

**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/23/2212/0F1
2.	<b>Proposed Development:</b>	SITING OF A STORAGE CONTAINER (RETROSPECTIVE) AND ERECTION OF A FENCE
3.	<b>Location:</b>	34A LAKELAND AVENUE, 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
6.	<b>Publicity Representations &amp;Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>	
	<b>Site and Location</b>	
		<p>This application relates to 34A Lakeland Avenue, a detached property within the Kells area of Whitehaven.</p> <p>The site is a corner plot which is bound by Lakeland Avenue and Loweswater Avenue, unclassified roads to the front and side and residential gardens to the rear. The building is occupied by a pizza takeaway shop on the ground floor with a flat above.</p> <p>The site benefits from a parking area to the front of the building and a grassed garden area bound by a 1 metre fence to its side, adjacent to Lakeland Avenue.</p> <p>The area is predominantly residential in character with a mix of terraced, semi-detached and detached dwellings.</p>

## **Proposal**

Retrospective Planning Permission is sought for the retention of a storage container which has been brought onto the site. Planning Permission is also sought for the erection of a fence.

The green storage container measures 5.9 metres in depth and 2.35 metres in width. It has a height of 2.39 metres and it is located adjacent to the boundary with No. 35 Lakeland Avenue. It provides mixed use storage for the fast food takeaway and the residential flat. The application form notes the container can be painted any colour as required.

The proposed fence would measure 1.829 metres in height and it is to extend along the front boundary onto Lakeland Avenue, along the boundaries with 35 Lakeland Avenue and 70 Loweswater Avenue and along the driveway facing Loweswater Avenue.

The application is supported by the following:

- Site Location Plan;
- Block Plan;
- Supporting Photographs;
- Covering Letter.

## **Relevant Planning Application History**

Planning Permission has been granted for the following:

- CHANGE OF USE FROM RETAIL FOOD STORE CLASS A3 TO CLASS A5 HOT FOOD TAKEAWAY (FISH AND CHIP SHOP) (ref: 4/06/2799/0).

## **Consultation Responses**

### Whitehaven Town Council

The Councillors objected to this application on behalf of the residents who had complained about this container but were continually told that planning application had already been approved. The container is sited in a residential area and the fence to hide the container is very high.

### Highway Authority and Lead Local Flood Authority

No objection to the siting of a storage container. However the Highway Authority would object to the proposed 1.829 metre boundary fence. Walls/fences that are adjacent to a Highway must not exceed 1.05 metre in height to ensure vehicular visibility is not obstructed.

Any works within or near the Highway must be authorised by Cumbria County Council and no works shall be permitted or carried out on any part of the Highway including footways and



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verges, until you are in receipt of an appropriate permit allowing such works. This also applies to erecting scaffolding or placing traffic management or skips on the highway. Enquires should be made to Cumbria County Councils Street Work's team - [streetworks.west@cumbria.gov.uk](mailto:streetworks.west@cumbria.gov.uk). Fees: <https://www.cumbria.gov.uk/roads-transport/fees.asp>

Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

Informative: The LLFA surface water maps show that the site is very close to an area of flooding and indicates that a 1 in 1000 chance of flooding occurring close to the site each year.

### Environmental Health

No objections.

### Public Representation

This application has been advertised by way of site notice and neighbour notification letters issued to 9 no. properties.

Two objections has been received as a result of the consultation, which raised the following concerns:

- The container has been there since April and the applicant advised he had permission which he had not;
- It's an eyesore, out of character and should not be in a residential area;
- Harmful to neighbouring amenity;
- Concerns to the size of the fence and the impact on the area;
- Wider issues relating to rubbish on the site etc.
- All the neighbours are concerned.

### **Planning Policy**

Planning law requires that 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 SS4 – Community and Cultural Facilities and Services

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM21 – Protecting Community Facilities

Policy DM22 – Accessible Developments

### **Other Material Planning Considerations**

National Planning Policy Framework

National Design Guide

Cumbria Development Design Guide

### **Emerging Copeland Local Plan 2021-2038 (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



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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 CO7PU – Parking Standards and Electric Vehicle Charging Infrastructure

### **Assessment**

The main issues raised by this application are the principle of development, the impact of the development on the character and appearance of the area and the impact on residential amenities of occupiers of the adjoining properties and highway safety.

#### Principle of Development

The proposed application relates to a 34A Lakeland Avenue, a mixed-use pizza takeaway shop and residential flat within Whitehaven and it seeks to retain a storage container and erect a new boundary fence. Policy SS4 seeks to enhance the existing community facilities in order to meet the demand created by new development. This is subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable in accordance with Policies ST2, SS4 of the Copeland Local Plan and the NPPF guidance.

#### The Effect of the Proposed Development on the Character and Appearance of the Area

Policies ST1 and DM10 of the Copeland Local Plan seek to create high quality developments which respond positively to the character of the site and the wider setting.

Draft Policy DS6PU also set out Design and Development Standards to ensure extensions do not adversely alter the character or appearance of the existing building, street scene or wider surrounding area.

Paragraph 130 of the NPPF seeks to safeguard high standards of amenity for existing and future users. Developments should add to the overall quality of the area, should be sympathetic to the local character, and should establish and maintain a strong sense of place. Developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

The National Design Guide also sets out ten characteristics to reflect the Government's priorities for well-designed places. This planning practice guidance is given significant weight in the material planning considerations balance.

The application site relates to a prominent corner plot which lies within a residential area of

Whitehaven. The site fronts two unclassified roads that has a mixture of two-storey semi-detached dwellings and residential gardens to the rear. The site and wider area benefit from 1-metre-high walls and fences to the front boundaries.

The container is located in the side/front garden and it is considered to be dominant and overbearing for both the neighbouring properties and within the street-scene.

The green metal storage container occupies a prominent location which is highly visible from the surrounding public vantage points and it is considered to adversely affect the character and appearance of residential area due to its scale, siting and design. It is not considered to be a suitable form of development within the residential area and despite the applicant advising that the container can be painted any colour, this is not considered to mitigate the harm it has caused on the character and appearance of the area. The materials are not appropriate and fail to relate in a coherent manner to its surroundings.

In addition, the proposed 1.829-metre-high fence would also have a significant detrimental impact on the street scene and this residential area which is characterised by 1-metre-high front walls.

The application is supported by Covering Letter which sets out the need for the additional storage. Despite the justification that has been provided, it is not considered to outweigh the harm to the visual amenity and character of the area.

On the basis of the above the proposal is in conflict with Policies ST1 and DM10 of the Copeland Local Plan 2013-2028, Policy DS6PU of the Emerging Local Plan and the guidance set out in section 12 of the NPPF and the National Design Guide. These policies seek to ensure that developments are of an appropriate scale, design and material, which are appropriate to their surroundings and respond positively to the character of the area.

#### Impact of Development on Residential Amenities of Adjoining Properties

Policies ST1 and DM10 of the Copeland Local Plan and the NPPF seek to ensure developments do not adversely affect the amenities of adjacent dwellings. Draft Policy DS6PU also seeks to ensure extensions do not materially harm the amenity of the occupiers of the parent property and the adjacent dwellings.

The Town Council has expressed concerns about the proposal and two objections have been received from the public which raised concerns regarding the height of the proposed fence and the harm to general amenity as a result of the siting of the container.

The storage container is located in close proximity to the neighbouring property, no. 35 Lakeland Avenue which has windows on its side elevation. In this location the container is considered to cause an overbearing effect on the neighbouring windows.

On this basis, due to the proposed scale and proximity to the neighbouring property, the container and fence would have an unacceptable impact on the neighbouring amenity in terms of overshadowing and harmful overdominance on the neighbouring property and within



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the street-scene. It would fail to relate in a coherent manner to its surroundings causing significant harm to amenity of the occupiers of the residential properties nearby . As a consequence, the development is considered to be in conflict with Policies ST1 and DM10 of the Copeland Local Plan 2013 – 2028, Policy DS6PU of the Emerging Local Plan and section 12 of the NPPF which seek to ensure a good standard of amenity for all existing and future occupants of land and buildings.

### Impact of Development on Highway Safety

Policies ST1 and DM22 seeks to ensure highway safety is maintained, through traffic and access arrangements that make it safe for pedestrians and cyclists to move around.

The Highway Authority have raised an objection to the proposed 1.829-metre-high wooden boundary fence. They advised walls/fences that are adjacent to a Highway must not exceed 1.05 metre in height to ensure vehicular visibility is not obstructed. On this basis, this proposal would harm visibility and have adverse effects on both highway and pedestrian safety.

Overall, despite a fence proposal providing screening for the storage container, the harm to highway safety does not outweigh these screening benefits. Therefore, the proposal conflicts with Policies ST1 and DM22 of the Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 12 of the NPPF, which seek to maintain highway safety standards.

### Planning Balance and Conclusion

Section 12 of the National Planning Policy Framework and the National Design Guide clearly sets out that one of the key principles of the planning system is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings.

This aim is reflected in the Copeland Local Plan, particularly within policies ST1 D(i), D(ii) and D(iii), DM10 and DM22.

Policies DM10 set out the criteria on which this proposal has been assessed.

The metal storage container and 1.829-metre-high fence are considered to be an inappropriate form of development that would exert an overbearing and dominant effect on the adjoining properties and would have a significant detrimental impact on the visual amenity of the locality and the amenity of the adjoining occupiers.

The design and materials would be out of keeping with the character and appearance of the predominantly residential area and it would fail to relate in a coherent manner to its surroundings.

The NPPF and the National Design Guide place significant emphasis on high quality designs and therefore carry significant weight in the planning balance. The proposal is considered to produce an incongruous form of development that has a detrimental impact on the character and appearance of the site and the visual amenity of the wider residential area, contrary to the above design priorities.

	<p>In addition, the Highway Authority have objected to the installation of the fence as it would have an unacceptable impact on highway safety. The proposed screening benefit does not outweigh the harm to highway safety.</p> <p>On balance, the proposal is considered to be an inappropriate form of development which is in conflict with Policies ST1, DM10 and DM22 of the adopted Local Plan and Policies DS6PU and CO7PU of the Emerging Local Plan. The covering letter does not provide suitable justification and is not considered to be sufficient to outweigh the adverse harm identified to both local residents, the visual amenity of the area and highway safety and therefore the application is recommended for refusal.</p>
8.	<p><b>Recommendation:</b> Refuse</p>
9.	<p><b>Reasons for Refusal:</b></p> <ol style="list-style-type: none"> <li>1. The Application Site occupies a prominent location and is highly visible from the surrounding public vantage points The storage container and 1.829-metre-high fence, due to their siting, scale and appearance would result in an incongruous form of development which would have a significant detrimental impact on the street scene and the visual amenity of this predominantly residential area. The proposal is in conflict with Policies ST1 and DM10 of the Copeland Local Plan 2013-2028, Policy DS6PU of the Emerging Local Plan and the guidance set out in section 12 of the NPPF and the National Design Guide.</li> <li>2. The storage container and proposed 1.829-metre-high fence, due to their scale and siting in close proximity to the boundary would exert an overbearing and dominant effect on the neighbouring property. It would fail to relate in a coherent manner to its surroundings causing significant harm to amenity of the occupiers of the residential properties nearby . As a consequence, the development is considered to be in conflict with Policies ST1 and DM10 of the Copeland Local Plan 2013 – 2028, Policy DS6PU of the Emerging Local Plan and section 12 of the NPPF which seek to ensure a good standard of amenity for all existing and future occupants of land and buildings.</li> <li>3. The proposed 1.829-metre-high fence, due to its height and siting to the front of the building, would interfere with the highway visibility for vehicles leaving the site. This would result in an adverse impact on highway safety within the locality. Any screening benefits that would result from the fence would not outweigh this detrimental impact on highway safety. As a consequence the proposal conflicts with Policies ST1 and DM22 of the Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 12 of the NPPF, which seek to maintain highway safety standards.</li> </ol>





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<b>Statement</b> The Local Planning Authority has acted positively and proactively in accordance with Copeland Local 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 applicant/ 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.	
<b>Case Officer: C. Wootton</b>	<b>Date : 12/09/2023</b>
<b>Authorising Officer: N.J. Hayhurst</b>	<b>Date : 14/09/2023</b>
<b>Dedicated responses to:- N/A</b>	