

**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/23/2236/0F1
2.	<b>Proposed Development:</b>	DECONSTRUCT AN SECTION OF EXISTING OUTER LEAF BRICKWORK TO REAR ELEVATION AND PARAPET WALL THAT FORMS PART OF THE REAR ELEVATIONS TO ALL GROUND FLOOR FLATS (62-76 DUKE STREET) AND WALKWAY ACCESS TO THE FIRST FLOOR MAISONETTES. THE PARAPET AND SECTION OF THE REAR ELEVATION OUTER LEAF IS TO BE DECONSTRUCTED DUE TO THE BRICKWORK BOWING & BECOMING UNSAFE. THE OUTER LEAF BRICKWORK IS TO BE REBUILT WITH BLOCKWORK AND THEN ROUGHCAST RENDER APPLIED TO THE GROUND FLOOR AND PARAPET WALL ONLY.
3.	<b>Location:</b>	62-76 DUKE STREET, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - 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. **Report:**

**INTRODUCTION**

This application relates to 62-78 Duke Street – a terrace of residential properties situated within central Whitehaven.

The properties are bound by Duke Street to the north, Scotch Street to the south, a parking court to the south and further residential properties and a commercial warehouse to the west.

The properties are situated within the Whitehaven Conservation Area.

**PROPOSAL**

This application seeks full planning permission for the deconstruction of the existing outer leaf brickwork and parapet wall serving the walkway access to the rear elevation.

The outer leaf brickwork is to be rebuilt with matching brick.

The works are required due to the brickwork bowing and becoming unsafe.

**RELEVANT PLANNING APPLICATION HISTORY**

There have been no previous applications on the site.

**CONSULTATION RESPONSES**

Whitehaven Town Council

No objections.

Conservation Officer

Conclusion: No objection (condition suggested)

Assessment:

- Due to movement of the parapet wall, it needs rebuilding.
  - The proposal has the inner leaf of the parapet wall constructed from concrete facing blockwork
  - The outer leaf will be brickwork, to match existing or approved via agreement, with soldier bonds reinstated
- This proposal will help preserve the contribution this building makes to the character and appearance of Whitehaven Conservation Area through being a good piece of architecture, designed with attention to detail and use of high quality materials that



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complement one another.

- As there are no details of the proposed brick with the documents, I suggest the use of a condition to be discharged prior to the installation of said bricks, requiring their appearance to be approved.

### The Coal Authority

#### 1<sup>st</sup> response

##### The Coal Authority Response: Fundamental Concern

I have reviewed the site location plans, the proposals and the supporting information submitted and available to view on the LPA website. I can confirm that the site falls within mining areas 2 within the defined Development High Risk Area and that a Coal Mining Risk Assessment is required to be submitted to support this application.

The Coal Authority records indicate that a coal outcrop runs through the site and this may have been subject to unrecorded workings at shallow depth. If workings are present within the outcrop these may pose a potential risk to surface stability and public safety.

In accordance with the agreed risk-based approach to development management in the defined Development High Risk Areas, the applicant should be informed that they need to submit a Coal Mining Risk Assessment Report to support this planning application. As no relevant information has been submitted at this time the Coal Authority objects to this planning application.

Please draw the applicants attention to the fact that the Coal Mining Risk Assessment needs to interpret and assess the coal mining risks present and should be based on up-to-date information on the recorded coal mining features on site. If the applicant merely submits a Non Residential Coal Mining Report, an Enviro All-in-One Report or other factual report, obtained from [www.groundstability.com](http://www.groundstability.com) or a similar product from private land search suppliers, this will not overcome our objection to the planning application.

#### 2<sup>nd</sup> response

Thank you for your email of 21 September 2023 seeking the further views of The Coal Authority on the above planning application.

##### The Coal Authority Response: Material Consideration

We previously commented on this submission in a letter to the LPA dated 18th September 2023.

I have now had the opportunity to review your email regarding groundworks and foundations required to facilitate the proposed development. We note that the applicant has confirmed that “no ground will be broken and that works are at first floor level and no ground will be broken.” Therefore, based on the reply you have now revived from the applicant it does not

appear to that the development will require substantial foundations or earthwork. In light of the above, the Planning team at the Coal Authority do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the nature of the development proposed in this particular case and withdraw our objection to this planning application.

However, the Coal Authority does recommend that, should planning permission be granted for this proposal, the following wording is included as an Informative Note on any planning permission granted:

#### Informative Note

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

#### Shallow coal seams

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities. If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0800 288 4242. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

#### Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 4 no. properties.

No response has 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.



## **Cumberland Council**

### **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 ENV4 – Heritage Assets

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place  
Policy DM27 – Built Heritage and Archaeology

### **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.

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS3PU: Settlement Hierarchy

Policy DS6PU: Design and Development Standards

Strategic Policy BE1PU – Heritage Assts

Policy BE2PU – Designated Heritage Assets

### **Other Material Planning Considerations**

National Planning Policy 2023 (NPPF)

Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)

### **ASSESSMENT**

#### Principle of the Development

Policies ENV4 and DM27 of the CS and BE1PU and BE2PU of the ELP relate to the protection and enhancement of the Conservation Area and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DM10 of the CS and DS6PU of the ELP requires good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.



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Section 72 requires that: '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance*' of a conservation area.

The proposed alterations are modest and are required due to the instability of the existing outer leaf brickwork which has become unstable. Whilst the proposal is largely supported, concerns were raised by the Conservation Officer with regards to the initially proposed finish. It was agreed that the rendered finish was not in-keeping with the surrounding Conservation Area and that the building has a unique character that should be protected. As a result, the developers have agreed to replace the brick like for like. Until a contractor is appointed, the developers are unable to specify the brick type, therefore it was agreed that a pre-commencement planning condition would be added to any approval to ensure that the brick type is approved prior to its use on the development.

The alterations will ensure that the building has a longevity of use and the setting of the building within the Conservation Area is preserved and maintained.

Overall, the proposed alterations will comply with policies ENV4 and DM27 of the Copeland Local Plan and BE1PU and BE2PU of the emerging local plan, respecting the character of the Whitehaven Conservation Area.

### Conclusion and planning balance

No objections have been received to the application from either statutory or neighbouring consultees.

The alterations will create a positive benefit to the building, ensuring its use in the future and respecting the character and appearance of the Whitehaven Conservation Area.

On balance this is considered to be an acceptable form of development which will be consistent with the details set out in national and local policy.

8. **Recommendation:**  
Approve (commence within 3 years)

9. **Conditions:**  
1. The development hereby permitted shall be commenced 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.

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: -

Application form, received 21<sup>st</sup> November 2023;  
Site Location Plan, scale 1:1250, received 21<sup>st</sup> November 2023;  
Site and Block Plan, scales 1:1250 and 1:500, drawing number BS/23/11/04, received 21<sup>st</sup> November 2023;  
Existing and Proposed Rear Elevations, scales 1:50 and 1:200, drawing number BS/23/11/01A, received 21<sup>st</sup> November 2023;  
Section through Walkway Parapet, scale 1:20, drawing number BS/23/11/02A, received 21<sup>st</sup> November 2023;  
Repairs to Walkway Parapet, scale 1:5, drawing number BS/23/11/03A, received 21<sup>st</sup> November 2023;  
Specification, document number BS/23/11, received 21<sup>st</sup> November 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 their first use on the development hereby approved, a sample of the facing bricks to be used must be submitted to and approved in writing by the Local Planning Authority. Development must be undertaken in accordance with the approved specifications and retained as such at all times thereafter.

**Reason**

In order to ensure that the character of the building is retained within the Conservation Area and in accordance with Policies ENV4 and DM27 of the Copeland Local Plan.

**Informative Note**

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

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seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

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### 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 : 18/01/2024**

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

**Date : 19/01/2024**

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