

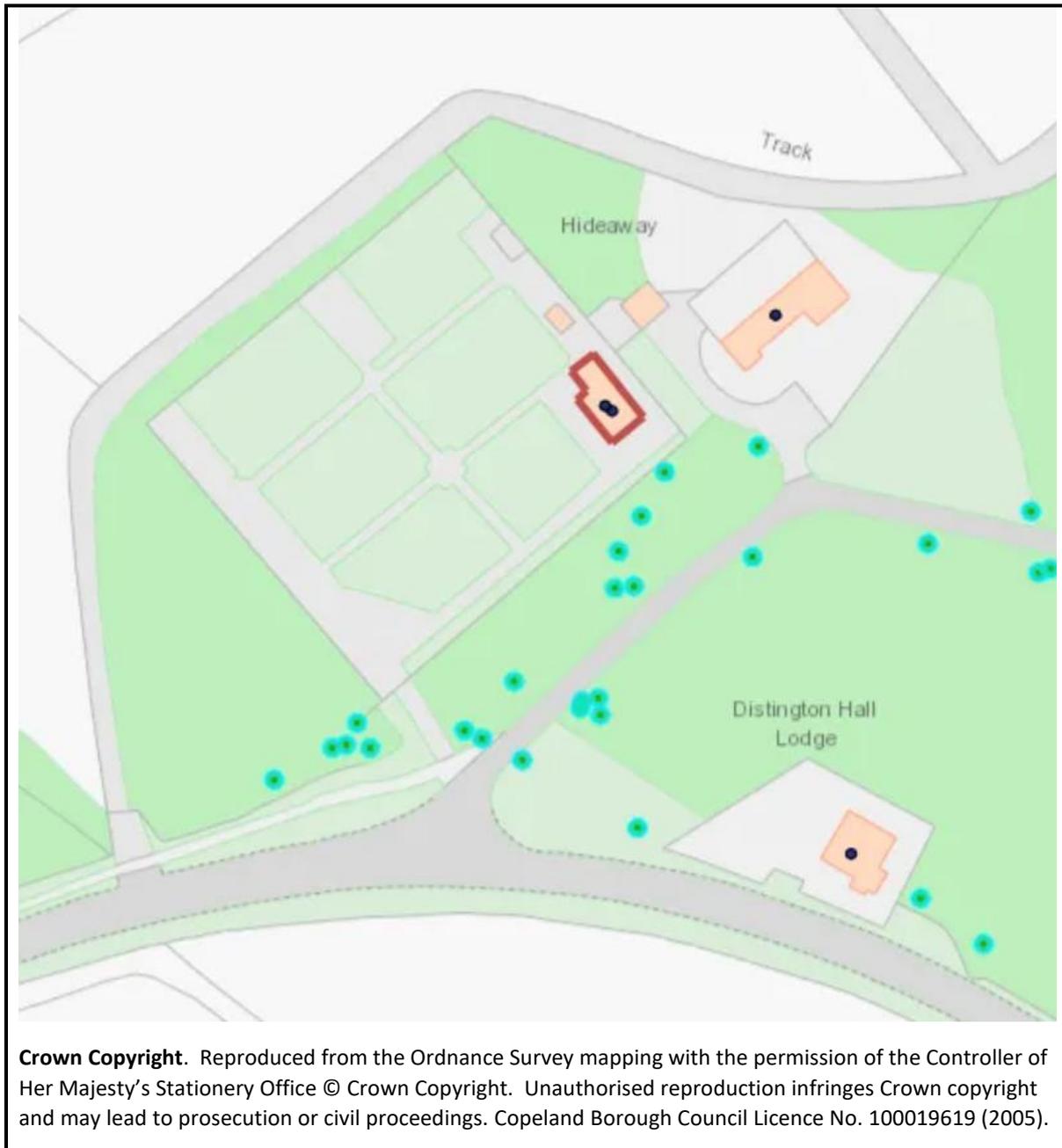


To: PLANNING PANEL

Development Management Section

Date of Meeting: 18/01/2023

Application Numbers:	4/22/2469/0F1
Application Type:	Full
Applicant:	Copeland Borough Council
Application Address:	THE VICTORIAN WALLED GARDEN, DISTINGTON TO PARTON, DISTINGTON
Proposals	CHANGE OF USE FROM THE WALLED GARDEN OFFICE TO A CAFE
Parish:	Distington
Recommendation Summary:	Approve subject to conditions



Reason for Determination by Planning Panel

The application is brought for consideration by Members of the Planning Panel as the Applicant is Copeland Borough Council and the site falls under Council ownership. Under the Council's Constitution, all planning applications made by or on land owned by Copeland Borough Council must be taken to the Planning Panel for decision.

Site and Location

The Application Site comprises a former office building which is located within the Victorian Walled Garden, Distington.

The small, detached building is constructed out of brick, ceramic roof tiles and white UPVC windows and doors. It is located within the eastern corner of the walled garden and the site is surrounded by a band of trees. An existing residential property adjoins the north eastern boundary of the site.

It is located adjacent to the access into the Distington Crematorium site, via the C4011 and it benefits from 7 parking spaces at the entrance to the walled garden. A large overflow car park is located within close proximity to the site at the adjoining Crematorium. Two existing walking routes link this parking area to the walled garden.

Proposal

This application seeks Full Planning Permission for the change of use of the building from the walled garden office to a café.

The proposal will convert the existing office building to form a kitchen with two reception rooms (Use Class A3).

The proposed café would be open between the hours of 10:00 and 16:00 Monday-Sunday, including Bank Holidays.

The application is accompanied by the following information-:

- Site Location Plan;
- Existing Plan;
- Proposed Plan;
- Parking Plan;
- Bat Inspection Survey.

Recent Planning Application History

Various planning applications have been approved relating to improvements to the walled garden (application references 4/88/0268/2, 4/99/0231/0, 4/01/0624/0 refer).

Consultation Responses

Distington Parish Council

No objections.

Cumbria County Council – Highways and LLFA.

No objections.

Copeland's Environmental Health

No objections.

Natural England

No comments received.

Public Representations

The application has been advertised by way of site notice and neighbour notification letters issued to 1 no. property.

No representations have been received to date.

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 (CS):

Policy ST1 – Strategic Development Principles

Policy SS4 – Community and Cultural Facilities and Services

Policy ENV3 – Biodiversity and Geodiversity

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM22 – Accessible Developments

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Other Material Planning Considerations

National Planning Policy Framework (NPPF).

Cumbria Development Design Guide.

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

Emerging Copeland Local Plan (ELP):

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

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

The following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy SC5PU – Community and Cultural Facilities

Policy N1PU – Conserving and Enhancing Biodiversity and Geodiversity

Assessment

The primary issues relevant to the determination of this application are:

- Principle of Development;
- Nature and Scale of Development and Impact on Residential Amenity;
- Highway Impact;
- Impact upon Ecology;

Principle of Development

Policy ST1 seeks to support development that provides or contributes to the Borough's social and community infrastructure.

Policy SS4 sets out that the range of services and facilities serving the Borough's communities will be protected by encouraging the provision and retention of good quality services and facilities which meet the needs of local communities and are accessible by public transport, cycling or on foot; and, allowing the expansion and / or enhancement of existing community and cultural facilities to assist continuing viability. Policy SC5PU of the Emerging Local Plan also seeks to protect and retain important community and cultural facilities.

The proposed development comprises works to improve and enhance the existing facilities available at the Walled Garden, which is a local community facility. It will create a café within a vacant office building.

On this basis, the proposed development is supported in principle subject to site-specific matters.

Nature and Scale of Development and Impact on Residential Amenity

Policy DM10 expects high standards of design and the fostering of quality places.

The proposal includes modest internal changes to accommodate the café and there will be no external alterations. The building already benefits from a disabled access ramp and the scale of the business and operating hours are considered to be acceptable in relation to the site.

The Environmental Health Officer has confirmed that the opening hours are reasonable and these can be secured by the use of an appropriately worded planning condition to ensure that adequate protection is provided to neighbouring amenity. The building is sufficiently detached not to affect other neighbours.

On this basis, the proposal is considered to be an acceptable in terms of its use and scale to meet Policies DM10.

Highway Impact

Policy DM22 and the Cumbria Development Design Guide seeks to ensure developments are accessible for all users.

The Highway Authority raised no objections in principle but requested a detailed parking plan. This has been provided to show the availability of accessible parking at the entrance to the walled garden and also the provision of the large overflow car park at the Crematorium. The parking plan also highlights two pedestrian access routes from the overflow car park to the café. The Highway Authority therefore raised no objections to the proposal.

On this basis, the proposal is considered to provide suitable parking requirements to meet the needs of the café and requirements set out in Policy DM22 and the Cumbria Development Design Guide.

Impact on Ecology

Policy ST1, ENV3 and DM25 and section 15 of the NPPF outline how the Council will protect and enhance the biodiversity and geodiversity within the Borough. These policies set out the approach towards managing development proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

The building to which this application relates falls within the planning and development trigger list for bat surveys contained within the Bat Conservation Trust Bat Surveys Good Practice Guidelines.

A Bat Inspection Survey has been submitted in support of the Full Planning Application. The survey confirms that the site contains an established bat roost, with droppings found both internally and externally along the north-eastern elevation.

The proposed works will not have a direct impact on the roost location, as it is not proposed to replace the roof and the roof void will not be impacted. It will therefore be possible to undertake the work without directly disturbing the bat roost.

It was also confirmed that the roost is in a location that will not be impacted by the operation of the building as a café. The roost entrance is at the rear of the building, where public access will be very limited, and the internal roosting location will be well removed from the proposed operational areas of the café.

A planning condition is proposed requiring that the development is completed in accordance with the precautions listed within the submitted Bat Inspection Survey.

Overall, the development will protect and enhance biodiversity and geodiversity in accordance with Policies ENV3 and DM25 of the Copeland Local Plan.

Planning Balance and Conclusion

The principle of the proposed development is supported by Local Plan policy.

The proposal will provide a new use for an existing building and the nature and scale of the proposed development is appropriate to the existing building and its setting. There will be no adverse impacts relating to highway parking and residential amenity. The development will protect and enhance biodiversity and geodiversity.

On balance, the development is considered to accord with the provisions of the Development Plan.

Recommendation:

Approve subject to the following conditions:-

Conditions

1. The development hereby permitted must commence before the expiration of three years from the date of this permission.

Reason

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

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: -

Application Form, received 1st December 2022;
Site Location Plan, scale 1:1250, received 1st December 2022;
Existing Plan, dated August 2022, received 1st December 2022;
Proposed Plan, received 1st December 2022;
Parking Plan, received 5th January 2023;

Bat Inspection Survey, Ref. J487/D01, Dated October 2022 received 1st December 2022.

Reason

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

3. The precaution measures associated with bat roosts must be implemented as part of the development hereby approved in accordance with the details set out in Bat Inspection Survey. Ref. J487/D01. Dated October 2022 received by the Local Planning Authority on 1st December 2022.

Reason

To ensure that adequate protection is given to protected species, in the interest of the environmental protection and in accordance with Policy DM25 of the Copeland Local Plan.

4. The hours of opening shall be restricted to Mondays to Sundays 10:00 to 17:00, including Bank Holidays.

Reason

In the interest of neighbouring amenity.

Informative Notes

1. It is an offence under Wildlife and countryside Act to damage or destroy a bat roost.

If works are completed outside of the hibernation season, a European Protected Species Mitigation Licence (EPSML) must be obtained prior to the works commencing from Natural England.

For more details on how to apply for a bat mitigation licence, please follow the link: <https://www.gov.uk/government/publications/bats-apply-for-a-mitigation-licence>

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 planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.