

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2047/0B1
2.	Proposed Development:	VARIATION OF CONDITION 4 (AMEND OPENING HOURS) OF PLANNING APPLICATION 4/22/2464/0F1 - CHANGE OF USE OF A STORE & CAR PORT TO A DOG GROOMING BUSINESS
3.	Location:	ROTHERY BARN, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: INTRODUCTION <p>This application relates to Rothery Barn, situated at an agricultural holding at Keekle Grove. There are agricultural fields surrounding the barn and the River Keekle to the west. The barn is accessed from a private road that stretches from the site to Cleator Moor to the north.</p> <p>A change of use was approved in January 2023 to allow the previous store and car port to be used as a dog grooming business (application reference 4/22/2464/0F1 relates).</p> RELEVANT PLANNING APPLICATION HISTORY	

Implement/agricultural store, approved in November 2015, application reference 4/15/2348/0F1;

Change of use of a store and car port to a dog grooming business (retrospective), approved in January 2023 (application reference 4/22/2464/0F1 relates).

PROPOSAL

This application seeks to amend the previously approved scheme to allow for extended opening hours as follows.

Current opening hours:

Monday to Friday – 09:00 – 17:00

Saturday – 09:00 – 12:00

Proposed opening hours:

Monday to Friday – 10:00 – 19:00

Saturday – 10:00 – 17:00

CONSULTATION RESPONSES

Cleator Moor Town Council

No response received.

Environmental Health

Environmental Health has no objections to the above proposed variation of opening hours.

The development is of good quality construction and will not give rise undue noise breakout through its structure.

Some flexibility in the opening hours of such a business is also reasonable.

Cumbria Highways

No comments.

Local Lead Flood Authority

No comments.



Cumberland Council

Public Representation

The application has been advertised by way of neighbour notification letters issued to 2 no. properties.

No responses have been received as a result of these advertisements.

Planning Policies

Planning law requires 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 ER4 – Land and Premises for Economic Development

Policy ER5 – Improving the Quality of Employment Space

Policy ER6 – Location of Employment

Policy ER11 – Developing Enterprise and Skills

Policy SS4 – Community and Cultural Facilities and Services

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

Other Material Planning Considerations

National Planning Policy 2021 (NPPF)

Planning Practice Guidance

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.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF. Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

The policies relating to this application are:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS3PU: Settlement Hierarchy

Strategic Policy DS4PU: Settlement Boundaries

Strategic Policy DS8PU: Reducing Flood Risk

Policy DS9PU: Sustainable Drainage

Strategic Policy E2PU: Location of Employment

Policy RE3PU: Conversion of rural buildings to commercial or community use

Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

The Planning Practice Guidance (NPPG)

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

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. 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

	<p>original permission.</p> <p>ASSESSMENT</p> <p><u>Principle of the development</u></p> <p>Planning policy ST1 of the CS and DS1PU of the ELP seeks to ensure that businesses are able to continue and expand whilst protecting the amenity of any surrounding properties. Policy SS4 of the CS and Policy SC5PU of the ELP encourage the retention and expansion of local businesses.</p> <p>The principle of the use was established by the planning permission which was granted in January 2023 under reference 4/22/2464/0F1.</p> <p>This application seeks to vary the opening times for the business which is considered below.</p> <p><u>Assessment of Variation of Condition 4</u></p> <p>The main issue raised by the application is that of potential noise and disturbance and the potential effects on the neighbouring dwellings.</p> <p>The building being utilized at Rothery Barn is located approximately 230 metres to the south west of the nearest residential property on Brantwood Lane. Furthermore, the building is constructed with robust materials which will considerably dampen any noise. These distances are considered to be significant and it unlikely that there would be any effect on neighbouring amenity from barking or other noise. The dwelling at Rothery Barn has been protected from noise due to the use of a planning condition, imposed on the change of use application in 2023, to ensure that the barn is used in association with the dwelling at all times, during the lifetime of the business. No complaints with regards to the business have been received and Environmental Health were supportive of the extension of opening hours, stating that some flexibility is reasonable. With the latest opening of the business proposed at 19:00 on week days, there are no unsociable working hours proposed, therefore protecting the surrounding amenity.</p> <p>As set out in the PPG it is appropriate to attach all conditions from the original permission which are relevant to any new permission. Conditions 1, 2 and 3 are therefore repeated. Condition 4 has been varied to reflect the new opening times. .</p> <p>Overall, it is considered that the proposal complies with the policies within the Copeland Local Plan, emerging Local Plan and national guidance and should be approved.</p>
8.	<p>Recommendation:</p> <p>Approve</p>

9.	<p>Conditions:</p> <p>1. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -</p> <p>Application form, received 20th February 2023; Site Location Plan, scale 1:1250, drawing number 01001 01, received 20th February 2023; Block Plan, scale 1:200, drawing number 01002 01, received 20th February 2023; Existing and proposed plans and elevations, scale 1:100, drawing number 01003 01, received 20th February 2023; Proposed Plan, scale 1:50, drawing number 04001 01, received 20th February 2023.</p> <p>Reason</p> <p>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.</p> <p>2. The use hereby permitted must be for a limited period until 18th January 2024. At the end of this period the use shall cease, all materials and equipment brought onto the land in connection with the use must be removed and the land restored in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason</p> <p>The use hereby approved may not be considered suitable as a permanent form of development to protect local amenity in accordance with Policy ST1 and DM10 of the Copeland Local Plan.</p> <p>3. The business hereby approved must be used in association with the parent dwelling known as Rothery Barn and must not be sold, let or otherwise used in isolation at any time whatsoever for the lifetime of the development.</p> <p>Reason</p>
----	--

	<p>In order that an inappropriate form of development is not introduced to the area and in accordance with Policy ST1 of the Copeland Local Plan.</p> <p>4. The use hereby permitted shall not be open to the public / customers outside the following times:</p> <p>Monday – Friday – 10:00 – 19:-00</p> <p>Saturday – 10:00 – 17:00</p> <p>Reason</p> <p>To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality and in accordance with Policy ST1 of the Copeland Local Plan.</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 approve a variation of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>
Case Officer: Sarah Papaleo	Date : 05/04/2023
Authorising Officer: N.J. Hayhurst	Date : 24/04/2023
Dedicated responses to:- N/A	