

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2066/0F1
2.	Proposed Development:	RE-ROUTING OF 200M OF STREAM FROM ITS CURRENT LOCATION INTO VALLEY BOTTOM; CREATING BETWEEN TWO & FIVE NEW PONDS; SERIES OF NEW FOOTPATHS TO CREATE ONE CONTINUOUS LOOP; FOUR NEW FOOTBRIDGES FOR PEDESTRIAN ACCESS
3.	Location:	WALKMILL WOODLANDS, MORESBY PARKS
4.	Parish:	Moresby, Weddicar
5.	Constraints:	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change, Key Species - Bounds of Sensitive Area for Hen Harriers, Preferred Route Corridor - Within Preferred Route Corridor
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION	This application relates to Walkmill Woodlands, a small area of woodland that lies

approximately 0.3 miles south-east of Moresby Parks.

The site comprises a 36ha, former open cast coalmine which has since been subjected to intensive afforestation. A number of footpaths run through the site which also contains several streams and small ponds.

The site is served by an existing car park which lies on its southern corner.

PROPOSAL

Planning Permission is sought for:

- The re-routing of 200m of stream from its current location into the valley bottom;
- The creation of between two and five new ponds;
- The creation of a series of new footpaths to create one continuous loop; and
- Four new footbridges for pedestrian access.

The application is accompanied by the following information:

- Site Location Plan;
- Map Showing All Features;
- Existing and Proposed Site Plan;
- Footpath and Boundary Plan;
- Design Upgrades to Footpaths Plan;
- Flood Risk Assessment and Drainage Statement;
- Sustainable Drainage System Statement;
- Biodiversity Assessment;
- Footbridge – General Arrangement;
- Footbridge – Construction Method Statement;
- River Restoration Features;
- River Restoration Measures;
- Cross Sections and Detailed Drawings;
- Support Letter from Cumbria County Council;
- Wetlands Ponds and Measurements.

RELEVANT PLANNING APPLICATION HISTORY

There have been no previous planning applications at the site.

CONSULTATION RESPONSES

Moresby Parish Council

Support the application.

Highways and Lead Local Flood Authority

Support the application but the river works require consent from the Lead Local Flood Authority.

Public Rights of Way Officer

Support the application.

Coal Authority

No objections but suggests the inclusion of an informative note.

Environmental Health

No objections but recommend an unexpected contamination condition.

Flood Engineer

Support the application.

Environment Agency

Support the application.

Public Representation

The application has been advertised by way of site notice.

One objection letter has been received as a result of this consultation which raise the following concerns:

- Proposal does not respect the industrial heritage of the Walkmill stream which is the only part of the on site heritage left of the mine site.
- The storage pond where the mine drew water from to power steam machinery and wash coal is silted up. It is now neglected and deprived of its farm water holding powers;
- Concerns the drainage is blocked by footbridges and needs attention;
- Plans do not respect the habitat and wildlife;

- Heavy machinery will harm the site.

One letter on behalf of the Cumbria Industrial History Society has also been received which raises the following comments:

- Noted paragraph 194 of the National Planning Policy Framework and that there is no heritage assessment accompanying the application;
- Suggest that the applicants should be required to erect information boards to promote the historic significance of the site in accordance with National Planning Policy Framework paragraph 190. Such boards might explain the origin of the name Walkmill as well as the later industrial heritage of the site.

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

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 and Access to Open Spaces and Green Infrastructure

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Policy ENV6 – Access to Countryside

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

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Wildlife and Countryside Act 1981

Emerging Copeland Local Plan (ECLP):

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 following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS2PU – Reducing the impacts of development on Climate Change

Strategic Policy DS8PU: Reducing Flood Risk

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N3PU: Biodiversity Net Gain

Strategic Policy N6PU: Landscape Protection

Strategic Policy T1PU: Tourism Development

Policy SC5PU: Community and Cultural Facilities

Strategic Policy CO6PU: Countryside Access

ASSESSMENT

The key issues raised by this proposal are the principle of development and its potential impact on the amenity of the area, accessibility, the public right of way, ecology, flood risk and the potentially contaminated land.

Principle of Development

Policy ST1, ST2, SS4, and SS5 of the Copeland Local Plan seek to support development that provides or contributes to the Borough's social and community infrastructure enabling everyone to have good access to jobs, shops, services, and recreational and sports facilities. Policy SS5 also promotes the improvement and protection of the Borough's green infrastructure network.

Policy SS4 also allows for the expansion and/or the enhancement of existing community and cultural facilities to assist continuing viability. This is restated in Policy SC5PU of the ECLP.

The proposed re-routing of 200m length of stream into valley bottom and the creation of new ponds and paths will enhance the existing green infrastructure within the site and encourage greater use of the natural facilities on site. The proposal will enhance the natural environment and outdoor community space and therefore, in policy terms, the principle of the development is acceptable.

Impact on the Amenity of the 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.

Policy ENV5 and DM26 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.

Due to the proposed location of the works within the woodland, it is not considered to have a significant visual impact on the surround area. The proposed development includes the installation of new paths and footbridges, and they are considered to be modest in scale and the overall design and location of the development is considered to mitigate against any impacts on the character or appearance of this area.

On the basis of the above it is considered that the proposal complies with Policies ST1, ENV5, DM10 of the Local Plan and section 12 of the NPPF.

Accessibility and the Impact on the Public Right of Way

Policy ST1, SS4, SS5 and DM22 of the Copeland Local Plan require development proposals to be accessible to all users. Policy ENV6 seeks to ensure access to the countryside for residents and visitors and identifies opportunities to provide or improve access on routes and gateways. Policy SS4 of the Copeland Local Plan seek to support services and facilities which benefit the less mobile or more deprived members of the community, and which maximise opportunities for people to improve their health and well-being.

The new footpaths will create one continuous loop around the site and the new footbridges will encourage walking along the public right of ways and through the wider site, which will enhance accessibility for local users and for tourists in the Borough.

The Highway Authority and the Public Right of Way Officer both support the application.

Based on the above the proposal is considered to comply with Policy ST1, SS4, SS5 and DM22 of the Copeland Local Plan.

Ecology

Policy ST1, ENV3 and DM25 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 proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

Policy N3PU of the ECLP sets out that 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.

The application is supported by a Biodiversity Assessment which includes a Biodiversity Metric. The calculator indicates a gain in habitat biodiversity, although the outcome assumes

that areas of compensatory planting have been successfully established and that a plan of adequate, long-term management and monitoring is implemented. This can be secured by the use of a planning condition to be submitted and agreed with the Local Planning Authority prior to commencement.

On this basis, the proposal is considered to be acceptable in accordance with Policies ST1, ENV3 and DM25 of the Copeland Local Plan and N3PU of the ECLP.

Flood Risk

Part of the site falls within Flood Zones 2 and 3 and therefore it is supported by a Flood Risk Assessment and supporting drainage and river restoration details.

It is considered that there is no risk of flooding from rivers across the site and the nearest river is the River Keekle which sits approximately 3m below the valley bottom.

The site is currently semi-mature woodland / rough ungrazed pasture, which exceeds 38 hectares. The proposal only involves work on approximately 1/5 of the total area and therefore there is no disruption to the existing overland drainage occurring on site. Multiple drainage ditches can be found across the site and the land slopes naturally towards the River Keekle, so there is no risk of any flooding being caused by our proposed activities.

The Lead Local Flood Authority have confirmed that the proposal is beneficial, reducing the risk of flooding downstream.

On this basis, the proposal is considered to be acceptable in terms of ENV1 and DM24 of the Copeland Local Plan.

Potentially Contaminated Land

The site is marked as potentially contaminated land, due to historical industrial activity; the former Walkmill Colliery and Tip was present until its closure in the early 1960s and there was a railway siding to the colliery off the former Moresby – Keekle rail line.

Some soil sampling was carried out by West Cumbria Rivers Trust in 2022 and no elevated contamination levels were noted.

Given this, and the limited scope of the works as far as ground excavation is concerned, the Environmental Health team have no objections to this planning application. They have recommended the inclusion of a planning condition about possible unexpected contamination uncovered by any ground works.

Planning Balance and Conclusion

	<p>The proposed re-routing of 200m stream into valley bottom and the creation of new ponds will enhance the existing green infrastructure within the site and encourage greater use of the natural facilities on site. This is directly supported by Local Plan Policies.</p> <p>The long-term appearance of the site will be enhanced through the creation of a more naturalised river (stream) system and the additional ponds will benefit local wildlife.</p> <p>Details have been provided that clarify the proposals will result in a net gain for habitat biodiversity. Planning conditions can ensure that areas of compensatory planting are successfully established and that a plan of adequate, long-term management and monitoring is implemented.</p> <p>Concerns regarding the heritage impact were received but the positive benefits that would result from this proposal outweigh any potential harm. The applicant has also confirmed that information display boards will be put up around the site to address the comments raised by the Cumbria Industrial History Society. .</p> <p>On balance, subject to the inclusion of planning conditions, the proposal represents a sustainable form of development which complies with the Policies set out on the Copeland Local Plan and the guidance in the NPPF.</p>
8.	<p>Recommendation:</p> <p>Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <p><u>Standard Conditions:</u></p> <ol style="list-style-type: none"> 1. The development hereby permitted must commence before the expiration of three years from the date of this permission. <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 must be carried out in accordance with them:- <p>Application Form, received 9th March 2023; Location Plan, scale 1:2500, received 9th March 2023;</p>

Map Showing All Features, received 9th March 2023;
 Existing Site Plan, scale 1:900, received 9th March 2023;
 Proposed Site Plan, scale 1:900, received 9th March 2023;
 Footpath and Boundary Plan, scale 1:4000, received 9th March 2023;
 Design Upgrades to Footpaths Plan, received 9th March 2023;
 Flood Risk Assessment and Drainage Statement, dated 6th December 2022, received 9th March 2023;
 Sustainable Drainage System Statement, dated 6th December 2022, received 9th March 2023;
 Biodiversity Assessment, Final Report, dated January 2023, received 9th March 2023;
 Footbridge – General Arrangement, received 9th March 2023;
 Footbridge – Construction Method Statement, received 9th March 2023;
 River Restoration Features, received 9th March 2023;
 River Restoration Measures, 1/2, received 9th March 2023;
 River Restoration Measures, 2/2, received 9th March 2023;
 Cross Sections and Detailed Drawings, received 9th March 2023;
 Support Letter from Cumbria County Council, received 9th March 2023;
 Wetlands Ponds and Measurements, scale 1:2,700, 1/2, received 9th March 2023;
 Wetlands Ponds and Measurements, scale 1:2,700, 2/2, received 9th March 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

3. The development must be carried out in strict accordance with the details submitted in the Biodiversity Assessment received by the Local Planning Authority on 9th March 2023.

Reason

To ensure suitable habitat biodiversity is achieved in accordance with Policy DM25 of the Copeland Local Plan.

Pre-commencement Conditions:

4. Prior to the commencement of development, a compensatory planting scheme must be submitted to and be approved by the Local Planning Authority in accordance with

the Biodiversity Assessment recommendations. Development must be carried out in accordance with the approved details thereafter.

Reason

To ensure suitable habitat biodiversity is achieved in accordance with Policy DM25 of the Copeland Local Plan.

5. Prior to the commencement of development, a long-term management plan must be submitted to and be approved by the Local Planning Authority in accordance with the Biodiversity Assessment recommendations. Development must be carried out in accordance with the approved maintenance scheme.

Reason

To ensure suitable habitat biodiversity is achieved in accordance with Policy DM25 of the Copeland Local Plan.

Land Affected by Contamination – Reporting of Unexpected Contamination:

6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. A suitable investigation and risk assessment will then be agreed upon by the Council and the developer and where remediation is necessary a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination 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 off-site receptors.

Informative Notes:

River Works Consent

Prior to any work commencing on the watercourse, the applicant should contact the Lead Local Flood Authority on tel: 01228 221331 or email: LFRM.consent@cumbria.gov.uk to confirm if an Ordinary Watercourse Flood Defence Consent is required. If it is confirmed that consent is required, it should be noted that a fee of £50 will be required and that it can take up to two months to determine.

Public Right of Way

- The granting of planning permission would not give them the right to block or obstruct the rights of way shown on the attached plan.
- The rights of way as shown on the Definitive Map and Statement must be kept open and unaltered for public use until an order made to divert or to temporarily close them has been confirmed.
- The proposed upgrades to the FP 417019, FP 417020, FP 417021 must comply with the 2m width for the footpaths recorded in Definitive Map and Statement.

Coal Authority

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

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

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works



Cumberland Council

and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

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. Unsworth

Date : 12/05/2023

Authorising Officer: N.J. Hayhurst

Date : 12/05/2023

Dedicated responses to:- N/A