

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2164/PIP
2.	Proposed Development:	A TECHNICAL DETAILS CONSENT (TDC) APPLICATION FOR THREE DWELLINGS PURSUANT TO A PLANNING-IN-PRINCIPLE PERMISSION GRANTED ON APPEAL ON 9TH JULY 2020 UNDER REFERENCE APP/Z0923/W/20/3246227 (COPELAND BOROUGH COUNCIL REFERENCE 4/19/2246/PIP). THIS TDC APPLICATION SEEKS TO PROVIDE THE NECESSARY TECHNICAL DETAILS TO SUPPORT DEVELOPMENT OF THE SCHEME.
3.	Location:	LAND TO THE REAR OF 108 VICTORIA ROAD, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See Report.
7.	Report: Site and Location: <p>The Application Site comprises a 0.2ha parcel of land located to the east of the property known as 108 Victoria Road, Whitehaven, Cumbria.</p> <p>The Site comprises an area of vegetation covered field, an existing field access and part of the curtilage of 108 Victoria Road that current accommodates a detached single storey garage.</p> <p>The Site is bound by existing dwellings to the west; a combination of dwellings, garages and vegetation covered land to the north; and, vegetation covered land to the south and east.</p> <p>The Site slopes from east to west.</p> <p>The Site is located at a level above the existing dwellings to Victoria Road.</p>	

Planning Application History

4/88/0052/0 – House – Refused.

4/90/0218/0 – Four bedroom house and garage – Refused.

4/19/2246/PIP – Application for permission in principle for residential development – Refused.
Allowed on appeal under appeal ref. APP/Z0923/W/20/3246227.

Proposal:

This application seeks technical details content for the erection of three dwellings pursuant to the approval of permission in principle under appeal ref. APP/Z0923/W/20/3246227.

The proposed dwellings comprise three split level four bedroom dwellings developed into the topography of the Application Site. The dwellings include considerable under build and dual pitched dormer windows to the front elevations. A partial split level eaves arrangement is incorporated.

The dwellings include a garage at ground level, from which steps provide access to a balcony above the garage and the two floors of living accommodation.

It is proposed to finish the dwellings externally with a brick plinth, K-render and mineral fibre cladding boards to the elevations; Marley Modern flat coloured grey roofing tiles with propriety matching ridge tiles and verge trims to the roof and dark grey uPVC framed windows and doors.

It is proposed to discharge surface water and foul water to the main sewer.

In respect of refuse collection, storage space for three wheelie bins is proposed on the access road.

Access is proposed via a single access road located between No.108 and No.110 Victoria Road. The access includes a turning head.

Revisions:

The application has been the subject of a number of revisions during the determination period.

This has included:

- Revision of the certificates and the serving of the correct notice.
- Revision to the design of the access.
- Revision to the design of the dwellings.
- Revision to the design of the drainage scheme.

Re-consultation has been completed in relation to the revisions received.

Consultee:	Nature of Response:
Town Council	<p>July 2023 The Councillors objected to this application on the grounds that:</p> <ul style="list-style-type: none"> • The problems with the access onto Victoria Road; • The size of the houses to be constructed and that they invade the privacy of adjacent houses; and, • The severe drainage issues in that area. <p>February 2024 No comments or objections.</p> <p>July 2024 No comments or objections.</p>
Cumbria County Council – Highways and LLFA	<p>Local Highway Authority (LHA) response:</p> <ol style="list-style-type: none"> 1. The road layout and construction details provided are considered acceptable to the LHA. However, please note that the access road cannot be adopted and must remain private. 2. I note that the lower geo-cellular attenuation tank is sited beneath the carriageway which means that access for maintenance could be a problem with blocking the road. Vehicles may end up queuing out onto the public highway. Whilst this is not an ideal scenario, it is apparent that there is no other option. Any resultant impact on the Highway is not considered to be significant however. 3. Swept-path diagrams show that the turning head can accommodate refuse vehicles as required. 4. The necessary visibility splays (43 x 2.4m) are secured by slightly altering the boundary to the east of the access road. <p>Lead Local Flood Authority (LLFA) response:</p> <ol style="list-style-type: none"> 1. I note that the NPPF drainage hierarchy has been followed and the conclusion is that the only realistic drainage discharge destination is the combined sewer. Whilst not ideal, the development does include attenuation and flow control to minimise the impact downstream. 2. I note the inclusion of a cut-off filter drain to the rear of the site against the cutting face (Dwg. 23-191-DWG001 Rev.D) This should satisfactorily deal with the off-site run-off and prevent flooding of the site. 3. The design includes the necessary attenuation and flow control to comply with the NSTS criteria. This should ensure that flood risk to the site and downstream is not increased. <p>Conclusion:</p>

		<p>The residual matters have been satisfactorily addressed. The LHA and LLFA have no objection to the proposal.</p>
	United Utilities	<p>Following our review of the submitted drainage plan (ref 23-191-DWG001, Rev D), the plans are not acceptable to United Utilities. This is because we have not seen robust evidence that the drainage hierarchy has been thoroughly investigated - as per our previous responses, infiltration needs to be fully investigated.</p> <p>We note the latest plan shows the cut-off drain will be reconnected via the existing connection - we request evidence (such as dye testing) that this actually connects to the combined sewer.</p> <p>Should planning permission be granted, request the imposition of a pre-commencement planning condition requiring the submission and approval of the detailed scheme of foul and surface water drainage</p>
	Neighbour Responses:	
	<p>The application has been advertised by way of an application site notice and neighbour notification letters sent to neighbouring properties.</p> <p>Representations in objection have been received from 30no. parties.</p> <p>The material planning issues raised comprise the following:</p> <p><u>Principle:</u> The Application Site is not allocated for residential development. The development does not meet a housing need. The Application Site is a greenfield site. Alternative brownfield land exists for development. The development will set a precedent for further harmful development. Copeland area has sufficient housing supply. There are better development sites with better access and arrangements that support the supply of housing in Copeland.</p> <p><u>Landscape/Settlement Character:</u> The development would result in adverse local visual impacts. The houses will appear as a 3 storey in height from the front elevation. These houses are monsters and not in keeping with the existing properties on Victoria road. The Application site is not needed to form housing supply need in Copeland and is not a positive advert for forward thinking modern development that has attributes detailed in Place Design Guide – What makes great places for People?</p> <p><u>Highway Safety:</u></p>	



Cumberland Council

The access to the Site is substandard in respect of visibility to the detriment of highway safety.

Has not demonstrated the required visibility splays as notified of 63m.

Has not demonstrated the required visibility splays from 2.4m.

Traffic volumes on Victoria Road are high.

Road speeds are known to exceed the speed limits for the highway and are evidenced within application ref. 4/19/2233/001. Visibility splays to meet these road speeds cannot be demonstrated.

The proposed site is just before a bend in the road, at the bottom of a longish downhill straight bit of road, where speed will build up from vehicles travelling along it.

Victoria Road is at capacity given the on highway vehicle parking, which limits the movements to a single carriageway.

Victoria Road is substandard in width.

Construction vehicles will result in severe impacts upon the highway network.

The removal of the access and parking spaces to 108 Victoria Road will increase on highway demand for vehicle parking.

Suitable access by service and refuse collection vehicles cannot be achieved.

Access to these houses is dangerous.

Proposed junction, is too narrow to safely accommodate an additional junction. Cars are routinely parked in the area of the proposed junction and would cause significant visual obstruction to drivers entering or leaving the proposed development.

Victoria Road is very narrow along that stretch and cars would have difficulty leaving the proposed development and making the turn, without colliding with the large hedge opposite.

Larger vehicles (construction traffic, delivery vans etc) would certainly cause damage to the property opposite.

The occupants of the houses on either side of the proposed junction park cars on the road and there are several large transport vehicles that use the road every day. Supermarket deliveries are made regularly to the occupants of the houses along that stretch of road, requiring large vans to park directly outside those houses. They would obscure the view of any traffic attempting to pull out of the proposed junction causing a very unsafe situation.

The application needs visibility splays 63m in both directions. These need to be unobstructed and in the ownership of the applicant. There is 63m of parked cars in both directions and the area is public footpath and the road.

The pavement will not change into a junction. Effectively pedestrians will be passing over kerb that is the entrance to a backlot estate without knowing cars may be turning into or coming down a unadopted 1 in 12 gradient.

Vehicle Tracking does not consider the gradient on and off the development.

At no point has construction access been considered.

The application does not consider the street light outside 108 Victoria Road and telegraph pole outside 110 Victoria Road and the impact to the visibility splays.

Opposite the development access there is a children's playing field. The application does not consider the impact of increased traffic, increased parked cars and construction traffic in consideration of children crossing.

What materials will be used for the access road?

A large number of children walk down Victoria Road to attend St James' Infants and Junior schools. An additional junction at that point would impact on their safety.

Will have a severe and unacceptable impact on traffic on Victoria Road and the wider network from both the construction phase and further traffic generated through occupation of the properties.

Amenity:

The development will adversely impact upon the residential amenity of adjacent dwellings. The noise and dust pollution during construction will adversely impact upon the amenity of local residents.

The terraces that will look over 102, 104, 106 and 108 Victoria Road to provide "magnificent sea views". The elevated position of the terraces may provide those sea views but will most certainly invade the privacy of the existing dwellings providing unrivalled views directly through the windows into the bedrooms and kitchens of properties of 102, 104, 106 and 108.

The Terrace will be visible from my house, therefore my house is also visible to the terrace. The drawings only show visibility lines up to the base of the roof level of a bungalow, 104 has 2 bedrooms upstairs with velux windows, so will be able to look right in when they are opened, a true invasion of privacy not currently considered.

There is no consideration of the neighbouring houses, to the west towards the sea, many who have lived for 10's of years. The back gardens are an oasis of peace and quiet and privacy.

Drainage:

The Site is poorly drained.

Surface water flooding is a known issue locally. The proposed development would exacerbate this issue.

The existing foul drainage system is at capacity and struggles when heavy rain.

The area behind Victoria Road, where the appellant would like to build the proposed dwellings is currently a woodland area. Removal of the vegetation will lead to additional water runoff onto Victoria Road. The drains along that stretch of road are regularly overwhelmed and overflow and cannot accommodate additional water flow without a significant upgrade being carried out.

Attenuation tanks sited beneath the carriageway is clearly not a suitable design given that the carriageway would be closed to facilitate access.

Fails to follow drainage hierarchy with discharge to sewers.

Has not provided a flood risk assessment.

Ecology:

The development will result in the loss of habitat for protected and important local species.

The development will result in the loss of and impacts upon trees.

Losing more greenfield space would be a travesty.

What is the biodiversity net gain?



Cumberland Council

Has not provided an Ecology survey for the whole application site.

Refuse Collection:

Insufficient provision is made in relation to the storage and collection of refuse.
The gradient of the access is unsuitable for wheelie bins.

Facilities:

Concerns existing regarding the availability of recreational space for children.

Procedure/Errors:

The Planning Application Form includes numerous errors in relation to the description of the development, the existing site use, access proposals, parking provision, trees, flood risk and ownership certificates.

Clearly there has been continual and persistent misrepresentation of ownership for land surrounding the multiple submissions of planning around 108 Victoria Road.

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 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
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 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

Copeland Local Plan 2001-2016 (LP) Saved Policies:

Policy HSG2 – New Housing Allocations
Policy TSP8 – Parking Requirements

Emerging Copeland Local Plan (ELP):

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

The Local Plan Examination Hearing Sessions were completed in March 2023.

The appointed Planning Inspector issued their post hearing letter in June 2023, which identified the next steps for the examination.

The appointed Planning Inspector has now considered all representations and the discussions that took place during the Local Plan Examination Hearing Sessions in 2023 and has identified a number of amendments or ‘modifications’ that are required in order to ensure the ELP is sound i.e. positively prepared, justified, effective and consistent with national planning policy.

A six week public consultation seeking views on the proposed modifications to the ELP commenced on Wednesday 14th February 2024 and closed on the 28th March 2024.

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 ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Now that the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.



Cumberland Council

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 (NPPF).
Planning Practice Guidance (PPG).
National Design Guide (NDG).
The Conservation of Habitats and Species Regulations 2017 (CHSR).
Cumbria Development Design Guide (CDDG).
Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).
Copeland Borough Council Housing Strategy 2018-2023 (CBCHS).

Assessment:

Procedural Issues:

Errors in planning application form:

Existing Use – The Application Site comprises part of the property 108 Victoria Road and land to the rear. Whilst the description on the application form is not wholly accurate, the plans and drawings clearly detail the land and so this is not considered prejudicial.

Materials – The application form does not include details of all external materials. The plans and drawings clearly detail the external finish of the highway and so this is not considered prejudicial. Details of all external finishes can be secured by an appropriately worded planning condition.

Pedestrian and Vehicle Access, Roads and Rights of Way – It is stated that a new public road is to be provided within the site. A new public road is proposed; however, Cumberland Council Highways have confirmed that this is not suitable for adoption.

Vehicle Parking – It is stated that no parking spaces will be added/removed. This is clearly incorrect. The plans and drawings clearly detail the addition/removal of parking spaces and so this is not considered prejudicial.

Ownership Certificates – The Applicant initially signed Certificate A. Evidence was presented by interested parties confirming that elements of the Application Site are owned by a third party and part was not registered with Land Registry. The Applicant has therefore amended the application form to serve Certificate C confirming notice has been served on the two known third party landowners and a press notice has been published in relation to the unknown landowner.

Principle:

‘Permission in Principle’ for the erection of 1-5 no. dwellings has been approved. This has approved the matters of the location, land use and amount of development only.

The proposed development comprises 3no. dwellings and is located within the approved red line boundary and therefore accords with the provisions of the permission in principle approved under appeal ref. APP/Z0923/W/20/3246227.

Points of details, such as the layout of the dwellings and scale of dwellings etc. are now to be considered at this the technical details consent stage.

Housing Need and Affordable Housing:

Whitehaven falls within the Whitehaven Housing Market Area (HMA) of the Copeland

Strategic Housing Market Assessment 2021 (SHMA).

The SMHA suggest a particular focus on the delivery of three bedroom houses, semi-detached and detached houses with four or more bedrooms and bungalows and is identified as having a high need for new affordable housing.

The proposed development comprising larger properties will reasonably assist in providing an opportunity for higher earning households to move to the Borough.

The proposed development falls below the threshold for the delivery of affordable housing.

Settlement Character, Landscape Impact and Visual Impact;

The Site is located on the boundary between an area designated as Urban Area and an area of Sub Type 5d Urban Fringe as defined in the Cumbria Landscape Character Guidance and Toolkit (CLCGT).

The Key Characteristics of the Sub Type 5d comprise: long term urban influences on agricultural land; recreation, large scale buildings and industrial estates are common; mining and opencast coal workings are found around Keekle and Moor Row; and, wooded valleys, restored woodland and some semi urbanised woodland provide interest.

The guidelines for development include: taking opportunities to enhance and strengthen green infrastructure to provide links between urban areas and the wider countryside; protect 'green' areas from sporadic and peripheral development; support the retention and development of 'green gaps', green infrastructure and ecosystem services approaches; protect countryside areas from sporadic and peripheral development through the local plans; and, careful siting of any new development in non-prominent locations.

The east of Victoria Road is characterised by linear frontage development beyond which undeveloped agricultural land and vegetated land raises up from the rear boundaries to further undeveloped agricultural land. The informally arranged Rosemary Close and Elizabeth Crescent are located to the northeast of Victoria Road.

The Application Site is located to the east (rear) of the property known as 108 Victoria Road. The development would comprise a back land form of development located at a level above the existing dwellings on Victoria Road.

The Planning Inspector in considering the impacts of a residential development on landscape and settlement character in in appeal ref. APP/Z0923/W/20/3246227 gives weight to: the modest scale of the proposed development; the site being concealed from Victoria Road by the properties that front on to it; the development being viewed in the context of the adjacent existing built development of the settlement and the relationship of the appeal site to existing built development.

In respect of the proposed development, the dwellings are large in overall scale, height and density relative to the existing dwellings on Victoria Road.

The proposed dwellings are located at a level above the existing dwellings on Victoria Road. The floor level of the proposed garages are above the ridge of 106 Victoria Road.

Whilst efforts have been clearly made to reduce the massing of the dwellings through the split level arrangement and split level eaves, the dwellings remain c.10m in height with a three storey visual appearance/massing by virtue of the garage and under build and the gable dormer features that add visual mass in views from Victoria Road.

The proposed dwellings would be read as a large linear block of development and would not be concealed by the existing dwellings on Victoria Road.

The proposed dwellings by virtue of their location and form would be at considerably odds with the prevailing developed form and character in this area of the Victoria Road to its detriment.

The existing dwellings on Rosemary Close and Elizabeth Crescent comprise larger elevated dwellings forming part of a larger residential estate which does provide some visual context, particularly in longer range views.

In terms of design, the proposed dwellings incorporate a mix of suburban and contemporary forms, which it is considered do not represent a high quality design that aligns with the form and character of the development within the locality.

Flood Risk and Drainage:

The Site is located within Flood Zone 1.

The proposed comprises a more vulnerable use and is therefore a compatible use in Flood Zone 1.

The Site is not identified as being at risk from surface water flooding.

The Lead Local Flood Authority (LLFA) have been consulted in relation to the proposals given the highlighted issues in relation to surface water drainage.

The LLFA have accepted that the drainage hierarchy has been followed and conclude that discharge to the combined sewer is the only realistic option.

The LLFA confirm that the location of the geo-cellular tanks are not ideal and relocation outside of the carriageway needs to be explored.

The LLFA concludes that the design includes the necessary attenuation and flow control to

comply with the NSTS criteria and should ensure that flood risk to the site and downstream is not increased.

The LLFA identified a private cut off drain on the site which leads to the combined sewer, which required review. It has been confirmed that this located outside of the red line boundary.

The LLFA requested additional details regarding how overland flows are to be managed due to the risk of flooding with specific regard to the cut and retaining structures.

A cut-off filter drain to the rear of the site against the cutting face was subsequently incorporated, which the LLFA consider should satisfactorily deal with the off-site run-off and prevent flooding of the site.

United Utilities has objected to the development on grounds that insufficient information has been provided to justify discharge to the combined sewer.

The supporting statement states that the solid geology as published by the British Geological Survey shows the site to be underlain by the Pennine Coal Meyers generally comprising sandstones, siltstones and mudstones and that percolation tests undertaken on the site indicate that the site has no potential for direct drainage.

It is clear that a drainage scheme is potentially deliverable; therefore, it would not be unreasonable to impose a pre-commencement planning condition requiring the submission, approval and implementation of a scheme of surface water drainage requiring the submission of evidence to demonstrate the achievement of the drainage hierarchy as required by United Utilities.

Ecology:

A Preliminary Ecological Appraisal (PEA) has been prepared in support of the planning application.

The PEA confirms the habitats on site have limited potential to support protected species, namely common breeding birds. The garage does not have bat roost potential. Mammal paths were noted throughout the bracken, but the footprints present indicated usage of the site by deer. No evidence was found of a badger sett. No mature trees are to be removed as part of this development. The site was found to be lacking the habitat features to be suitable for European protected species and other species of note, such as notable birds, mammals and/or amphibians.

The PEA includes a range of recommendations to mitigate the impacts of the development including retention of landscaping, lighting provision, construction practices and delivering a biodiversity net gain.

Planning conditions can be imposed to secure compliance with the recommendations within the PEA.

The application was submitted prior mandatory biodiversity net gain coming into effect.

Notwithstanding the above, 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.

It was initially confirmed to the Applicant that the Council were not seeking delivery of 10% biodiversity net gain on minor proposals until early 2024. Given the time that has now elapsed since that advice was issued, the level of weight now applicable to the ELP has increased given the progress in its preparation etc. and the small sites metric has been published; therefore, a minimum of 10% biodiversity net gain over and above existing site level is required to be achieved. This is consistent with the approach adopted by the Planning Inspectorate in the determination of appeal ref: APP/F0935/W/24/3340681.

No information has been submitted by the Applicant in relation to Biodiversity Net Gain, likely as a consequence of initial advice in 2023.

Whilst the Application Site is constrained, some opportunities exist for the delivery of enhancement on site or on the land adjacent to the Application Site which is in the ownership of the Applicant.

A planning condition could reasonably be imposed to secure a scheme for the delivery of the required Biodiversity Net Gain and appropriate mechanisms to secure maintenance/monitoring.

Amenity:

The proposed development exceeds the 21m interface distance between the existing and proposed dwellings.

Notwithstanding the above, the proposed dwellings are located a level considerably above the level of the existing dwellings on Victoria Road. The floor level of the proposed balcony is c.8.2m above the floor level of 106 Victoria Road. The first floor level windows of the dwelling are located c.13.4m -c.15.2m above the floor level of 106 Victoria Road. A distance of c.33m is achieved between the balcony and the rear elevation of 106 Victoria Road.

Direct view exist into the windows to the rear of 108 and 110 Victoria Road. A distance of

c.12.5m is achieved between the balcony and the rear elevation of 108 Victoria Road.

It is considered that the proposed dwellings, by virtue of their expansive glazing and proposed raised balcony areas will result in unacceptable impacts upon the living conditions of existing residents of 106 – 110 Victoria Road through physical overlooking and perception of overlooking to the detriment of the residential amenity of their residents.

Highways:

Access is proposed via a single road located between No.108 and No.110 Victoria Road. The access includes a turning head.

Given the known highway constraints on Victoria Road, Cumberland Council Highways (HA) has been consulted in relation to this planning application.

The HA has confirmed that the geometric design of the access road and entrance complies with the standards for a Private Shared Driveway in the CDDG. It is concluded that the access has the necessary width, gradient, service strip, visibility splays and forward visibility requirements and drainage.

The HA initially confirmed that the road construction and design must be to a suitable standard as it has to provide access for refuse vehicles and emergency services. Details of were subsequently submitted and confirmed as acceptable; however, it was confirmed that the access was not suitable for adoption.

The HA initially raised questions regarding the maintenance issues that may arise from the proposed geo-cellular attenuation tank and its impacts on highway operation/safety. It was subsequently confirmed that that the arrangement was acceptable given the lack of potential alternatives.

The HA initially confirmed that the proposed access was not suitable for refuse vehicles. Swept path analysis subsequently confirmed that access by refuse vehicles was possible.

The HA have confirmed that visibility splays of 43m x 2.4m are required to make the development acceptable. Objections have been raised confirming that speed surveys elsewhere on Victoria Road have identified higher road speeds and that longer visibility splays are necessary and the questioning the impact of the parked vehicles.

The HA has confirmed the following, which provides justification in relation to their position:

"I have looked back at the plans showing the visibility splay at 2.4m x 43m, including the small triangle required at No.110 Victoria Road and my response where I accept that the necessary splays are achievable. I am not aware of any speed survey nor had the applicant provided data.

However, In MfS2 it clearly states that the MfS principles apply to 30mph road and that the application of MfS advice should be used as a starting point for all 30mph limits so that's where I would have started. We do also take into account mitigating circumstances that might lead to higher 85th %ile speeds, such as very close to a higher speed limit, a rural appearance of a road (rather than urban) or a very wide 30mph road where we would probably seek 60m visibility i.e. near the Bay Vista junction. We do need to update the CDDG to clarify this. This site is over 300m inside the 30mph speed limit, is narrow and has direct frontage accesses and cars parked on the road as well, all creating an urban environment with natural / passive speed reducing features. It is considered therefore that the 43m stipulated in MfS is appropriate here.

Where there are new junctions / accesses going in on a 30mph road that has been shown to have 85th %ile speeds >30mph, the correct approach is to tackle the speed issue and not design to a higher standard. i.e. the dwellings on the Harras Road hill where we are installing traffic calming to bring the speed down to 30mph so the 2.4m x 43m splays are appropriate.

In practice, there is probably more risk is associated with visibility onto the footway and conflict with pedestrians, where we require 2m x 2m splay which can be achieved in the red-line boundary. This 2m x 2m splay is not specifically shown and should be added to the plans."

It is confirmed that alterations are required to the boundary of 110 Victoria Road to achieve the required visibility splays of 43m x 2.4m; however, no details of the works have been submitted. The Agent has confirmed that the owner of 110 Victoria Road has confirmed their willingness to sell the land required to deliver the visibility splays to the Applicant and correspondence has been received from the owners of 110 Victoria Road confirming. As such a Grampian Planning Condition could reasonably be imposed to secure details of the works required to achieve the visibility splays and its implementation.

Issues have been raised in relation to access by construction vehicles and material deliveries. This has the potential to be problematic if not appropriately managed. On site access by large delivery vehicles is likely to be difficult to achieve due to the gradients etc. and may require that deliveries be made from the public highway. Whilst this may increase the complexity and cost of construction, this is a matter for the Applicant. A planning condition could be imposed to secured a Construction Traffic Management Plan and Construction Management Plan to ensure appropriate controls are in place to management the impacts of construction traffic and deliveries etc.

The Planning Balance;

The principle of the development has been established under appeal ref. APP/Z0923/W/20/3246227.

Points of details, such as the layout of the dwellings and scale of dwellings etc. are now to be considered at this the technical details consent stage.

	<p>An acceptable scheme of access to the development has been demonstrated.</p> <p>A scheme of drainage has been demonstrated as achievable; however, insufficient information has been provided to demonstrate that the drainage hierarchy has been achieved.</p> <p>Unacceptable impacts upon ecology will not result subject to mitigation and biodiversity net gain is considered achievable.</p> <p>The development by virtue of its scale and design would however result in adverse impacts upon the developed form and character of the settlement of this area of Whitehaven.</p> <p>It is considered that the proposed dwellings, by virtue of their expansive glazing and proposed raised balcony areas will result in unacceptable impacts upon the living conditions of existing residents of 106 – 110 Victoria Road through physical overlooking and perception of overlooking.</p> <p>Whilst the benefits of the development are noted, the adverse impacts of the development upon the settlement character and residential amenity would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.</p>
8.	<p>Recommendation:</p> <p>Refuse</p>
9.	<p>Reasons For Refusal</p> <p>Reason 1</p> <p>The proposed development by virtue of its location, levels, scale, form, massing and design does not respond positively to the character of the application site and its developed context, does not enhance local distinctiveness and does not deliver high quality design in conflict with the provisions of Policy ST1, Policy ENV5, Policy DM26 and Policy DM10 of the Copeland Local Plan 2013-2028, Policy DS6PU and Policy H6PU of the emerging Copeland Local Plan 2017-2038 and Section 12 of the National Planning Policy Framework.</p> <p>Reason 2</p> <p><i>The proposed dwellings</i> by virtue of their overall height, levels, expansive glazing and raised balcony areas will result in unacceptable impacts upon the living conditions of existing residents of 106 – 110 Victoria Road through physical overlooking and perception of</p>

	<p>overlooking. This is in conflict with the provisions of Policy ST1 and Policy DM10 of the Copeland Local Plan 2013-2028, Policy H6PU of the emerging Copeland Local Plan 2017-2038 and Section 12 of the National Planning Policy Framework.</p> <p>Statement</p> <p>The Local Planning Authority has acted positively and proactively in accordance with the development 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 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: Chris Harrison		Date : 25.09.2024
Authorising Officer: N.J. Hayhurst		Date : 27.09.2024
Dedicated responses to:-		