre providing a safe walking route for pedestrians.</p> <p>The initial response from the Highways Officer requested that a dropped kerb be installed on the opposite southern side of Barwise Row to allow an accessible route for pedestrians and wheelchairs, however, given that none of the other new dwellings on Barwise Row have been required to make this adjustment, it was considered unfair and therefore this was not applied. The amended consultation response from Cumbria Highways was positive and there were no objections to the proposal.</p> <p>All other details of the previously approved development are unchanged.</p> <p>CONCLUSION</p> <p>In my opinion, the stretch of pavement proposed is unnecessary due to the provision on the opposite side of the road. The condition can therefore be removed.</p> <p>In accordance with the guidance set out in the PPG it is appropriate to include all the conditions on the decision notice that were imposed on the original permission as they have yet to be discharged.</p>
8.	<p>Recommendation:</p> <p>Approve removal of condition</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. The development shall be carried out in accordance with the plans submitted and in accordance with the conditions attached to the outline planning permission. <p>Reason</p> <p>To comply with Section 92 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"> 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: - <p>Location Plan with Visibility Splays, scale 1:500, drawing number 7270-103B, received 11th May 2021; Proposed Site Plan, scales 1:200 and 1:100, drawing number 7270-102C, received 11th May 2021;</p>

Proposed Turning Head Layout, scale 1:50, drawing number 7270-107A, received 11th May 2021;
Proposed Ground Floor Layout, scale 1:50, drawing number 7270-100C, received 11th May 2021;
Proposed First Floor and Roof Layout, scales 1:100 and 1:50, drawing number 7270-101, received 23rd February 2021;
Proposed Elevations, scale 1:50, drawing number 7270-104, received 23rd February 2021.

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. The development must not commence until visibility splays providing clear visibility of 60 metres in both directions measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway, in accordance with Plan 7270-102 RevC.
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays must be constructed before general development of the site commences so that construction traffic is safeguarded.

Reason

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

4. Prior to the commencement of the development hereby approved, any existing highway fence, wall or hedge boundary must be relocated or reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with Plan 7270-102-RevC submitted to the Local Planning Authority and must not be raised to a height exceeding 1.05m thereafter.

Reason

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

5. The access and parking/turning requirements must be substantially met before any building work commences on site so that constructional traffic can park and turn clear of the highway.

Reason

The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users and in accordance with Policy DM22 of the Copeland Local Plan.

Pre-occupation Conditions

6. -

7. The access drive must be surfaced in bituminous or cement bound materials, or otherwise bound and must be constructed and completed before the development is brought into use. This surfacing must extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason

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

Other Conditions

8. Access gates, if provided, must be hung so they do not open over or into the public highway and be retained as such at all times.

Reason

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

Informatives

1) No works and/or any person performing works on any part of the Highway, including Verges, will be permitted, until in receipt of an appropriate permit allowing such works. Enquires should be made to Cumbria County Councils Streetwork's team. Streetworks West streetworks.west@cumbria.gov.uk

2) The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be

reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

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 a removal of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: Sarah Papaleo

Date : 15/12/2022

Authorising Officer: N.J. Hayhurst

Date : 16/12/2022

Dedicated responses to:- N/A