

**CUMBERLAND COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/23/2023/0B1
2.	Proposed Development:	VARIATION OF CONDITION 2 (PLANS - TO INCLUDE STORAGE SHED), CONDITION 3 (SCHEME FOR PROTECTION OF TREES) TO INCLUDE FELLING OF TREES AND CONDITION 5 (HARD & SOFT LANDSCAPING SCHEME) TO AMEND PLANTING SCHEME OF RESERVED MATTERS PLANNING APPROVAL 4/20/2065/0R1
3.	Location:	PLOT 8, WEST END, RHEDA PARK, FRIZINGTON
4.	Parish:	Arlecdon and Frizington
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See report.
7.	Report: Site and Location: <p>The Application Site comprises the land known as Plot 8, West End, Rheda Park, Frizington.</p> <p>The land was granted Outline Planning Permission for residential development on the 15th February 2017 under planning application ref. 4/16/2393/0O1.</p> <p>Approval of Reserved Matters was granted on the 2nd December 2023 under planning application ref. 4/20/2065/0R1.</p> Proposal: <p>This application seeks a variation of the development approved under planning application ref. 4/16/2393/0O1 and planning application ref. 4/20/2065/0R1.</p> <p>The proposed comprises a two-storey dwelling under a dual pitched roof structure with two</p>	

storey gabled projection and dual pitched roof feature to the south elevation.

An integral garage and a detached single storey workshop are proposed.

It is proposed to finish the dwelling with a combination of slate, render and cedar boarding to the elevations with natural slate to the roof. Grey uPVC windows and doors are proposed.

The proposed development includes the removal of trees the subject of a Tree Preservation Order and the planting of replacement trees.

Consultee:	Nature of Response:
Parish Council	None received.
Cumbria County Council – Highways and LLFA	<p>Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and our findings are detailed below.</p> <p>Condition 2 - Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have no objection to the variation as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.</p> <p>Condition 3 and 5 - The Highway Authority did not recommend these condition's therefore we have no comments to make.</p>
Arboriculturalist	No comments received.

Neighbour Responses:

The application has been advertised by way of an application site notice and neighbour notification letters.

No representations have been received.

Development plan policies:

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy



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Policy ST4 – Providing Infrastructure

Policy ER7 – Principal Town Centres, Local Centres and other service areas: Roles and Functions

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM12 – Standards for New Residential Development

Policy DM21 – Protecting Community Facilities

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 - Landscaping

Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Policy TSP8 – Parking Requirements

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 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 DS1PU - Presumption in favour of Sustainable Development

Policy DS2PU - Reducing the impacts of development on Climate Change
 Policy DS3PU - Settlement Hierarchy
 Policy DS4PU - Settlement Boundaries
 Policy DS5PU - Planning Obligations
 Policy DS6PU - Design and Development Standards
 Policy DS7PU - Hard and Soft Landscaping
 Policy DS8PU - Reducing Flood Risk
 Policy DS9PU - Sustainable Drainage
 Policy DS10PU - Soils, Contamination and Land Stability
 Policy DS11PU - Protecting Air Quality
 Policy H1PU - Improving the Housing Offer
 Policy H2PU - Housing Requirement
 Policy H3PU - Housing delivery
 Policy H4PU - Distribution of Housing
 Policy H5PU - Housing Allocations
 Policy H6PU - New Housing Development
 Policy H7PU - Housing Density and Mix
 Policy H8PU - Affordable Housing
 Policy SC1PU - Health and Wellbeing
 Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic
 Policy N2PU - Local Nature Recovery Networks Strategic
 Policy N3PU - Biodiversity Net Gain
 Policy N5PU - Protection of Water Resources
 Policy N6PU - Landscape Protection
 Policy N9PU - Green Infrastructure
 Policy N10PU - Green Wedges
 Policy N11PU - Protected Green Spaces
 Policy N12PU - Local Green Spaces
 Policy N13PU - Woodlands, Trees and Hedgerows
 Policy CO4PU - Sustainable Travel
 Policy CO5PU - Transport Hierarchy
 Policy CO7PU - Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (NPPF).
 Planning Practice Guidance (PPG).
 National Design Guide (NDG).
 The Conservation of Habitats and Species Regulations 2017 (CHSR).
 Cumbria Development Design Guide (CDDG).
 Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).
 Copeland Borough Council Housing Strategy 2018-2023 (CBCHS).
 Self-build and Custom Housebuilding Act 2015.
 Self-build and Custom Housebuilding (Register) Regulations 2016.



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Assessment:

Principle;

The principle of the proposed development has been established under planning application ref. 4/16/2393/001 and planning application ref. 4/20/2065/0R1.

Planning application ref. 4/16/2393/001 was the subject of pre-commencement planning conditions:

- Planning Condition 9 – Geo-environmental – Does not appear to have been discharged in respect of all plots; however, it has been confirmed by the Planning and Place Manager that it was agreed to approve this on a plot by plot basis. As such, this does not run to the heart of this element of planning permission.
- Planning Condition 11 – Arboricultural – Tree Protection – Approved in relation to the plots commenced.

Planning application ref. 4/16/2393/001 was the subject of pre-occupation planning conditions:

- Planning Condition 5 – Drainage Management – Details approved.
- Planning Condition 6 – Works to improve access before dwelling occupied – In breach.
- Planning Condition 7 – Resurfacing of access within 12 months of commencement on site – In breach.

Elements of the works required by Planning Conditions 5, 6 and 7 remain outstanding despite some dwellings being occupied. The breaches are not considered to invalidate the planning permission given the dwellings occupied and enforcement action is to be progressed to secure completion if required.

Design and Landscape Impact;

The proposed accords with the plot layout approved under planning application ref. 4/16/2393/001 albeit not the dwellings positioning within the plot. This accords with the position adopted by the Council in respect of previous applications for Approval of Reserved Matters Following Outline Approval in relation to this development.

The proposed dwelling is appropriate in scale and form to the existing dwellings and the Application Site.

The design of the proposed dwelling and workshop are a little banal; however, are not inappropriate to the location. The design is not sufficiently poor to warrant refusal.

The proposed materials are appropriate to the dwelling and the emerging character of the approved development in the locality.

Residential Amenity;

The interface separation distances achieved between the existing dwellings and proposed dwelling accord with the provisions of Policy DM12.

Given the scale, form and design of the proposed dwelling unacceptable adverse impacts upon the existing dwellings will not result through overbearing, loss of light, overlooking or overshadowing.

Landscaping and Arboriculture;

The application is supported by updates to the Pre-development Arboricultural Report previously submitted in support of planning application ref. 4/20/2065/0R1.

It is proposed to retain the main of the existing trees that are of amenity value to the north of the Application Site; remove those trees of no interest and those trees located in close proximity to or within the proposed development area where potential conflicts and safety risks exist; and, introduce a combination of structural and ornamental trees and hedgerows to compensate for the trees to be removed.

The tree protection measures detailed within the update are appropriate and provide protection to the retained trees and the trees located beyond the Application Site.

Highways Impacts;

Off highway parking for in excess of 4no. vehicles and a turning head are proposed in accordance with the requirements of the Cumbria Development Design Guide.

Drainage;

Drainage was considered/secured planning application ref. 4/16/2393/0O1.

This planning condition is to be attached to the new planning permission created by this planning application to secure commensurate control in relation to the drainage design.

Land Contamination;

A Phase 1 Preliminary Environmental Risk Assessment was prepared in support of Application Ref. 4/16/2393/0O1.

This concludes that the development site is currently considered to represent a low to moderate geotechnical risk; is currently considered to pose a very low risk to the proposed end users (ground contamination); is currently considered to pose a negligible risk to adjacent sites (the surrounding environment) and controlled waters with respect to potential ground/groundwater contamination; and, that a negligible risk is currently considered in relation to present ground gas.

	<p>Notwithstanding the above the Assessment recommends that a Phase 2: Ground Investigation be completed to ensure the “<i>geohazards</i>” are identified.</p> <p>The Applicant has demonstrated that ground conditions have been given detailed consideration in the design of the proposed foundations and a planning condition is proposed to control and remediate any unexpected land contamination should this be identified during the construction. As such a planning condition securing a Phase 2 Ground Investigation has not been imposed.</p> <p><i>Planning Balance;</i></p> <p>The development accords with the provisions of the development plan.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. The development hereby permitted shall be carried out in accordance with the following approved plans: <ul style="list-style-type: none"> Location/Site Plan (Proposed) – Drawing No. CJW102-006 Elevations (Proposed) – Drawing No. CJW102-002 Rev. D Floor Plans (Proposed) – Drawing No. CJW102-001 Rev. C Floor Plan and Elevations (Proposed) – Drawing No. CJW102-007 Pre-development Arboricultural Report – Ref. EJC/61-2017-Plot 8 received 13th February 2020 and as amended by the details received 2nd July 2020 as amended by Pre-development Arboricultural Report Plot 8, Rheda Park, Frizington – Memorandum (Amendment) Prepared for D. Lock – Ref. Ref: EJC/61-2020-Plot8 Landscaping Specifications Detailed in n Pre-development Arboricultural Report – Ref. EJC/61-2017-Plot 8 received 13th February 2020 and as amended by the details received 2nd July 2020 as amended by Pre-development Arboricultural Report – Ref. EJC/61-2017-Plot 8 13/0/23 Phase 1 Desk Top Study (Preliminary Environmental Risk Assessment), reference 2016-2203, prepared by Geo Environmental Engineering, dated 09th November 2016

Reason

For the avoidance of doubt and in the interests of proper planning.

Access and Parking

2. The dwelling hereby approved shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and brought into use. The vehicular access/turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered.

Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy T1 and Policy DM22 of the Copeland Local Plan 2013-2028.

Landscaping

3. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting season following first occupation of the dwelling hereby approved. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Reason

To safeguard and enhance the character of the area and secure high-quality landscaping in accordance with Policy DM26 of the Copeland Local Plan 2013-2028.

Drainage

4. The drainage for the development hereby approved shall be carried out in accordance with principles set out in the submitted Design and Access Statement and Planning Statement by MJN Nov 16 proposing surface water discharging into soakaway and attenuation tank.

For the avoidance of doubt and unless otherwise agreed in writing by the Local Planning Authority, no surface water will be permitted to drain directly or indirectly into the public sewer.

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



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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 in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2028.

Ecology

5. The development shall implement all of the mitigation and compensation measures set out in the Bat Survey, prepared by Arbtech, dated 06th October 2016, and submitted as part of the planning application.

Reasons

To protect the ecological interests evident on the site in accordance with the provisions of Policy ENV3 of the Copeland Local Plan 2013-2028.

Permitted Development

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the dwelling, nor shall any detached building, enclosure, domestic fuel containers, pool or hardstandings be constructed within the curtilage other than those expressly authorised by this permission.

Reason

To safeguard the character and appearance of the development in the interests of visual amenity and to ensure that any future development does not have a detrimental impact on the mature trees on the site in accordance with the provisions of Policy ENV1, Policy ENV5, Policy DM10, Policy DM25, Policy DM26 and Policy DM28 of the Copeland Local Plan 2013-2028.

Land Contamination

7. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with to the Local Planning Authority for written approval. The remediation strategy shall be implemented as approved.

	<p>Reason</p> <p>To ensure that the proposed development in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.</p> <p><i>Tree Protection</i></p> <p>8. The approved arboricultural protection measures shall be carried out as described and approved and shall be maintained until the development hereby approved is completed.</p> <p>Reason</p> <p>To safeguard and enhance the character of the area and secure high-quality landscaping in accordance with Policy ENV5, Policy DM10 and Policy DM26 of the Copeland Local Plan 2013-2028.</p> <p>Informatives</p> <ol style="list-style-type: none"> 1. Should any unexpected ground conditions, which could indicate the presence of land contamination (for example unusual colours, odours, liquids or waste materials) be encountered during development work should halt and the Council be notified to agree on the appropriate action. 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. <p>Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority</p> <p>Statement</p> <p>The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>
Case Officer: Chris Harrison	Date : 04.04.2023
Authorising Officer: N.J. Hayhurst	Date : 05.04.2023



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Dedicated responses to:- N/A	