

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2042/0B1	
2.	Proposed Development:	VARIATION OF CONDITION 2 (DESIGN CHANGES) OF PLANNING APPROVAL 4/21/2338/0F1 - ERECTION OF NEW SWIMMING POOL BUILDING ON THE FORMER FOOTPRINT OF RECENTLY DEMOLISHED SWIMMING POOL BUILDING	
3.	Location:	BROCKWOOD HALL, WHICHAM, MILLOM	
4.	Parish:	Millom Without	
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Off Coalfield - Data Subject To Change	
6.	Publicity Representations &Policy	Neighbour Notification Letter	No
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report:		
	Site and Location		
	This application relates to Brockwood Hall, located within Whicham Valley. The site is a holiday retreat, including a guest house and a number of holiday lodges. The site is protected by a TPO.		
	Relevant Planning History		

4/21/2338/0F1 – Prior notification of demolition of derelict swimming pool building – Approved.

4/21/2338/0F1 – Erection of new swimming pool building on the former footprint of recently demolished dwelling pool building – Approved.

Proposal

In September 2021, planning permission was granted (ref: 4/21/2338/0F1) for the erection of a new swimming pool on the former footprint of the swimming pool building demolished following the granting of prior approval (ref: 4/21/2338/0F1). This current application seeks to vary condition 2 relating to the submitted plans for this application, in order to allow the development to go ahead after the previous scheme was determined to be unviable.

Consultation Responses

Millom Without Parish Council

7th March 2023

The Council resolve to support this application.

Cumberland Council – Highway Authority & LLFA

13th March 2023

Condition 2 - Further to our comments to 4/21/2338/0F1, I can confirm the LHA and LLFA have no objections to the proposed variation to this condition.

Cumberland Council – Environmental Health

No comments received.

Natural England

15th February 2023

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application. If you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require advice.

Public Representation

This application has been advertised by way of a site notice. No comments have been received in relation to the statutory notification procedure.

Planning Policy

Planning law requires that applications for planning permission must be determined in



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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

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy SS4 – Community and Cultural Facilities

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

Policy ER6 – Location of Employment

Policy ER7 – Principle 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 ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Policy DM28 – Protection of Trees

Other Material Planning Considerations

National Planning Policy Framework (2021)

Wildlife and Countryside Act 1981.

The Conservation of Habitats and Species Regulation 2017 (CHSR)

Cumbria Design Guide.

Emerging Copeland Local Plan 2021 – 2038 (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.

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.

Assessment

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that to assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

In terms of the conditions attached to the previous decision notice (ref: 4/21/2338/0F1), development has not yet commenced on site therefore it is necessary to amend condition 1 to reflect the timescale for commencing development. Condition 3 will be repeated as this condition still requires discharge prior to the first use of any materials within the external

	<p>surfaces of the development. Condition 4 and 5 will be repeated to ensure that works are carried out as per the approved details.</p> <p>The current application seeks to vary condition 2 of the original planning approval, ref: 4/21/2338/0F1.</p> <p>The application seeks to vary the plans previously approved, in order to allow the development to go ahead after the previous scheme was determined to be unviable. The revised scheme is within budget and will ensure the replacement facility can be delivered.</p> <p>The revised building is located upon the same footprint as previously approved, however the footprint has been slightly reduced. Although the height of the building has been increased by 750mm, this is not considered to have a significant impact on the surroundings given its location within the centre of the complex.</p> <p>The external appearance of the of the building will also be amended to a show a simpler design, however the primary use of the building as a swimming pool will be retained.</p> <p>On the basis of the above, the proposed alterations are considered acceptable and will not have an impact on the overall streetscene or character of the area.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <p><u>Standard Conditions</u></p> <ol style="list-style-type: none"> 1. The development hereby permitted must be commenced before the 13th September 2024. <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"> 2. This permission relates to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:- <ul style="list-style-type: none"> - Site Location Plan, Scale 1:1250, Dwg No: 5972/b/b/00, Rev: C, received by the Local Planning Authority on the 27th July 2021. - Pre-Existing Site Plan, Scale 1:200, Dwg No: 5972/b/b/01, Rev: C, received by the

Local Planning Authority on the 27th July 2021.

- Existing Site Plan, Scale 1:200, Dwg No: 5972/b/b/02, Rev: C, received by the Local Planning Authority on the 27th July 2021.
- Existing Plan, Elevations & Section, Scale 1:100, Dwg No: 5972/b/b/07, Rev: A, received by the Local Planning Authority on the 27th July 2021.
- Block Plan (Amended), Scale 1:500, Drawing Number: 2018-05-002, Rev: A, received by the Local Planning Authority on the 18th April 2023.
- Proposed Floor Plans and Elevations, Scale 1:200, Revision: A, received by the Local Planning Authority on the 8th February 2023.
- Bat Survey, Prepared by Envirotech Ecological Consultants March 2021, received by the Local Planning Authority on the 27th July 2021.
- Design and Access Statement, received by the Local Planning Authority on the 27th July 2021.
- Arboricultural Impact Assessment, Prepared by Yew Tree+Gardens August 2021, received by the Local Planning Authority on the 13th August 2021.
- Addendum to Design and Access Statement, received by the Local Planning Authority on the 18th April 2023.
- Footprint Comparison, Scale 1:500, Drawing Number: 2018-05-003, received by the Local Planning Authority on the 21st April 2023.
- Elevation Comparison (Amended), Scale 1:100, Drawing Number: 2018 -05-003, received by the Local Planning Authority on the 21st April 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.

Prior to Use/Occupation Conditions

3. Prior to their first use on the development hereby permitted, representative samples of the materials to be used on the external surfaces of the development must be submitted to and approved in writing by the Local Planning Authority. Development must be carried out in accordance with the approved details and so maintained

thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity.

4. Prior to the commencement of development, all mitigation measures set out in the approved document 'Arboricultural Impact Assessment, Prepared by Yew Tree+Gardens August 2021, received by the Local Planning Authority on the 13th August 2021', shall be implemented in accordance with the details provided. These measures must be retained at all times throughout the development thereafter.

Reasons

To adequately protect the existing trees on site which are subject to a TPO in the interests of visual amenity.

Other Conditions

5. The development must implement all of the mitigation and compensation measures set out in the approved document Bat Survey, Prepared by Envirotech Ecological Consultants March 2021, received by the Local Planning Authority on the 27th July 2021. These measures must be retained at all times thereafter.

Reasons

To protect the ecological interests evident on the site.

Informative:

As the development will connect to an existing watercourse, a consent permit may be required. The applicant should contact LFRM.consent@cumbria.gov.uk for further advice.

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 : 18.05.2023
Authorising Officer: N.J. Hayhurst	Date : 19.05.2023
Dedicated responses to:- N/A	