

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

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| 1. | <b>Reference No:</b>                          | 4/23/2210/0B1  |
| 2. | <b>Proposed Development:</b>                  | VARIATION OF CONDITION 2 (PLANS) OF PLANNING APPROVAL REFERENCE 4/22/2130/0R1 - EXTENSION OF ROOF ON REAR ELEVATION TO ENCLOSE BALCONY AND INCREASE RIDGE HEIGHT BY 0.5 METRES   |
| 3. | <b>Location:</b>                              | PLOT 2, BANK YARD ROAD, PARTON   |
| 4. | <b>Parish:</b>                                | Parton   |
| 5. | <b>Constraints:</b>                           | ASC;Adverts - ASC;Adverts,<br>Coal - Standing Advice - Data Subject To Change,<br>Key Species - POTENTIAL AREA for the Small Blue, Key Species - Known Site for the Small Blue   |
| 6. | <b>Publicity Representations &amp; Policy</b> | Neighbour Notification Letter: YES<br><br>Site Notice: NO<br><br>Press Notice: NO<br><br>Consultation Responses: See report<br><br>Relevant Planning Policies: See report  |
| 7. | <b>Report:</b>                                | <p><b>SITE AND LOCATION</b></p> <p>This application relates to a building plot at Bank Yard Road in Parton. It is adjoined by existing residential properties to the east and south. To the west of the site, an existing railway track is located roughly 20 metres from the rear of the building line. Parton Brow which leads up to the A595 lies to the south east and the southern entrance to Parton lies to</p> |

the north, adjacent to Bank Yard Road.

Outline planning permission was granted for this and 6 further plots under application reference 4/17/2022/0O1. Reserved matters were subsequently approved under application reference 4/22/2130/0R1.

### **PROPOSAL**

This application seeks to vary condition 2 of planning permission 4/22/2130/0R1 to amend the roof structure on the rear elevation to enclose the balcony and increase the ridge height by 0.5m.

This application has been submitted in tandem with the same amendment to Plot 3 (application reference 4/23/2211/0B1 relates).

The application has been submitted with the following information:

- Application Form;
- Site Location Plan and Site Plan;
- Lower and Ground Floor Plans;
- First Floor Plan and Elevations;
- Proposed Street View.

### **RELEVANT PLANNING APPLICATION HISTORY**

Outline application for 15 residential terraced properties, approved in outline in May 2008 (application reference 4/08/2090/0 relates);

Outline application for seven dwellings, approved in outline in March 2017 (application reference 4/17/2022/0O1 relates);

Approval of Reserved Matters for Plot 2 relating to access, appearance, landscaping and layout (following outline approved 4/17/2022/0O1 for seven dwellings), approved in April 2022 (application reference 4/22/2130/0R1 relates).

### **CONSULTATION RESPONSES**

Parton Parish Council

No response received.



## Cumberland Council

### Local Highways Authority

No comments to make.

### Public Representation

The application has been advertised by way of neighbour notification letters issued to 11 no. properties.

No comments have been received as a result of these advertisements.

### **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 SS2 – Sustainable Housing Growth  
Policy ENV1 – Flood Risk and Risk Management

### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards  
Policy DM12 – Standards for New Residential Developments  
Policy DM22 – Accessible Developments  
Policy DM24 – Development Proposals and Flood Risk  
Policy DM26 – Landscaping

## **OTHER MATERIAL PLANNING CONSIDERATIONS**

National Planning Policy 2021 (NPPF)

### 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.

The Planning Inspector has now issued their post hearing letter, which identifies the next steps for the Examination. This includes proposed modifications to the plan to ensure a sound plan on adoption

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 policies relevant to this proposal are as follows:

- Strategic Policy DS1PU - Presumption in favour of Sustainable Development
- Strategic Policy DS2PU - Reducing the impacts of development on Climate Change



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- Strategic Policy DS3PU - Settlement Hierarchy
- Strategic Policy DS4PU - Settlement Boundaries
- Strategic Policy DS5PU - Planning Obligations
- Policy DS6PU - Design and Development Standards
- Policy DS7PU - Hard and Soft Landscaping
- Strategic Policy DS8PU - Reducing Flood Risk Policy
- Policy DS9PU: Sustainable Drainage
- Strategic Policy H1PU - Improving the Housing Offer
- Strategic Policy H2PU - Housing Requirement
- Strategic Policy H3PU - Housing delivery
- Strategic Policy H4PU - Distribution of Housing
- Strategic Policy H5PU - Housing Allocations
- Policy H6PU - New Housing Development
- Policy H7PU - Housing Density and Mix Strategic
- Policy H8PU - Affordable Housing
- Strategic Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity
- Strategic Policy N2PU - Local Nature Recovery Networks
- Strategic Policy N3PU - Biodiversity Net Gain
- Strategic Policy N6PU - Landscape Protection

### The Planning Practice Guidance (NPPG)

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

### **ASSESSMENT**

Policy DM10 of the CS and DS6PU of the ELP seek to ensure that development is of an appropriate scale so as to protect the amenity of all occupiers and ensure there are no issues

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|    | <p>relating to overlooking or overshadowing. Furthermore, development must maintain high standards of design.</p> <p>The proposal is to increase the roof height at the rear by 0.5m to accommodate the enclosing of the rear balcony. This is due to the weather conditions in this part of Parton and the original glazed option not being suitable.</p> <p>Whilst the roof height will increase, this will not create any overshadowing or overdominance issues for the neighbouring properties due to the separation distances. Furthermore, the amendment is considered to be betterment as the balcony will be enclosed on the side, reducing any chances of perceived overlooking for the neighbours to the side.</p> <p>The proposed amendment complies with policies within the local and emerging local plans to protect neighbouring amenity.</p> <p><b>CONCLUSION</b></p> <p>In my opinion, the revision is modest and as it will provide betterment, it is considered to be acceptable to vary condition 2. All other aspects of the application will remain the same. The conditions attached to the original permission should be carried over to this amendment, to ensure that any outstanding issues are considered prior to the occupation of the dwelling.</p> <p>Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPG and the policies within the adopted and emerging Local Plans.</p> |
| 8. | <p><b>Recommendation:</b><br/>Approve</p>  |
| 9. | <p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted must be commenced before the 5<sup>th</sup> April 2025.<br/><br/>Reason<br/><br/>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. 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: -<br/><br/>Application Form, received 20<sup>th</sup> July 2023;<br/>Site Location Plan and Site Plan, scales 1:1250 and 1:100, drawing number SP-</li> </ol>  |



## Cumberland Council

202101-01B, received 20<sup>th</sup> July 2023;  
Lower and Ground Floor Plans, scale 1:50, drawing number SP-202101-02E, received 20<sup>th</sup> July 2023;  
First Floor Plan and Elevations, scale 1:100 and 1:50, drawing number SP-202101-03C, received 20<sup>th</sup> July 2023;  
Proposed Street view, scale 1:100, drawing number SP-202101-06A, received 20<sup>th</sup> July 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.

### Pre-commencement Condition

3. No superstructure must be erected until samples and details of the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development must be completed in accordance with the approved details of materials and must be retained for the lifetime of the development.

### Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DM10 of the Copeland Local Plan.

### Pre-occupation Conditions

4. Prior to the first occupation of the dwelling hereby approved, any windows situated on the north and south elevations must be fitted with fully obscured glazing and be retained as such at all times thereafter.

### Reason

To safeguard the amenity of the neighbouring properties and in accordance with Policy DM12 of the Copeland Local Plan.

5. Prior to the first occupation of the dwelling hereby approved, full details of any privacy

glass to be utilised as a balustrade on the balcony must be submitted to and approved in writing by the Local Planning Authority.

Reason

In order to protect the amenity of the neighbouring properties and in accordance with Policy DM12 of the Copeland Local Plan.

6. Prior to the first occupation of the dwelling hereby approved, the balustrade on the balcony must be erected according to the approved details and retained as such at all times thereafter.

Reason

In order to ensure that the amenity of the neighbouring properties is protected in accordance with Policy DM11 of the Copeland Local Plan.

7. Prior to the first use of the development hereby approved, full details of both hard and soft landscape works must be submitted to and approved in writing by the Local Planning Authority. These works must include hard surfacing and means of enclosure as a minimum. Landscaping must be carried out in accordance with the approved details.

Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with Policy DM26 of the Copeland Local Plan.

8. The access drive must be surfaced in bituminous or cement bound materials or otherwise bound and must be constructed and completed prior to the development being brought into use. This surfacing must extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway and be retained as such at all times.

Reason





**Cumberland  
Council**

In the interests of highway safety and in accordance with Policy DM22 of the Copeland Local Plan.

**Informative**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://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: Sarah Papaleo**

**Date : 13/09/2023**

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

**Date : 14/09/2023**

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