



## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/23/2167/0F1
2.	<b>Proposed Development:</b>	ERECT MILKING PARLOUR/DAIRY BUILDING; INSTALL BULK FEED TOWER; REMOVE PART OLD BYRE AND RECONCRETE AREA
3.	<b>Location:</b>	LOW SHAW FARM, THE GREEN
4.	<b>Parish:</b>	Millom Without
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Off Coalfield - Data Subject To Change, Key Species - Known Sites for Natterjack Toads
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: NO  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>	<p><b>SITE AND LOCATION</b></p> <p>The application relates to the Low Shaw Farm complex which is located to the west of The Green, Millom. The site is accessed by a single track off Green Road and comprises a number of agricultural buildings. The site also lies within flood zones 2 and 3 and falls within an area where there is potential for the presence of natterjack toads.</p>

## **PROPOSAL**

Planning Permission is sought to erect a new milking parlour/dairy building, to install a bulk feed tower and to remove part of the old brye and re-concrete this area to create an access to the new building.

The proposed building will measure 9.15 metres in width and it will and it will measure 30.33 metres in depth. It will include a pitched roof with an overall height of 6.5 metres and an eaves height of 5 metres. It has been designed to include access doors on the proposed west and north elevation. The east and south elevations will be blank. It will include UPVC doors to the dairy and tubular gates to the parlour and it will be constructed out of concrete wall panels on the lower level, with grey big six grey corrugated sheeting on the upper level and roof. The building also includes 4 rainwater storage tanks.

The proposed feed tower will measure 2 metres in diameter and will extend to a height of 5.3 metres. It will be erected on a 3 metre square base that will be located adjacent to the proposed building.

## **RELEVANT PLANNING APPLICATION HISTORY**

Planning Permission has previously been granted for:

- The erection of a general-purpose building (ref 4/95/0820/0);
- The erection of a cattle cubicle building including underfloor slurry store (4/21/2218/0F1).

## **CONSULTATION RESPONSES**

### Millom Without Parish Council

Support the application.

### Highway Authority

Standing Advice.

### Lead Local Flood Authority

Standing Advice.

### Copeland Borough Council Flood Engineer



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No objections.

The site lies in Flood Zone 3. The site benefits from existing defences and the site is so isolated that any increase of surface water run off would not increase flood risk to other properties.

### Environment Agency

No objections.

### Natural England

Initial response - Requested additional information regarding air quality.

Second response - As the applicant is not increasing the herd size there will be no additional air quality impacts as a result of this proposal.

Natural England advise that a pre-commencement survey for natterjack toads by a suitably qualified ecologist is undertake prior to construction, and that [suitable mitigation](#) is implemented under a natterjack toad mitigation licence if required as a result.

Third response - Given the information provided by the applicant and that no recent assessment of the site has been undertaken an ecological walkover survey would be required prior to the works commencing. This will then determine whether a full survey for natterjacks is required and also if a subsequent licence would be required. Given the outline mitigation proposed it is likely that a licence would be granted as the risks are likely to be low.

Final response with confirmation the walkover survey found no evidence of natterjack toads - That is suitable evidence that natterjacks are highly unlikely on site and therefore a pre-commencement survey will not be required.

### Public Representations

The application has been advertised by way of site notice - No objections have been received as a result of the consultation.

## **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 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 ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 - Protecting and Enhancing the Borough's Landscape

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM26 – Landscaping

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM30 – Rural Buildings

**Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Cumbria Landscape Character Guidance and Toolkit (CLCGT)

Wildlife and Countryside Act 1981

**Emerging Copeland Local Plan 2021-2038 (ELP):**

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



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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 DS6PU – Design and Development Standards

Policy DS8PU – Reducing Flood Risk

Policy RE1PU – Agricultural Buildings

Policy N1PU – Conserving and Enhancing Biodiversity and Geodiversity

### **ASSESSMENT**

The key issues raised by this proposal are the principle of development, its scale and design, the landscape and visual impact, and the potential impact on ecology and flood risk.

#### Principle of Development

Policy ST2 of the Local Plan supports development outside of settlements, which have a proven requirement for such location, including agriculture related development.

The proposal relates to an existing farm, and it will provide new milking parlour/dairy building and a new feed tower. Policy DM30 supports new agricultural buildings subject to detailed criteria, which are considered below.

On this basis, the principle of development is acceptable in accordance with Policy ST2 of the

Copeland Local Plan.

### Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM30 states proposals for new agricultural buildings and small holdings will be permitted as long as they are well related to existing settlement of farm building complex, are of an appropriate design and scale, use materials and colour to blend into its surroundings, and do not adversely impact on local landscape or the amenity of nearby residential properties.

The scale and design of the proposed building and feed tower are considered to be appropriate with regard to the existing farm buildings. The pitched roof and the height of the building will reflect the existing buildings and character of the farm. In addition, the use of matching materials will ensure that the new structure relates well to the existing farm buildings.

On this basis, the proposal is considered to comply with policies ST1 and DM30.

### Landscape and Visual Impact

Policy ENV5 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.

The application site lies within the open countryside adjacent to Low Shaw Farm complex. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within Sub Type 2b 'Coastal Margins – Coastal Mosses', which seeks to conserve and restore the mosses creating a landscape enriched with ecological diversity. It seeks to protect the small-scale open character of the mosses from inappropriate development, specifically large vertical developments such as large-scale wind turbines and pylons and avoid fragmentation of the natural patterns of the mosses and wildlife links by infrastructure development.

Despite the proposal being visible from the south of the site, the proposed structure will be viewed in the context of the existing working farm. In addition, the structure's form and appearance will match the farm building approved in 2021 and this will minimise the impact of the development on the surrounding landscape in accordance with the vision in the CLCGT.

Overall, the works are not considered to have a significant impact on the character and appearance of the landscape or result in a significant intrusion into the open countryside. The proposal is therefore considered to comply with policies ST1, ENV5 and DM26 of the Copeland Local Plan and provision of the CLCGT.

### Flood Risk



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The NPPF and Policy DM24 requires proposed developments in Flood Zones 2 and 3 to be accompanied by a Flood Risk Assessment (FRA). Policies ENV1 and DM24 seeks to protect developments against risks of flooding.

The application is accompanied by a Flood Risk Assessment as the site falls within flood zones 2 and 3. The supporting documents also include a plan for the flood defence measures, including the estuary tidal protection embankment that was erected in 1963.

The Environment Agency confirmed the raised tidal embankment therefore reduces the risk of flooding from rivers and seas to low. They also confirmed that the flood risk assessment is considered to be appropriate to the nature and scale of the development and the applicant is aware of the potential risk and frequency. In addition, due to the remote location, the development will not increase surface water flood risk elsewhere.

The Council's Flood Engineer and the Environment Agency raised no objection to the proposal.

On this basis, it is considered that the proposed agricultural building will not have a detrimental impact on increasing flood risk and therefore, the proposal is considered to meet Policies ENV1, DM24 and the NPPG guidance.

### 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.

Initially Natural England stated that there was insufficient information provided as part of the application. An additional report of air quality was submitted, and Natural England confirmed that as the applicant is not increasing the herd size there will be no additional air quality impacts as a result of this proposal.

The application site is supported by a Protected Species Survey/Management Plan. The survey states that the applicant accepted there may be a possible presence of natterjack toads however there are no ponds or wet holes within the site. Mitigation measures have also been identified within this plan and these can be secured by a planning condition. Natural England were satisfied with the walkover survey which confirmed the ARC local monitor hasn't seen or heard any natterjacks. This was considered to be suitable evidence that natterjacks are highly unlikely to be present on site and therefore a pre-commencement survey will not be required. An informative note is attached to ensure the relevant natterjack toad mitigation licence is sought if required.

It is therefore considered that the development complies with Policies ST1, EV3 and DM25 of

	<p>the Copeland Local Plan and the NPPF guidance.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This application seeks to erect a new milk parlour/dairy building, along with a bulk tower and part removal of the old brye to provide access to the new building. The main issue raised by the application was the development within the open countryside and the potential impacts on the landscape character.</p> <p>The proposal relates well to the existing farm complex, and it will upgrade the milking parlour to comply with modern standards. The scale of the building will be relatively modest, and the appearance will match the previously approved modern farm building. Any adverse impact on the character and appearance of the landscape will be modest. On this basis, there is a proven requirement for the proposed agricultural development and therefore the proposal is considered to be an appropriate form of development in the open countryside.</p> <p>In addition, the proposal is considered to be an acceptable form of development within flood zones 2 and 3. It is not considered that the proposal will have a detrimental impact on increasing flood risk within the site or elsewhere and the flood resilience and mitigation measures are considered to be appropriate.</p> <p>Following the additional walkover survey at Low Shaw Farm, Natural England confirmed it is highly unlikely that natterjack toads are present on site and therefore a pre-commencement survey will not be required. However, to ensure the appropriate mitigation measures are carried out, a planning condition is proposed.</p> <p>Overall, the proposal is considered to be an acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.</p>
8.	<p><b>Recommendation:</b> Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted must commence before the expiration of three years from the date of this permission.  Reason  To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</li> <li>2. This permission relates to the following plans and documents as received on the</li> </ol>





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respective dates and development must be carried out in accordance with them: -

Application Form, received 13<sup>th</sup> June 2023;

Site Plan, scale 1:2500, drawing no. 1773, received 13<sup>th</sup> June 2023;

Block Plan, scale 1:500, drawing no. 1773, received 13<sup>th</sup> June 2023;

Proposed Floor Plan, Elevations and Section, scale 1:100 and 1:50, drawing no. 1773, received 13<sup>th</sup> June 2023;

Protected Species Survey – Management Plan, received 13<sup>th</sup> June 2023;

Flood Risk Assessment, received 13<sup>th</sup> June 2023;

Design and Access Statement, received 13<sup>th</sup> June 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.

3. Prior to the commencement and during the works, the mitigation measures must be carried out in accordance with the details set out in the Protected Species Survey and Management Plan received by the Local Planning Authority on 13<sup>th</sup> June 2023.

Reason

To ensure suitable protection measures are carried out in accordance with Policy DM25 of the Copeland Local Plan.

4. Prior to the first use of the building hereby approved, the flood resilience and mitigation measures shall be implemented in accordance with the details set out in the Flood Risk Assessment received by the Local Planning Authority on 13<sup>th</sup> June 2023. These measures shall be retained and maintained at all times thereafter.

Reason

To prevent flood risk in accordance with Policy DM24 of the Copeland Local Plan.

### **Informative Notes**

1. The proposed development lies within a protection area for natterjack toads and a wildlife mitigation licence from Natural England may be required before the work can start. For more details on how to apply for a natterjack toad mitigation licence, please

follow the link: <https://www.gov.uk/government/publications/natterjack-toads-apply-for-a-mitigation-licence>

2. A PROW (public footpath) number 416024 lies adjacent to the site, the Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

**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. Wootton**

**Date : 29/09/2023**

**Authorising Officer: N.J. Hayhurst**

**Date : 02/10/2023**

**Dedicated responses to:- N/A**