

**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/23/2171/DOC
2.	<b>Proposed Development:</b>	DISCHARGE OF CONDITION 27 OF PLANNING APPLICATION 4/13/2235/001
3.	<b>Location:</b>	LAND BOUND BY WOODHOUSE TO NORTH & HIGH ROAD/WILSON PIT ROAD TO WEST & SOUTH, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change,
6.	<b>Publicity Representations &amp; Policy</b>	N/A.
7.	<b>Report:</b>	<p><b>Site and Location:</b></p> <p>The Application Site comprises an element of the residential development known as Edgehill, Whitehaven.</p> <p>The residential development is partially developed and construction is continuing.</p> <p>Outline planning permission was approved for this development under application ref. 4/13/2235/001.</p> <p><b>Proposal:</b></p> <p>Planning Condition 27 imposed on application ref. 4/13/2235/001 states the following:</p> <p><i>“If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be</i></p>

implemented as approved.

*Reason*

*National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.”*

This application seeks to partially discharge the requirements of Planning Condition 27 so far as it relates to the area identified on Location Plan Deed of Release – Drawing No. 20078.90.9.CDLP Rev E.

The information submitted in support of the application comprises the following:

- Application Form
- Location Plan Deed of Release – Drawing No. 20078.90.9.CDLP Rev. E
- SUPPLEMENTARY GEOENVIRONMENTAL APPRAISAL of land at PHASE 3, EDGEHILL PARK, WHITEHAVEN, CUMBRIA Prepared for STORY HOMES - Report No. 4046-G-R019 Rev. B - Date: January 2021
- Phase 3B Bolt-on Edgehill Park & Former Phosphate Storage Area – Verification of Delineation & Excavation of Slag/Concrete Sub-base & Metal Contaminated Granular Made Ground – Reference: 4046-G-L031 Rev A
- REMEDIATION STRATEGY for land at PHASE 3A, EDGEHILL PARK, WHITEHAVEN Prepared for STORY HOMES LIMITED - Report No. 4046-G-R021 - Date: June 2021

<b>Consultee:</b>	<b>Nature of Response:</b>
Environment Agency	<p><i>4<sup>th</sup> July 2023</i></p> <p>The information provided by the consultant dated 30 May 2023 outlines the completed works to excavate contaminated made ground and concrete to enable partial discharge of condition 27.</p> <p>Asbestos contaminated soils were excavated, the void checked and waste was removed off site to an appropriate permitted facility. These works are satisfactory.</p> <p>The excavation and removal of the granular contaminated material and concrete together with the verification tests support the material was removed satisfactorily and residual contamination no longer poses an unacceptable risk at the locations of origin.</p> <p>However, further confirmation is required to support the re-location for</p>



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	<p>disposal of these unsuitable materials beneath hardstanding. There are waste issues regarding the re-deposit of waste materials and confirmation that the material used as sub-base was fit for purpose from an engineering specification perspective and the significance of environmental harm / water pollution is not a concern in compliance with Waste management Regulation or CLAIRE Definition of Waste Code of Practice. Reference to a material management plan approved by a Qualified Person in accordance with DoWCoP should be submitted with this application to confirm compliance with the remediation strategy.</p> <p><i>4<sup>th</sup> December 2023</i></p> <p>In our previous letter on 4 July 2023 (our ref: NO/2023/115352/01-L01), the Environment Agency requested further confirmation to support the re-location of granular material.</p> <p>Clarifications have been provided by the iD GeoEnvironmental Limited and we are now satisfied that condition 27 of 4/13/2235/001 can be fully discharged. But we suggest the LPA to check with Environmental Health from a human health perspective.</p>
Copeland Borough Council - Environmental Health Officer	<p><i>20<sup>th</sup> June 2023</i></p> <p>Further to the above submission of the geo-environmental appraisal and supporting information.</p> <p>This is satisfactory and (partially) discharges condition 27 of planning application 4/13/2235/001 as indicated therein.</p> <p><i>12<sup>th</sup> December 2023</i></p> <p>I am satisfied that we can discharge the requirements of Planning Condition 27 in relation to this area of the application site.</p>
<b>Neighbour Responses:</b>	
None received.	
<p><b>Development Plan:</b></p> <p>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.</p> <p>Cumberland Council inherited the local development plan documents of each of the</p>	

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 ENV1 – Flood Risk and Risk Management  
Policy ENV3 – Biodiversity and Geodiversity

Development Management Policies (DMP):

Policy DM11 – Sustainable Development Standards  
Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

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.

Policy DS6PU - Design and Development Standards  
Policy DS10PU - Soils, Contamination and Land Stability  
Policy SC1PU - Health and Wellbeing  
Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic



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Policy N5PU - Protection of Water Resources

### Other Material Planning Considerations

National Planning Policy Framework (NPPF).

Planning Practice Guidance (PPG).

The Conservation of Habitats and Species Regulations 2017 (CHSR).

### Assessment:

The information provided outlines the completed works to excavate and remediate the contaminated made ground and concrete identified during the construction on the area identified on Location Plan Deed of Release – Drawing No. 20078.90.9.CDLP Rev. E.

The Developer on identification of the relevant materials did not inform the local planning authority and submit a remediation strategy to the local planning authority detailing how this material shall be dealt with in breach of the requirements of Planning Condition 27.

Notwithstanding the above, the Developer has completed a scheme of remediation in relation to the relevant materials that has been confirmed as acceptable by the Environment Agency and the Cumberland Council Environmental Health Officer.

Given the completion of a scheme of remediation in relation to the relevant materials, enforcement action is not necessary. The breach of Planning Condition 27 does not run to the heart of the planning permission.

In the context of the above, the requirements of Planning Condition 27 can be approved in relation to the area identified on Location Plan Deed of Release – Drawing No. 20078.90.9.CDLP Rev. E

### Conclusion

Approve partial discharge of Planning Condition 27 so far as it relates to the area identified on Location Plan Deed of Release – Drawing No. 20078.90.9.CDLP Rev. E.

8. **Recommendation:**

Approve

**Case Officer:** Chris Harrison

**Date :** 12/12/2023

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

**Date :** 12/12/2023