

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2036/0F1
2.	Proposed Development:	PROPOSED TWO BEDROOM COTTAGE (RESUBMISSION OF WITHDRAWN APPLICATION 4/22/2447/0F1)
3.	Location:	FIELD 911, MILL STREET, FRIZINGTON
4.	Parish:	Arlecdon and Frizington
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Development Referral Area - Data Subject to Change, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: YES Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: Site and Location This application relates to a parcel of land located off Mill Street in Frizington. The site is currently utilised for agricultural purposes with two barns currently in situ. The site is accessed from an existing opening onto Mill Street. Proposal This application seeks full planning permission for a single two bedroomed cottage.	

The submitted plans lack detail and are not to scale. A floor plan has not been provided.

This application is accompanied by the following information:

- Application Form;
- Site Location Plan;
- Site Layout Plan;
- Elevations;
- Coal Mining Risk Assessment;
- Phase 2 Intrusive Site Investigation Report;
- Gas Monitoring Addendum Report.

Relevant Planning History

Three bedroomed detached cottage, refused in October 1989 (application reference 4/89/0551/0 relates).

Consultation Responses

Arlecdon and Frizington Parish Council

No response received.

Cumbria Highways and Local Lead Flood Authority

As this falls under our Service Level Agreement (SLA) with your Council, this application does not need to be submitted to the Local Highway Authority or Lead Local Flood Authority; subject to the highway and drainage aspects of such applications being considered in accordance with the Agreement.

The highway and drainage implications of this application would therefore have to be decided by the Local Planning Authority.

The Coal Authority

1st response

The Coal Authority is a non-departmental public body sponsored by the Department for Energy Security and Net Zero. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

The Coal Authority Response: Material Consideration

I have reviewed the site location plans, the proposals and the supporting information submitted and available to view on the LPA website. I can confirm that the site partly falls within the defined Development High Risk Area.

The Coal Authority records indicate that there is a recorded mine entry, reference 303517-007, and its resultant zone of influence within the south eastern area of the application site boundary. Our records suggest that this shaft was treated by means of the installation of a reinforced concrete cap by Egremont Mining Co Ltd in 2013. Untreated or inadequately treated mine entries pose a potential risk to surface stability and public safety.

We take this opportunity to highlight that the Coal Authority is of the opinion that building over, or within the zones of influence, of mine entries should be avoided wherever possible, even after they have been treated, in line with our adopted policy which can be found at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>.

We acknowledge that this application is a resubmission of a previously withdrawn application for the site. We also note that this application is accompanied by the same Coal Mining Risk Assessment report (G22250a) submitted with the withdrawn application prepared by GeolInvestigate, dated 30th June 2022.

For context, in our previous comments for application reference 4/22/2447/0F1 we requested that the applicant provide further information with regard to recorded mine shaft 303517-007 on site. This included: a layout plan to show the Coal Authority's plotted position for the shaft, its associated departure distance, the extent of the concrete cap constructed and the zone of influence of the shaft. This was in order for the applicant to demonstrate that the proposed development avoided the shaft and its associated zone of influence. We also highlighted that the treatment works for the onsite shaft were found to be unsatisfactory by the Coal Authority's Permissions & Licensing, and Engineering teams. No further information was brought forward in the CMRA report to rectify this last matter.

We note that although the treatment works for the onsite mine shaft have not yet been confirmed to be satisfactory by the Coal Authority's Permissions & Licensing team, in the professional opinion of the report author the capped mine entry poses no risk to any part of the proposed development in terms of ground stability.

Further to this, the Site Layout plan provided by the applicant shows that all proposed development on site is at least 24.5m away from the plotted mine shaft and is outside of its zone of influence.

On the basis of the information now submitted, and the professional opinions of the report authors set out therein, the Planning team at the Coal Authority considers that due cognisance has been given to the presence and risk posed by the recorded mine entry in the layout of the proposed development. We therefore wish to raise no objection to this planning

application.

We would, however, expect the LPA to give due consideration to the imposition of an appropriately worded condition on any planning permission issued which removes the permitted development rights for the erection/construction of extensions and curtilage buildings over or within influencing distance of mine entry 303517-007 as identified on Drawing titled Site Layout. Should an occupant wish to undertake development within the this zone of influence in the future, the proposal would be subject to a planning application thereby enabling the LPA the opportunity to fully consider the safety and stability implications posed by the development and mine shaft.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

SUDs

We also note that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

Environmental Health

1st response

Whilst the Environmental Health Team have no objections to this proposal, the application remains as was in its former guise as far as concerns around historically contaminated land are concerned.

Although the phase one and two Intrusive Site Investigation Report has concluded positively in terms of negligible risk from ground and water contamination, it also highlighted that monitoring for hazardous gas has yet to be completed.

I would therefore request that



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- no development shall take place until the monitoring on hazardous gas at the site is completed, and that a final written report be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- Implementation of Approved Remediation Scheme - In the event that contamination is found, no development other than that required to be carried out as part of an approved scheme of remediation shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and be approved in writing of the Local Planning Authority.

Reason - : To ensure that risks from land contamination both during the construction phase and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

2nd response

The ground gas monitoring has been completed as originally requested and I consider that the Ground Gas Report is satisfactory.

Its recommendations should be adhered to in the property construction where applicable.

The other variations to the proposal are acceptable to Environmental Health also, and no further planning conditions are proposed on these.

Environmental Health have no objections to the proposal.

United Utilities

UNITED UTILITIES PROPERTY, ASSETS AND INFRASTRUCTURE

Where United Utilities' assets cross the proposed red line boundary, developers must contact our Developer Services team prior to commencing any works on site, including trial holes, groundworks or demolition. Please see 'Contacts' section below.

Water pipelines

United Utilities will not allow building over or in close proximity to a water main.

Wastewater pipelines

United Utilities will not allow a new building to be erected over or in close proximity to a public sewer or any other wastewater pipeline. This will only be reviewed in exceptional circumstances. Nb. Proposals to extend domestic properties either above, or in close proximity to a public sewer will be reviewed on a case by case basis by either by a building control professional or following a direct application to United Utilities (see our website for further details).

Important information regarding water and wastewater pipelines and apparatus

It is the applicant's responsibility to investigate and demonstrate the exact relationship between United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service, including United Utilities (see 'Contacts' section below). The position of the underground apparatus shown on water and wastewater asset maps is approximate only and is given in accordance with the best information currently available. Therefore, we strongly recommend the applicant, or any future developer, does not rely solely on the asset maps to inform decisions relating to the detail of their site and instead investigates the precise location of any underground pipelines and apparatus. United Utilities Water will not accept liability for any loss or damage caused by the actual position of our assets and infrastructure being different from those shown on asset maps.

Developer's should investigate the existence and the precise location of water and wastewater pipelines as soon as possible as this could significantly impact the preferred site layout and/or diversion of the asset(s) may be required. Unless there is specific provision within the title of the property or an associated easement, any necessary disconnection or diversion of assets to accommodate development, will be at the applicant/developer's expense. In some circumstances, usually related to the size and nature of the assets impacted by proposals, developers may discover the cost of diversion is prohibitive in the context of their development scheme.

Any agreement to divert our underground assets will be subject to a diversion application, made directly to United Utilities. This is a separate matter to the determination of a planning application. We will not guarantee, or infer acceptance of, a proposed diversion through the planning process (where diversion is indicated on submitted plans). In the event that an application to divert or abandon underground assets is submitted to United Utilities and subsequently rejected (either before or after the determination of a planning application), applicants should be aware that they may need to amend their proposed layout to accommodate United Utilities' assets.

Where United Utilities' assets exist, the level of cover to United Utilities pipelines and



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apparatus must not be compromised either during or after construction and there should be no additional load bearing capacity on pipelines without prior agreement from United Utilities. This would include sustainable drainage features, earth movement and the transport and position of construction equipment and vehicles.

Any construction activities in the vicinity of United Utilities' assets, including any assets or infrastructure that may be located outside the applicant's red line boundary, must comply with national building and construction standards and where applicable, our 'Standard Conditions for Works Adjacent to Pipelines', a copy of which is available on our website. The applicant, and/or any subsequent developer should note that our 'Standard Conditions' guidance applies to any design and construction activities in close proximity to water pipelines and apparatus that are no longer in service, as well as pipelines and apparatus that are currently operational. It is the applicant's responsibility to ensure that United Utilities' required access is provided within any proposed layout and that our infrastructure is appropriately protected. The developer would be liable for the cost of any damage to United Utilities' assets resulting from their activity.

Public Representation

The application has been advertised by way of a site notice, press notice and neighbouring letters issued to 10 properties.

One response has been received stating the following:

I have looked through the some supporting information on the Copeland planning application site.

My overall view on the entire process is based on factual points that you have mentioned.

The fact that two barns that were originally for storage only, are now needing cottage inserted between them, which adds no sense at all, considering it offers no value, and makes no value to any form of housing needs. The way it looks to me as if back door move is being attempted, have building, and get house in the deal.

The fact that you have mentioned in pre-advice letter PAA/21/0070 dated 5" November 2021, that is outside of multiple policies including ST2 sustainable housing, also was very pleased to read these words, "The proposed development does not accord within the provisions of the development plan in the area in which the land in which the land or application relates is situated"

Also, note detailed about ECLP stating it is outside the revised settlement boundary for Frizington, felt this was valid point, in addition the main point in this submission it is rural location, and will dramatically change the outlook, with solar panels etc on rural storage barn setting, including major access zone which is closer to the corner, which given the road is not the best.

The big factor for me is given, all of facts have observed, is clear there is no solid justification other than person wanting to be closer to building or redevelop and create new small holding which was not there in the past. would like to think based on facts have mentioned that in your capacity as planning team that this application is deemed unfit, given the detail included.

As member of the local community, feel that these applications are adding to the demise of local sights, as well as the importance of the rules and regulations for applications, with justifiable needs.

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

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.

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.

The inherited the local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST4 – Providing Infrastructure

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



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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

Emerging Copeland Local Plan (ELP)

Cumberland Council are continuing the preparation and progression to adoption of the 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.

The Planning Inspector has now issued their post hearing letter, which identifies the next steps for the Examination. This includes proposed modifications to the plan to ensure a sound plan on adoption.

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 advanced stage of preparation of the emerging Copeland Local Plan 2017-2038 weight can be attached to policies where no objections have been received or objections have been resolved. Consultation on the main modifications to the ELP is pending and will permit significant or full weight to be afforded to the policies of the ELP.

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 2023 (NPPF)

National Design Guide (NDG).

Cumbria Development Design Guide (CDG)

Strategic Housing Market Assessment 2023 (SHMA)

Copeland Borough Council Housing Strategy 2018 – 2023 (CBCHS)

Five Year Housing Land Supply Statement 2023

The Cumbria Landscape Character Guidance and Toolkit (CLCT)

Assessment

Principle of Development

The application site lies within Frizington and is located directly adjoining the defined settlement boundary. Policy ST2 of the CS identifies Frizington as a Local Centre.

Policy ST2 of the CS states that Local Centres can accommodate new residential dwellings within the defined physical limits of the settlement and with possible small extension sites on the edges of settlements.

Policy ST2 seeks to restrict development outside the defined settlement boundaries to that which has a proven requirement for such a location, including housing that meets proven specific and local needs including provision for agricultural workers, replacement dwellings, replacement of residential caravans, affordable housing and the conversion of rural buildings to residential use.

Policy SS1 of the CS states *the Council will work to make Copeland a more attractive place to build homes and to live in them, by allocating housing sites to meet local needs in locations attractive to house builders and requiring new development to be designed and built to a high standard.*

Policy SS2 of the CS states that *house building to meet the needs of the community and to accommodate growth will be provided for by: allocating sufficient land for new housing development to meet identified requirements within the Borough; allocating land in accordance with the following housing targets: i) A baseline requirement, derived from projected household growth, of 230 dwellings per year ii) Provision for growth 30% above that, to 300 dwellings per year; seeking densities over 30 dwellings per hectare, with detailed density requirements determined in relation to the character and sustainability of the surrounding areas as well as design considerations; and, seeking to achieve 50% of new housing development on previously developed sites.*

Policy DS3PU of the ELP continues to identify Frizington as a Local Service Centre due to its

self-sufficiency providing some services, including convenience stores, employment opportunities, schools and healthcare. It is stated that the focus will be as a supporting role linking to a neighbouring town or village of a similar scale by a frequent public transport service and/or safe pedestrian routes a mile or less in length. Support will be for the retention and small scale growth of existing services and businesses. Development will be focussed on existing employment allocations, moderate housing allocations, windfall and infill development.

Policy DS4PU of the ELP defines the settlement boundaries for all settlements within the hierarchy and states that *development within these boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise*. It is stated that to ensure the delivery of allocated sites is not prejudiced, development outside the settlement boundaries will only be accepted in the following cases: where the proposal is for housing and:

a) the site is well related to and directly adjoins the settlement boundary of a town or Local Service Centre; and

b) the site is or can be physically connected to the settlement it adjoins by safe pedestrian routes; and

c) the Council is unable to demonstrate a 5-year supply of deliverable housing sites; or there has been previous under-delivery of housing against the requirement for 3 years or more or the proposal is for a specific type of housing supported by Policies H15PU (rural exception sites for affordable housing delivery), H16PU (essential dwellings for rural workers) or H17PU (conversion of rural buildings to residential use).

Policy H1PU of the ELP states the Council will work with stakeholders, partners and communities to make Copeland a more attractive place to build homes and live by: *allocating a range of deliverable and attractive housing sites to meet local needs and aspirations and ensuring they are built at a high standard, whilst protecting the amenity of existing residents; approving housing development on appropriate windfall sites within the settlement boundaries where it accords with the Development Plan; and, ensuring a consistent supply of deliverable housing sites is identified through an annual Five-Year Housing Land Supply Position Statement*.

Policy H2PU of the ELP outlines the *housing requirement is for a minimum of 2,482 net additional dwellings (an average of 146 dwellings per annum) to be provided between 2021 and 2038 and that In order to plan positively and support employment growth over the Plan period, the Plan identifies a range of attractive allocated housing sites, which when combined with future windfall development, previous completions and extant permissions, will provide a minimum of 3,400 dwellings (an average of 200 dwellings per annum) over the Plan period*.

Policy H4PU of the ELP outlines that 17% of new housing development will be located within the eight Local Service Centres.

Policy H5PU of the ELP allocates land for housing purposes.

The Application Site is located beyond the defined settlement boundary of Frizington as identified in the CS and ELP.

The Application Site is not allocated for housing development in the LP, CS or ELP.

The development comprises a market led new build housing development and does not therefore comprise an exception site for affordable housing, an essential dwelling for a rural worker or the conversion of a rural building.

Overall, it is considered that the principle of the development is contrary to Policy ST2 of the CS, DS3PU and DS4PU of the ELP and paragraph 11 of the NPPF, creating residential properties in an area outside the designated settlement boundaries. The LPA can demonstrate a 5 year land supply and the Policies within the ECLP reflect the guidance set out in paragraph 80 of the NPPF which seeks to resist unjustified housing in the open countryside.

Design and impact on neighbouring properties

Policies ST1, DM10, DM11, and DM12 of the Local Plan, Policy DS6PU of the ELP and section 12 of the NPPF seek to secure high standards of design for new residential properties. These policies seek to create and maintain a reasonable standard of amenity and set out detailed requirements with regard to the standard of residential amenity, including the provision of parking spaces, separation distances and open space.

Due to the simplicity of the plans without measurements and not to scale, it is difficult to assess the suitability of the design of the dwelling.

Limited details of the scale, design and siting of the proposed dwelling have been received, with simple elevations and a block plan to show the siting being the only information available. Due to this limited information, it is difficult to assess whether or not the design is suitable for the character of the area. The dwelling can be sited so as to have no effect on the neighbouring properties on Mill Street.

Should further discussions or information have been forthcoming, detailed designs and information relating to materials would have been required.

In its current form, the proposal fails to comply with Policies DM10 of the CS and DS6PU of the ELP.

Settlement and Landscape Character

Policies ST1 and DM10 of the CS and Policy DS6PU of the ELP require that development responds positively to the character of the site and surrounding areas.

Policy ENV5 of the CS and N6PU of the ELP states that the Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that

particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.

Paragraph 174 of the NPPF requires that planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes... and b) recognising the intrinsic character and beauty of the countryside.

The site is designated as subtype 5a: Lowland – Ridge and Valley within the Cumbria Landscape Character Toolkit. The key characteristics of this area summarised to a “working farmed landscape” with an aspiration to ensure that new development avoids nucleation of the settlement pattern and that a contribution is made to the character of the area by respecting the form of the existing villages.

The plans submitted show the dwelling sited close to the existing barns on the site, however it is unclear which way the dwelling would be orientated. Due to the sloped topography of the site, a topographical survey and sectional drawing of the proposal was requested, however the Applicant did not provide this detail.

Discussions were undertaken with the Applicant to re-site the dwelling in order that it would be in keeping with the character of Mill Street – which is linear with road facing frontages, however, due to the land stability constraints, the Applicant was unwilling to move the dwelling to a different location.

Although the site lies on the edge of Frizington it is sensitive to urbanisation as it currently creates a transition from the urban to the rural form with the end of Mill Street to the south transitioning into agricultural buildings on the site and open fields to the north. The development would result in further urbanisation of this area with particular regard to views of the settlement on the approach from the north. The character of Frizington in this particular area is of continuous linear development on the road side, which lessens the landscape impact created by residential development, leaving large areas of open green space and the development being seen in context with the roads. The proposal would create a dwelling to the west of this linear pattern – encroaching into the open landscape and jarring with the linear dwellings beyond. In the context of the NPPF, the submitted scheme is likely to create more demonstrable harm than benefit with regards to landscape impact.

The application site lies close to existing dwellings situated to the south. The harsh line of terraced dwellings to the south provides a visual stop before the change to open fields when travelling north and away from Frizington. The site creates a softened edge to the village and transitions from the urban to the rural character. Due to the topography of the land, the dwelling will be visually prominent within the landscape creating a noticeable urban development within the open countryside setting. There are established boundary hedges surrounding the site, however, these are unlikely to mitigate any erosion of the long views of the site.



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On balance, the proposed development is likely to create significant harm to the open character of the surrounding landscape, the sensitivity of which is assessed and acknowledged under the CLCTC.

On the basis of the information submitted, it is considered that the dwelling would be likely to be inappropriately sited and create an adverse effect on the character of the area. The site is steeply sloped and the siting of the dwelling would be visible in both long and short views.

The proposal is therefore considered to be contrary to policies ST1, ENV5 and DM26 of the Copeland Local Plan, Policy N6PU of the ELP, the Cumbria Landscape Character Toolkit and the provisions of the NPPF which seeks to protect the countryside from sporadic non-essential development.

Drainage and 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 and DS8PU and DS9PU of the ELP reinforces the focus of protecting development against flood risk.

The application site is located within Flood Zone 1 and does not exceed 1 hectare therefore there is no requirement for a Flood Risk Assessment.

No details of drainage have been provided.

Due to a lack of information, the proposal does not comply with policy ENV1 and Policy DM24 of the CS, the ELP and the provisions of the NPPF.

Access, Parking and Highway Safety

Policy T1 of the Core Strategy requires mitigation measures to be secured to address the impact of new housing on the Boroughs transportation system. Policy DM22 of the CS and CO7PU of the ELP 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.

The site will be accessed from Mill Street to the south and utilising the existing agricultural access point. No details of visibility splays have been provided, however, the additional information states that splays of greater than 60m are available in both directions.

Parking provision in accordance with the requirements of the Cumbria Design Guide is clearly deliverable on the Application Site.

Due to the lack of information provided, it is unclear whether the proposal can meet the expectations of Policies DM22 of the CS and CO7PU of the ELP.

Ecology and Landscaping

Policy ENV3 of the CS and Policy N1PU of the ELP seek to ensure that new development will protect and enhance biodiversity and geodiversity. Policy N1PU of the ELP defines a

mitigation hierarchy.

Policy N3PU of the ELP requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

No ecological assessment details have been submitted.

No details of landscaping have been received.

The proposal does not currently comply with the policies within ELP. .

Historic Coal Mining and Land Stability

The application site is located on a Coal Referral Area and with a history of Potentially Contaminated Land. As a result, a Phase 2 Intrusive Site Investigation Report has been submitted, written by a technical specialist.

The report concludes the following:

Contamination

Analysis of the ground conditions at the site and an assessment of the potential pathways have confirmed that soils at the site are generally uncontaminated and fit for purpose for the proposed residential end use of the site. Furthermore, no discernible risk can be identified to local ground and surface waters through leaching and contaminant mobility. As such no remedial works will be required at the site in this regard prior to the commencement of the development.

Hazardous Gas

Gas monitoring is ongoing at the site with one of a potential six monitoring visits having been undertaken to date. The monitoring undertaken to date has returned elevated carbon dioxide (above 5%) and slightly depleted oxygen levels. Negligible levels of methane have been recorded. Based on the data to date, the property is likely to fall into "Amber 1" of the NHBC Traffic Light System for low rise housing or Characteristic Situation 2 on the Wilson and Card Classification Scheme of CIRIA C665. Therefore, gas protection measures are likely to be required commensurate to this level for proposed building. Given the presence of the historically capped mine-shaft at the site, this level of protective measures had been considered necessary as a minimum, despite the gas monitoring data. Note that these conclusions are provisional and that the gas monitoring exercise is not yet completed, with only two of a possible six sets of readings gathered to date. Final recommendations regarding gas protection will be issued in due course in a Gas Monitoring Addendum Report following completion of the gas monitoring exercise and this will also include details of some

possible gas protection options an may require validation of measures, during installation. No Radon Protective Measures are required for the new development.

Foundation Design

The ground conditions were relatively uniform across the site and comprised a of shallow made ground (topsoil) underlain by firm to stiff cohesive deposits with mudstone bedrock below. It is understood that the building levels will be lowered by some margin, from those at the time of the investigation, potentially requiring appropriately designed retaining structures. The CMRA report discounts the geotechnical risk to the site from the nearby capped mineshaft.

Further to a request from Environmental Health, a Ground Gas Addendum Report was submitted which concluded that the site falls into “Characteristic Situation 2”

(CS2) of the Modified Wilson and Card classification or “Amber 1” of the NHBC Traffic Light System for low rise housing with a ventilated under-floor void (min 150mm) (CIRIA C665.) meaning that ground gas protection measures will be required in the proposed structure(s).

The submitted Coal Mining Risk Assessment concluded that the mining stability and mine gas risks posed by the strata beneath this site from coal mining legacy can be mitigated by routinely adopted measures and should not preclude planning permission being registered with regard to coal mining legacy issues.

This information was all correct based on the siting of the dwelling next to the existing barns on site. The preferred location for the dwelling further south on the site and in line with the frontages on Mill Street would put the dwelling within the zone of influence for the historic mining issues within the site.

Details of the affected areas are shown below with the dark circle depicting the coal referral area and the brown line showing the area of potentially contaminated land.



Planning Balance and Conclusion

Paragraph 11 of the NPPF requires any adverse impacts to be weighed against the benefits that a scheme would produce.

The provision of a single dwelling on this site would only make a very small contribution to the supply and delivery of housing within the Borough. Although there would be some economic benefits this would be limited to the construction phase which would only be apparent on a temporary basis. Social benefits would be limited as the applicant has failed to provide any evidence that the proposed housing is required to meet a defined need. Consequently little weight can be attached to these benefits.

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to the provision of housing where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Out of date includes where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

In February 2023, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 7.1 year supply of deliverable housing sites against the emerging housing requirement and a 191 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.

The ELP will, once adopted, replace the policies of the adopted CS. The ELP has been drafted based upon an evidence base of documents which includes an updated Strategic Housing Market Assessment 2021 (SHMA). The SHMA calculates housing need in Copeland over the plan period 2017-2035 of 146 dwellings per annum. The ELP identifies that to meet the housing need identified in the SHMA, development will be required beyond the existing development boundaries and allocations identified in the CS and includes development boundaries and allocations sites for residential development that will permit delivery of the identified housing need in accordance with the sustainable development strategy proposed.

On this basis, the policies in the CS in relation to housing delivery must be considered out of date and only limited weight be given their content as far as they are consistent with the provisions of the NPPF.

Given the advanced stage of preparation of the emerging Copeland Local Plan 2017-2038 weight is be attached to policies where no objections have been received or objections have been resolved. Consultation on the main modifications to the ELP is pending and will permit significant or full weight to be afforded to the policies of the ELP.

The proposed development is of a type and scale that aligns with the designation of

	<p>Frizington as a Local Service Centre within the CS and ELP. The Application Site is located in close and convenient proximity to some services, employment opportunities and transport links, some of which are located within walking distance of the Application Site. The proposed development will give limited support to existing services and thus the aspirations for growth in the Borough. This is afforded some weight.</p> <p>The Application Site is located beyond the defined settlement boundary of Frizington as identified in the CS and ELP and is not allocated for housing development in the LP, CS or ELP. The development comprises a market led new build house and does not therefore comprise an exception site for affordable housing, an essential dwelling for a rural worker or the conversion of a rural building as are supported outside of the defined settlement boundaries. This is given great weight.</p> <p>The proposed development by virtue of its location, scale and developed form does not respond positively to the character of the site and the immediate and wider setting or enhance local distinctiveness and will result in adverse impacts upon the local landscape character and localised views from within and adjacent to Frizington. This is given significant weight.</p> <p>There is limited information available with regards to the design, scale, drainage, ecology, landscaping and access for the development. This is given great weight.</p> <p>Based upon the advice of the relevant consultees and the modest scale of the development, unacceptable residual cumulative impacts on the road network would not be severe. This is given moderate weight.</p> <p>In overall terms, it is considered that the direct conflicts with the provisions of ELP, the adverse local landscape character and visual impacts of the development, failure to provide suitable information with regards to topography, design, scale, drainage, ecology, landscaping and access issues are sufficiently harmful to significantly and demonstrably outweigh the benefits of the development.</p>
8.	<p>Recommendation:</p> <p>Refuse</p>
9.	<p>Reasons For Refusal</p> <ol style="list-style-type: none"> 1. The proposed development comprises a market led residential development located on a site outside of the settlement boundary of Frizington in direct conflict with the provisions of Policy DS3PU, Policy DS4PU and Policy H4PU of the emerging Copeland Local Plan 2017-2038. 2. The proposed development by virtue of its location, scale and developed form does not respond positively to the character of the site and the immediate and wider setting or enhance local distinctiveness and will result in adverse impacts upon the local landscape character and localised views from within and adjacent to Frizington in conflict with the

	<p>provisions of Policy ENV5, Policy DM26 and Policy DM10 of the Copeland Local Plan 2013-2028 and Policy H6PU and Policy N6PU of the emerging Copeland Local Plan 2017-2038.</p> <p>Statement:</p> <p>The Local Planning Authority has acted positively and proactively in accordance with Copeland Local Plan policies and the National Planning Policy Framework in determining this application by identifying matters of concern with the proposal and raising those with the applicant/ agent. However, in this case it has not been possible to arrive at a satisfactory resolution for the reasons set out in the reason for refusal.</p>	
Case Officer: Sarah Papaleo		Date : 07/02/2024
Authorising Officer: N.J. Hayhurst		Date : 07/02/2024
Dedicated responses to:- N/A		