

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2455/DOC
2.	Proposed Development:	APPROVAL OF THE REQUIREMENTS OF PLANNING CONDITIONS 3, 4 AND 12 OF PLANNING PERMISSION REFERENCE 4/20/2455/0F1.
3.	Location:	LAND SOUTH OF WATERS EDGE CLOSE, KELLS, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	N/A.
7.	Report: Site and Location: <p>The Application Site comprises an area of previously developed and now vacant land extending to 1.37ha located to the south of Waters Edge Close, High Road, Whitehaven.</p> <p>The Site comprises part of the site of the clerical buildings and vehicle parking areas serving the former Marchon plant.</p> <p>The Application Site is bounded by Waters Edge Close to the north; the previously developed and now vacant former Marchon plant to the south and west; and, High Road to the east.</p> <p>The Site is generally level, with some mounds of earth associated with the clearance of the land and likely the adjacent development and hard surfacing present.</p> <p>The Site is currently enclosed by herras fencing to prevent unauthorised access.</p> <p>The Site is located in Flood Zone 1.</p> <p>The Site is not within a conservation area and no Tree Preservation Orders exist.</p> Proposal:	

This Application seeks approval of details reserved by Planning Conditions 3, 4 and 12 of Application Ref. 4/20/2455/0F1.

Planning Conditions 3, 4 and 12 of Application Ref. 4/20/2455/0F1 state the following:

3. No development 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 supplementary site investigation to provide information for a detailed assessment of the risk to all Controlled Water receptors that may be affected, including those off-site. 2. The results of the site investigation and the detailed risk assessment referred to in (1) 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. 3. 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 (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall be completed in accordance with the approved details.

4. No development shall commence until a risk assessment for piling and foundation designs using penetrative methods has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.

12. No superstructure shall be erected until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved including details of the proposed driveway finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.

The information submitted in support of the application comprises:

Planning Condition 3 – Contamination

- Reclamation Method Statement for the Proposed Residential Development on Land at Water's Edge, Whitehaven – Report Ref. 8190OR04 Rev02
- RESPONSE TO ENVIRONMENT AGENCY PLANNING CONSULTATION FOR THE PROPOSED RESIDENTIAL DEVELOPMENT AT WATERS EDGE, WHITEHAVEN - Ref: 8190OR07

Planning Condition 4 – Risk Assessment – Piling and Foundation Designs

- Letter – RE: 4/20/2455/0F1 – Waters Edge – Planning Condition 4 – Piling & Foundation Risk Assessment



Cumberland Council

- SCH001 – Foundation Schedule – Waters Edge, Whitehaven – Ref. 8190OR03Rev01
- TECHNICAL NOTE ON GROUND CONDITIONS AND FOUNDATION RECOMMENDATIONS FOR PLOTS 14, 15 AND 16 RESIDENTIAL DEVELOPMENT AT WATERS EDGE, WHITEHAVEN - Ref: 8190OR10

Planning Condition 12 – Material Specifications

Materials – Urban 21

- Portmore Claret Brick Type.
- Dark Grey Roof Tiles - NorthstoneDerrie, double roman in basalt grey.
- Front Door - 6 Panel GRP Door In Anthracite Grey, No Glazed Panel (RAL 7016).
- Garage Door - Traditional Style, Twelve Panel, In Anthracite (RAL 7016) - Galvanised Steel and Powder Coated.
- Windows - White uPVC (RAL 9010), Plain.
- Private Drives - Full Tarmac Drives.

It is highlighted that the application as initially submitted sought approval of the requirements of Planning Condition 11 – Highways. This is a controlling planning condition and does not require the submission approval of technical information/details. As such, this element of the application has been withdrawn for clarity/certainty.

Consultee:	Nature of Response:
Environment Agency	<p>Thank you for consulting us on the above application. Please accept our apologies for the confusion with regard to comments on the consultation regarding the status of contaminated land</p> <p>Environment Agency position</p> <p>Confirmation that deep piled foundations will not be designed for housing as per the letter 21 October 2022 allows withdrawal of the piling condition no.4. However, the historical activities still have potential risk from contamination to be present in, on or under the land and the condition no.3 is still appropriate and relevant.</p> <p>The land formerly owned by Rhodia and operated by Huntsman was designated as a Special Site under Environmental Protection Act 1990 Part2A and its boundary lies to the South of the development. The office block , laboratories and chemical storage formerly owned by Tamar properties have not been investigated or determined as contaminated land.</p> <p>In light of the above, risk assessment forms an integrated component for conditional discharge and is also required for compliance of the CL:AIRE</p>

		<p>Definition of Waste Code of Practice. The remedial proposals for relocating contaminated soils under hard surfaces may be acceptable from a harm to human health perspective, but there is insufficient data to support a risk assessment for Controlled Waters , as highlighted in the previous consultation correspondence.</p> <p>Please consult us on any further the details submitted to your authority to discharge condition 3.</p>
	Copeland Borough Council - Environmental Health Officer	<p>From an Environmental Health perspective, I consider that this information is sufficient to discharge both condition 3 relating to a remediation strategy for contaminated land, and condition 4 providing a risk assessment for piling and foundation designs of planning approval ref 4/20/2455/0F1.</p>
	Cumbria County Council – Highways and LLFA	<p>Condition 3 –</p> <p>No development 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.</p> <p>This strategy will include the following components:</p> <ol style="list-style-type: none"> 1. A supplementary site investigation to provide information for a detailed assessment of the risk to all Controlled Water receptors that may be affected, including those off-site. 2. The results of the site investigation and the detailed risk assessment referred to in (1) 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. 3. 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 (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. <p>The development shall be completed in accordance with the approved details.</p> <p>Reason</p> <p>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 accordance with the provisions of Paragraph 174 of the National</p>

		<p>Planning Policy Framework and Policy ST1 of the Copeland Local Plan 2013-2028.</p> <p><i>The above Condition is not for the LHA and LLFA to discharge.</i></p> <p>Condition 4 - No development shall commence until a risk assessment for piling and foundation designs using penetrative methods has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.</p> <p>Reason To ensure that the proposed foundation design and installation does not harm groundwater resources in accordance with the provisions of Paragraph 174 of the National Planning Policy Framework and Policy ST1 of the Copeland Local Plan 2013- 2028.</p> <p><i>The above Condition is not for the LHA and LLFA to discharge.</i></p> <p>Condition 11 – No dwellings shall be occupied until the estate road including footways and cycleways to serve that dwelling has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.</p> <p>Reason To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.</p> <p><i>During a recent site inspection it was clear that the development entrance from the highway had been constructed to base course level only, no other highway construction had been completed on the development site, therefore the condition above cannot be discharged at this present time.</i></p> <p>Condition 12 – No superstructure shall be erected until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved including details of the proposed driveway finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved</p>
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	<p>details.</p> <p>Reason</p> <p>To ensure the development is of a high quality design in accordance with Policy DM10 of the Copeland Local Plan 2013 - 2028.</p> <p><i>The above Condition is not for the LHA and LLFA to discharge.</i></p>
	<p>Neighbour Responses:</p> <p>N/A.</p>
	<p>Development Plan:</p> <p>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.</p> <p>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.</p> <p>The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.</p> <p>The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.</p> <p><u>Copeland Local Plan 2013-2028 (Adopted December 2013):</u></p> <p><u>Core Strategy (CS):</u></p> <p>Policy ST1 – Strategic Development Principles</p> <p>Policy ST4 – Providing Infrastructure</p> <p>Policy ENV1 – Flood Risk and Risk Management</p> <p>Policy ENV3 – Biodiversity and Geodiversity</p> <p><u>Development Management Policies (DMP):</u></p> <p>Policy DM10 – Achieving Quality of Place</p> <p>Policy DM11 – Sustainable Development Standards</p> <p>Policy DM12 – Standards for New Residential Development</p> <p>Policy DM24 – Development Proposals and Flood Risk</p> <p>Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species</p> <p><u>Emerging Copeland Local Plan (ELP):</u></p> <p>Cumberland Council are continuing the preparation and progression to adoption of the</p>

emerging Copeland Local Plan 2017-2038.

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been examined by the Planning Inspector and their report on the soundness of the plan currently remains awaited.

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.

Policy DS6PU - Design and Development Standards

Policy DS10PU - Soils, Contamination and Land Stability

Policy SC1PU - Health and Wellbeing

Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic

Policy N5PU - Protection of Water Resources

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

Planning Practice Guidance (PPG).

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

Assessment:

Planning Condition 3 – Contamination

The Environment Agency has confirmed that insufficient information has been submitted to enable approval of the requirements of this planning condition. It is confirmed that there is insufficient data to support a risk assessment for Controlled Waters.

Environment Health has confirmed that sufficient information has been provided to approve the planning condition from a human health perspective.

Planning Condition 4 – Risk Assessment Piling

The Environment Agency has confirmed this condition can be approved as no piling and foundation designs using penetrative methods are proposed.

	<p>Again, Environment Health has confirmed that sufficient information has been provided to approve the planning condition from a human health perspective.</p> <p><u>Planning Condition 12 – Materials</u></p> <p>The proposed external materials/finishes are appropriate to the design of the proposed dwellings and developed context of the Application Site.</p> <p>Conclusion</p> <p><u>Planning Condition 3 – Contamination</u> Do not approve requirements of planning condition.</p> <p><u>Planning Condition 4 – Risk Assessment – Piling and Foundation Designs</u> Approve requirements of planning condition.</p> <p><u>Planning Condition 12 – Material Specifications</u> Approve requirements of planning condition.</p>	
8.	<p>Recommendation:</p> <p><u>Planning Condition 3 – Contamination</u> Do not approve requirements of planning condition.</p> <p><u>Planning Condition 4 – Risk Assessment – Piling and Foundation Designs</u> Approve requirements of planning condition.</p> <p><u>Planning Condition 12 – Material Specifications</u> Approve requirements of planning condition.</p>	
9.	<p>Condition(s): N/A.</p>	
Case Officer: Chris Harrison		Date : 20 th April 2023
Authorising Officer: N.J. Hayhurst		Date : 21.04.2023
Dedicated responses to:-		