

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2080/0F1
2.	Proposed Development:	CHANGE OF USE FROM CAFE AND RESTAURANT TO COMBINED CAFE AND RESTAURANT (INTEGRATED) INCLUDING THE BLOCKING UP OF ONE WINDOW ON SOUTH ELEVATION WITH CAFE SIGN OVERLAY
3.	Location:	UNITS 1 & 2 PEARS HOUSE, DUKE STREET, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations & Policy	Neighbour Notification Letter: NO Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: INTRODUCTION This application relates to Units 1 and 2, Pears House. The building is a large block of flats with harbourside frontage containing retail units and flats above. The south west elevation of the building faces the old swimming baths entrance and there is a terrace of Grade II Listed buildings to the south east.	

The site lies within the Whitehaven Conservation Area.

PROPOSAL

This application seeks full planning permission for the change of use of Units 1 and 2 from café and restaurant to a combined café and restaurant and the blocking up of one window and its replacement with signage.

The works required are as follows:

External:

- Removal of existing window on south-east elevation;
- Blocking up of recess from removed window with timber or mineral fibre cladding boards, stained to match the existing window frame colour;
- The addition of café signage over blocked up window.

Internal:

- Alteration of store to customer toilets;
- Additional seating area to the front of Unit 2.

RELEVANT PLANNING APPLICATION HISTORY

Two externally illuminated advert signs and two fascia advert signs, approved in August 2009 (application reference 4/09/2284/0 relates);

Change of use of part of unit 2 to an extended kitchen for unit 1, approved in June 2016 (application reference 4/16/2152/0F1 relates).

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Conservation Officer

The change of use itself would not be expected to have any heritage impact. The blocking up of the window with a new sign is likely to have a neutral or possibly slightly negative impact on account of the loss of glazing and change to the fenestration pattern.

Given that this building is not a heritage asset and indeed makes a negative contribution to the character and appearance of the conservation area and settings of nearby heritage assets, I do not think the proposed change is unjustified on design or heritage grounds.



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Environmental Health

The Environmental Health team has no objections to the above proposal.

This premises is licensed under the Licensing Act 2003 and the current premises licence controls the playing of amplified music inside and on the outside terrace, as well as other day-to-day management matters.

There is no recent history of noise or other public nuisance-related problems at the premises.

Public Representation

The application has been advertised by way of a site notice.

One letter of objection has been received raising the following concerns:

- The Applicant has not notified the lease holder of the proposed changes;

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 ER8 – Whitehaven Town Centre
Policy SS4 – Community and Cultural Facilities and Services
Policy ENV4 – Heritage Assets

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place
Policy DM21 – Protecting Community Facilities
Policy DM22 – Accessible Developments
Policy DM27 – Built Heritage and Archaeology
Policy DM29 – Advertisements

Other Material Planning Considerations

National Planning Policy 2021 (NPPF)
Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)
The Town and Country Planning (Control of Advertisements) Regulations 2007

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.



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Strategic Policy DS1PU: Presumption in favour of Sustainable Development
Strategic Policy DS3PU: Settlement Hierarchy
Policy DS6PU: Design and Development Standards
Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy
Strategic Policy R3PU: Whitehaven Town Centre
Strategic Policy BE1PU – Heritage Assts
Policy BE2PU – Designated Heritage Assets

ASSESSMENT

Principle of the change of use

Policies SS4 and DM21 of the CS and R1PU and R3PU of the ELP seek to ensure the vibrance and vitality of Whitehaven's town centre. As stated in the original application for Pears House, the vision for the retail units on the ground floor was to create an active frontage on the harbour side and therefore encourage tourism.

The change of use applies to the front portion of Unit 2 only as the rest of Unit 1 and 2 benefit from an existing planning permission for use as a café/restaurant. Unit 2 was previously in use as a retail unit. The change to a café/restaurant would not constitute a material change of use as both are considered to be under Class E of the Use Classes Order within the Town and Country Planning Act.

The proposal will allow for additional seating and WCs for both of the units, therefore being more accessible for all users due to the added space and level access facilities.

On this basis, the use is considered to be acceptable and likely to support the Council's ambition set out within the CS and ELP for an active and varied town centre.

Alterations

Policies ENV4 and DM27 of the CS and BE1PU and BE2PU of the ELP relate to the protection and enhancement of the Conservation Area and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DM10 of the CS and DS6PU of the ELP requires good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *‘In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses’.*

Section 72 requires that: *‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance’* of a conservation area.

The proposed alterations are modest and require the bricking up of one window only. The Conservation Officer suggested that this and the replacement with signage is likely to have a *“neutral or possible slightly negative impact”* on the Conservation Area due to the change in glazed fenestration. The Officer considered that this is acceptable in this location as the building is not considered to be a heritage asset and, on the whole, makes a negative contribution to the character and appearance of the Conservation Area.

The proposals allow for the continued use of the units and it is considered that they are justified on design and heritage grounds.

Overall, the proposed alterations will comply with policies ENV4 and DM27 of the Copeland Local Plan and BE1PU and BE2PU of the emerging local plan, respecting the existing character of the Whitehaven Conservation Area.

Proposed Signage

The application shows the installation of a sign on the area of window that is to be blocked up.

Class 5 of the Control of Advertisements (COA) legislation allows advertisements on business premises with the purpose of drawing attention to the commercial services being provided. The proposed advert meets the criteria under this exception with regards to scale and situation and therefore it is considered that advertisement consent is not required.

Other Material Considerations

One letter of objection has been received raising concerns with regards to the ownership of the building. The Applicant has stated that they own the units within the statutory declaration



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	<p>on the application form. Any issues with ownership are considered to be a legal matter and cannot be considered as part of the planning application.</p> <p><u>Planning Balance</u></p> <p>No objections have been received to the application from statutory consultees.</p> <p>The alterations are modest and will create a positive benefit to the building, ensuring its continued viable use. They respect the existing character of the building and this part of the Whitehaven Conservation Area.</p> <p>The signage proposed is exempt from consent under the Advertisement Regulations.</p> <p>On balance this is considered to be an acceptable form of development which will be consistent with the details set out in national and local policy.</p>
8.	<p>Recommendation:</p> <p>Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"><p>The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</p><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><p>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 24th March 2023; Block and Location Plan, scale 1:200, drawing number 22/0356/1, received 24th March 2023; Proposed Block Plan, scale 1:100, drawing number 22/0356/3, received 24th March 2023; Proposed Block Plan, scale 1:50, drawing number 22/0356/4, received 24th March 2023; Proposed Side Elevation, scale 1:100, drawing number 22/0356/8, received 24th March 2023.</p><p>Reason</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.

Prior to Use Condition

3. Prior to the first use of the café/restaurant hereby approved, the proposed ground level WC facilities must be operational. The facilities must be retained as such at all times thereafter.

Reason

In order to ensure that the development is suitable for all users and in accordance with Policy DM22 of the Copeland Local Plan.

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: Sarah Papaleo

Date : 16/05/2023

Authorising Officer: N.J. Hayhurst

Date : 18/05/2023

Dedicated responses to:- N/A