

**COPELAND BOROUGH COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/23/2029/OF1	
2.	<b>Proposed Development:</b>	CHANGE OF USE FROM CHARITY WALK IN CENTRE TO CAFÉ/RESTURANT/TAKEAWAY AND ERECTION OF VENTILATION FLUE TO REAR ELEVATION	
3.	<b>Location:</b>	1A SOUTH PARADE, SEASCALE	
4.	<b>Parish:</b>	Seascale	
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Safeguard Zone - Safeguard Zone, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads, DEPZ Zone - DEPZ Zone, Outer Consultation Zone - Drigg 3KM, Outer Consultation Zone - Sellafield 10KM	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	<b>Report:</b>		
	<b>Site and Location</b>	<p>This application relates to an existing commercial property which fronts onto South Parade, located within the South West part of Seascale opposite the car park on the sea front. The site is an end of terrace property which is currently vacant. The site was previously occupied by the charity Shackles</p>	

Off before they relocated to another premises within the village.

### **Relevant Planning History**

4/08/2335/0 – Change of use from shop to drop in centre for teenagers – Approve

4/09/2234/0 – Renewal of permission for drop in centre for young people – Approve

### **Proposal**

This application seeks planning permission to change the use of this property from a charity walk in centre to a café/restaurant/takeaway. It is proposed that the site will be used for a fish and chip shop, with a seating area to the front of the property and a counter and kitchen preparation area to the rear. Externally there will be no alterations to the building.

The proposed café/restaurant/takeaway would be open Tuesday to Friday 10:00am to 21:00pm, Saturdays 11:30am to 21:00pm and Sundays and Bank Holidays 11:30am to 17:30pm.

As part of this application it is also proposed to erect a ventilation flue on the rear elevation of the property. The proposed flue will project from the flat roof extension to the rear of the property. The flue will be 300mm wide, will be sat 50mm-100mm on wall brackets, and will project 1m above the roof line.

### **Consultation Responses**

#### Seascale Parish Council

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

No objections.

#### Cumbria County Council – Highway Authority & LLFA

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

Although there is no designated parking provided with this application site, there is a public car park directly opposite and parking restrictions on the surrounding road network which will prevent on-street parking. I can therefore confirm the Local Highway Authority raise no objections to this proposal.

#### Notes:

The site is within Flood Zones 2 and 3. There is also an area of 1 in 1000 (0.1%) of surface water flooding to the rear of the site.

There is a public footpath (FP426000) opposite the proposal site. There shall be no obstruction to this during the construction works or after as a result of this proposal.

Environment Agency

No comments received.

Copeland Borough Council – Flood and Coastal Defence Engineer

*7<sup>th</sup> February 2023*

Just a few general comments:

- Flood mapping shows the property to be in Flood Zones 2 and 3a.
- This will be from Whitriggs Beck, rather than tidal flooding.
- Flood mapping shows the surface water flood risk to be low to very low.

Comments of the Flood Risk Assessment dating from August 2022:

- The site is in Flood Zone 2, although the mapping used does not have site specific accuracy.
- The site is not currently at tidal flood risk and using site specific data and the latest climate change figures, the site will still not be at tidal flood risk.
- The main potential source of flooding to the site is from Whitriggs Beck.
- The predicted flood level is 8.11m AOD, which is below the current threshold level of 8.57m AOD and the level of 8.39m AOD, should the rear entrance onto Albert Street be reinstated.
- Mapping shows a low risk of surface water flooding, with depths less than 300mm.
- The development offers no opportunity to reduce flood risk elsewhere.
- By installing resilient and resistant measures in the refit, the effect of flooding on the site can be reduced.
- This will be mainly by alterations to the air bricks.
- The surface water arrangement is not to be changed, which is to a surface water drain that outflows to Whitriggs Beck.
- There will be no change that will increase surface water flows.

In summary, I have no concerns about the proposed development.

*22<sup>nd</sup> February 2023*

I have no comments to make on the amended description and amended information for the above planning application.

Copeland Borough Council – Environmental Health

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

Having viewed the application, and met with the applicant on site, the Environmental Health team have no objections to this proposal.

In terms of potential noise and smell from the cooking process and kitchen extract system, the Environmental Health team are satisfied that the extract arrangements are adequate.

The applicant has supplied additional details on the noise rating of the extract fan unit, which is potentially the noisiest element of the system.

This is rated at between 50 – 60 db, and the main extract fan unit will be sited in the basement, rather than externally on the rear flat roof as was originally proposed.

The fan unit is not noisy and being sited inside the building will further reduce its noise impact to the locality.

There are no external condenser units (for refrigeration etc) planned on the site.

The kitchen extract ducting is to be sited on the rear elevation and will terminate at 1 metre above the lowest point of the roof.

Its placing is favourable to catch the prevailing SW winds off the Irish Sea and take cooking odours away from the nearest dwellings.

There will be a small extract vent on the rear gable wall elevation of the ground floor addition, from a cooking range and extract hood, provided to prepare side dishes such as peas, beans etc.

It is envisaged that this unit will not cause odour nuisance.

The premise would be subject to food safety inspection and would need a Premises Licence (under the Licensing Act 2003) if alcohol is to be sold.

In both instances, further relevant legal controls are possible on the day-to-day operations of the business.

The Environmental Health team would wish that planning conditions are imposed to control hours of operation and delivery / waste collection times in order to limit any noise disturbance.

The proposed hours of operation are not excessive and are agreeable to the Environmental Health team.

Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to six properties.

Twenty four letters of support have been received in relation to this application raising the following comments:

- Support this proposal.
- This will be a welcome asset to the local area for locals and tourists.
- Great to see a tired business being used.
- Excellent to see a new business.
- Plans and ventilation seem more than adequate.
- Business wanted by community.
- Seafront location ideal.
- Owners have been sensitive to opinions of local residents and considerate of the environmental implications.
- Car park available opposite so will not impact on traffic or congestion.
- Will bring more people to Seascale, will improve the beach front and will provide jobs for local people.
- Regeneration of area.

Two letters of objection were received to this application raising the following concerns:

- Where will waste be stored outside?
- Wind will cause litter to blow down the street, this is already an issue from other commercial properties.
- Concerns about traffic and blocking streets.
- Parking issues for existing residents.
- Layout is for a fish and chip shop not restaurant.
- Opening hours and amount of seating suggests different operation to fish and chop shop.
- The opening hours will be inconvenient to local residents to local residents, particularly 10:30pm on a Saturday.
- This is a quiet residential street where young children live.
- Is alcohol to be served?
- What are delivery hours?

- Noise from people leaving the establishment late at night.
- Extractor chimney is ugly and out of character to the building.
- Neighbours will suffer daily smells. This is a major concern.
- Concerns about accessibility. Site should be accessible to wheelchair users.

Following reconsultation on the amended description and plans for this application fifty letters of support were received raising the following comments:

- Fully support the application now more provision has been made for accessibility, especially for wheelchairs.
- Great addition to the village and would improve the amenities in the village for residents and visitors.
- Sea front is great location.
- Much needed facility.
- Transformation of rundown building. Keeping original feature.
- Support for local business by residents.
- Good sense of environmental issues and access for disabled people.
- Modern ventilation should minimise smells.
- Opportunity to transform South Parade.
- Creation of year round employment.
- Will stop people travelling for this type of facility.
- Need more facilities like this in the area.

One letter of a neutral response was received raising the following comments:

- The street is going to smell of fried food.
- Located in a residential area.
- Noise from emptying commercial bins.
- Reference to restaurant, are soft drinks only being served?

**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

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

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 SS4 – Community and Cultural Facilities

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

#### Development Management Policies (DMP)

Policy DM7 – Takeaways, Pubs and Clubs, Betting Shops, Pawnbrokers and Amusement Arcades in Towns and Local Centres

Policy DM10 – Achieving Quality of Place

Policy DM21 – Protecting Community Facilities

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposal and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM27 – Built Heritage and Archaeology

## **Other Material Planning Considerations**

National Planning Policy Framework (2021)

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 subject to an 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.

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

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 T1PU: Tourism Development

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N2PU: Local Nature Recovery Networks

Strategic Policy N3PU: Biodiversity Net Gain



Policy SC5PU: Community and Cultural Facilities

Strategic Policy CO4PU: Sustainable Travel

Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

### **Assessment**

The key issues raised by this application relate to the principle of the development; growth of business; impact of the development on surrounding area; impact on highway safety and accessible developments; flood risk; and ecology.

#### Principle of Development

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 Seascale, which is identified as a Local Centres under Policy ST2 of the Copeland Local Plan. This policy seeks to retain employment within Local Centres, and states that new provision for tourism will most likely be provided through conversion/re-use of existing buildings or completion of sites which are already allocated.

The proposed development would utilise an existing vacant dilapidated building within Seascale for a new café/restaurant/takeaway, therefore the principle for developing this site is considered to be acceptable.

#### Growth of Business

Policy ST1, ST2, and ER6 of the Copeland Local Plan seek to facilitate grow of the Borough's local economy. Policy ER7 seeks to promote the diversification of the Borough's economy by expanding new and existing employment sectors, and by supporting 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. The NPPF also states that planning decisions should help create the conditions in which businesses can invest, expand and adapt.

Policy DM7 of the Copeland Local Plan states that proposals for takeaways or other similar uses will be permitted in defined town centres and local centres where they do not result in the loss of a prominent retail unit, undermine the function of the Town or Local Centre in providing key retail and services for local communities, adversely impact on the vitality or viability of the existing centre, and have a detrimental impact on residential amenity, and health and safety issues.

The proposed change of use seeks to utilise a prominent building along south parade which is currently vacant and falling into a state of disrepair. The previous occupiers of the building have relocated elsewhere within the village therefore the development does not result in a loss of services for residents. The proposal will introduce a new business into the local area, providing facilities for both the local community and tourists visiting the area which are currently not found locally enhancing the vitality of the area.

On this basis it is considered that the proposal complies with the policies ST1, ST2, ER6, ER7 and DM27 of the Copeland Local Plan and NPPF.

#### Impact of Development on Surrounding Area

Policy ST1, DM10 and section 12 of the NPPF seeks protection of residential amenity, a high standard of design, fostering of quality places, and proposals, which respond to the character of the site.

The proposed change of use will utilise the existing building and does not seek any external alterations to the building to accommodate this change of use. The proposal does however include the installation of a flue along the rear elevation of the property. Concerns have been raised with regard to the smells from this flue and the proposal, however the Council's Environmental Health team have confirmed that they have no objections to the development subject to conditions regarding operation and delivery hours. The proposed flue is located the rear of the site, and although it projects slightly above the ridge line of the existing roof, the development is not considered to have an adverse impact on neighbouring properties or the overall streetscene.

On the basis of the above it is considered that the proposal complies with ST1 and DM12 of the Local Plan and section 12 of the NPPF.

#### Impact on Highway Safety & Accessible Development

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. Section 9 of the NPPF promotes sustainable transport.

Whilst the application site does not benefit from any off-street parking, it is located directly opposite to the large existing car park on the sea front which offers free parking to users. Whilst concerns have been raised with regard to parking for the proposed business by local residents, Cumbria Highways have confirmed that they have no objections to the application given the location of the adjacent car park and the existing parking restriction on the surrounding road networks which will prevent on-street parking. The site is also located within a sustainable location with a number of public transport options available within walking distance of the application site.

Concerns were also initially raised with regard to the accessibility of the application site, particularly for wheelchair users. Based on these concerns the applicant updated the submitted Design and Access Statement to include details of accessibility measures to be installed at the property, including a temporary access ramp, and wall mounted handrails.

Although the site does not provide any onsite parking, the site is located opposite an existing community car park within a sustainable location with a number of public transport options, therefore the development is considered to be compliant with the Policy DM22 of the Copeland Local Plan and Section 9 of the NPPF.

### Flood Risk

Policy ST1B(ii) and paragraph 163 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. Policy ENV1 and DM24 of the Copeland Local Plan reinforces the focus of protecting development against flood risk.

The majority of the application is located within flood zone 2 although the front section of the site lies within flood zone 3. Based on this a Flood Risk Assessment has been submitted to support this application. As the development is for a change of use only with no external alteration proposed, the existing drainage at this site is also to remain as existing. The LLFA and Council's Flood and Coastal Defence Engineer have been consulted on this application and have offered no objections to the proposed change of use.

On this basis the development is considered to comply with the relevant policies of the Copeland Local Plan and NPPF.

### Ecology

Policies ST1, ENV3 and DM25 of the Copeland Local Plan 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 proposal that are likely to have an effect on nature conservation sites, habitats and protected species.

The application site is identified as a potential area for natterjack toads. Although the application site is located within 200m of a watercourse (as indicated within the ALGE trigger list), the proposed change of use is retained within the existing footprint of the building with no extensions proposed, therefore the development will not disturb any habitats. The site is also located within a building up area. On the basis of the above it is considered that this is not a habitat that is likely to contain natterjack toads and so it would not be necessary to seek an ecological survey for this minor application.

It is therefore considered that the development complies with policies ST1, ENV3 and DM25 of the Copeland Local Plan and NPPF.

### Planning Balance & Conclusion

This application seeks planning permission to convert an existing vacant building located within a prominent location within one of the Council's Local Service Centres to a new café/restaurant/takeaway. The previous occupiers of the building have relocated within the village therefore the development does not result in a loss of services for residents. The proposal will introduce a new business into the local area enhancing the vitality of the area.

	<p>The change of use will be accommodated within the existing footprint of the building with minimal external alterations, therefore the development is not considered to have an adverse impact on amenity or the overall streetscene.</p> <p>Although concerns have been raised with regard to the impact of the new external flue, Environmental Health have offered no objections to the development.</p> <p>Concerns have also been raised with regard to parking as no on site parking can be provided. Cumbria Highways have however offered no objections to the change of use give the location of the existing sea front car park opposite and on street parking restrictions.</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><u>Standard Conditions:</u></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>- Location Plan, Scale 1:1250, received by the Local Planning Authority on the 30<sup>th</sup> January 2023.</li> <li>- Floor Plan, received by the Local Planning Authority on the 30<sup>th</sup> January 2023.</li> <li>- Exterior Diagram Front Ventilation, received by the Local Planning Authority on the 30<sup>th</sup> January 2023.</li> <li>- Exterior Diagram Rear Ventilation (Amended), received by the Local Planning Authority on the 27<sup>th</sup> February 2023.</li> <li>- Photographs, received by the Local Planning Authority on the 30<sup>th</sup> January 2023.</li> <li>- Flood Risk Assessment, Prepared by Rubicon Projects Consultancy Ltd August 2021,</li> </ul> </li> </ol>

received by the Local Planning Authority on the 30<sup>th</sup> January 2023.

- Design and Access Statement (Amended), received on the 20<sup>th</sup> February 2023.
- Specification for Sheet Metal Ductwork (Amended), received by the Local Planning Authority on the 27<sup>th</sup> February 2023.
- Ventilation Cover Letter, received by the Local Planning Authority on the 27<sup>th</sup> February 2023.
- Examples of Ventilation Flue in Copeland, received by the Local Planning Authority on the 27<sup>th</sup> February 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.

Other Conditions:

3. The use of the property hereby permitted must only be open to the public/customers between:

- 10:00am – 21:00pm Tuesday to Friday;
- 11:30am – 21:00pm Saturday;
- 11:30am – 17:30pm Sunday and Bank Holidays.

Reason

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

4. Delivery and waste collection times for this site should only take place between 08:00 – 20:00 hours Monday to Saturday, and not at all on Sundays or Bank Holidays.

Reason

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

5. 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 Rubicon Projects Consultancy Ltd August 2021, received by the Local Planning Authority on the 30<sup>th</sup>

January 2023. 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.

**Informatives:**

1. There is a public footpath (FP426000) opposite the proposal site. There shall be no obstruction to this during the construction works or after as a result of this proposal.
2. The premise would be subject to food safety inspection and would need a Premises Licence (under the Licensing Act 2003) if alcohol is to be sold.

**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.

**Case Officer:** C. Burns

**Date :** 22.03.2023

**Authorising Officer:** N.J. Hayhurst

**Date :** 23.03.2023

**Dedicated responses to:-**