

**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

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| 1. | <b>Reference No:</b>                         | 4/23/2239/0F1  |
| 2. | <b>Proposed Development:</b>                 | DWELLING TYPE SUBSTITUTION FOR PLOT 45 APPROVED UNDER REFERENCE 4/16/2181/0R1  |
| 3. | <b>Location:</b>                             | LAND ADJACENT TO 39 KEEKLE MEADOWS ROAD, CLEATOR MOOR  |
| 4. | <b>Parish:</b>                               | Cleator Moor   |
| 5. | <b>Constraints:</b>                          | ASC;Adverts - ASC;Adverts,<br>Coal - Standing Advice - Data Subject To Change  |
| 6. | <b>Publicity Representations &amp;Policy</b> | See report.  |
| 7. | <b>Report:</b>                               | <p><b>Site and Location:</b></p> <p>This application relates to part of the residential development of Keekle Meadows located to the western boundary of Cleator Moor. The development is currently under construction.</p> <p><b>Directly Relevant Planning History:</b></p> <p>4/12/2259/0O1 - Outline application for residential development of 66 dwellings including associated infrastructure – Approved.</p> <p>4/16/2181/0R1 - Reserved matters application for phase 6 (6 dwellings) including associated infrastructure and landscaping – Approved.</p> <p>4/18/2075/0R1 - Application for approval of reserved matters for 16 dwellings including associated infrastructure – Approved.</p> <p><b>Proposal:</b></p> <p>This application seeks part retrospective Full Planning Permission for the erection of 1no.</p> |

detached four bedroom dwelling with detached single storey garage on land adjacent to the property known as 39 Keekle Meadows Road, Cleator Moor.

Access to the dwelling is via the existing private driveway currently serving the dwellings known as 43 and 44 Keekle Meadows Road, Cleator Moor which connects to Keekle Meadows Road itself.

It is proposed to finish the dwelling externally with a combination of facing bricks and sandstone complemented by stone details under smooth grey concrete tiled covered roof structures. Grey uPVC windows and doors are proposed.

A paved off highway driveway is proposed. Close-boarded timber fences are proposed to delineate the site boundaries to the rear and the frontage is to remain open.

The description of the location was amended during the course of the application. The Proposed Site Plan was absent from the online planning register and was added after the initial consultation. As a result, a re-consultation was completed.

Additional information in relation ground conditions was also submitted. This was not considered to necessitate re-consultation.

| <b>Consultee:</b>                      | <b>Nature of Response:</b>   |
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| Town Council                           | No comments.   |
| Cumberland Council – Highways and LLFA | <p>As this falls under our Service Level Agreement (SLA) with your Council, this application does not need to be submitted to the Local Highway Authority or Lead Local Flood Authority; subject to the highway and drainage aspects of such applications being considered in accordance with the Agreement.</p> <p>The highway and drainage implications of this application would therefore have to be decided by the Local Planning Authority.</p>  |
| Countryside Access Team                | <p>Public Right of Way FP 403001 is located adjacent to the proposed development. (See attached plan).</p> <p>Section 7.7 of Policy ENV6 – Access to the Countryside within the Copeland Local Plan 2013- 2028 recognises that existing Public Rights of Way are protected in law.</p> <p>Section 130(1) of the Highways Act 1980 places a statutory duty on Cumberland Council as the Highway Authority to: -</p> <ul style="list-style-type: none"> <li>• Assert and protect the rights of the public to the use and enjoyment of</li> </ul> |



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|   | <p>any highway for which they are the Highway Authority; and</p> <ul style="list-style-type: none"> <li>• Prevent as far as possible the stopping up or obstruction of those highways.</li> </ul> <p>We would advise that:</p> <ul style="list-style-type: none"> <li>• The granting of planning permission would not give the applicant the right to block or obstruct the Public Right of Way shown on the attached plan.</li> <li>• The Public Right of Way as shown on the definitive map and statement must be kept open and unaltered for public use until an order made to divert, extinguish or to temporarily close it has been confirmed.</li> </ul> |
| United Utilities  | No comments.   |
| <b>Neighbour Responses:</b>   |  |
| <p>The application has been advertised by way of a planning application site notice and letter sent to one neighbouring property.</p> <p>No written representations have been received in respect of the proposals.</p>   |  |
| <p><b>Planning Policy:</b></p> <p>Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.</p> <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 sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.</p> <p>The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.</p> <p>The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.</p> <p><u>Copeland Local Plan 2013-2028 (Adopted December 2013):</u></p> |  |

Core Strategy (CS):

Policy ST1 – Strategic Development Principles  
Policy ST2 – Spatial Development Strategy  
Policy ST4 – Providing Infrastructure  
Policy SS1 – Improving the Housing Offer  
Policy SS2 – Sustainable Housing Growth  
Policy SS3 – Housing Needs, Mix and Affordability  
Policy SS5 – Provision and Access to Open Space and Green Infrastructure  
Policy T1 – Improving Accessibility and Transport  
Policy ENV1 – Flood Risk and Risk Management  
Policy ENV3 – Biodiversity and Geodiversity  
Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place  
Policy DM11 – Sustainable Development Standards  
Policy DM12 – Standards for New Residential Development  
Policy DM21 – Protecting Community Facilities  
Policy DM22 – Accessible Developments  
Policy DM24 – Development Proposals and Flood  
Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species  
Policy DM26 - Landscaping  
Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP) Saved Policies:

Policy HSG2 – New Housing Allocations  
Policy TSP8 – Parking Requirements

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



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### 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 DS1PU - Presumption in favour of Sustainable Development  
Policy DS2PU - Reducing the impacts of development on Climate Change  
Policy DS3PU - Settlement Hierarchy  
Policy DS4PU - Settlement Boundaries  
Policy DS5PU - Planning Obligations  
Policy DS6PU - Design and Development Standards  
Policy DS7PU - Hard and Soft Landscaping  
Policy DS8PU - Reducing Flood Risk  
Policy DS9PU - Sustainable Drainage  
Policy DS10PU - Soils, Contamination and Land Stability  
Policy DS11PU - Protecting Air Quality  
Policy H1PU - Improving the Housing Offer  
Policy H2PU - Housing Requirement  
Policy H3PU - Housing delivery  
Policy H4PU - Distribution of Housing  
Policy H5PU - Housing Allocations  
Policy H6PU - New Housing Development  
Policy H7PU - Housing Density and Mix  
Policy H8PU - Affordable Housing  
Policy SC1PU - Health and Wellbeing  
Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic  
Policy N2PU - Local Nature Recovery Networks Strategic  
Policy N3PU - Biodiversity Net Gain  
Policy N5PU - Protection of Water Resources  
Policy N6PU - Landscape Protection  
Policy N9PU - Green Infrastructure  
Policy N11PU - Protected Green Spaces  
Policy N12PU - Local Green Spaces  
Policy N13PU - Woodlands, Trees and Hedgerows  
Policy CO4PU - Sustainable Travel  
Policy CO5PU - Transport Hierarchy  
Policy CO7PU - Parking Standards and Electric Vehicle Charging Infrastructure

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF).  
Planning Practice Guidance (PPG).

National Design Guide (NDG).  
The Conservation of Habitats and Species Regulations 2017 (CHSR).  
Cumbria Development Design Guide (CDDG).  
Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).  
Copeland Borough Council Housing Strategy 2018-2023 (CBCHS)

**Assessment:**

*Principle*

The Application Site benefits from planning permission for the erection of a dwelling as approved under application ref. 4/12/2259/001 and application ref. 4/16/2181/0R1.

The planning permission has been commenced and remains extant.

The principle of residential development is therefore established, with the development proposed effectively comprising a substitution of dwelling design on one plot.

*Housing Mix*

The development comprises the replacement of one design of executive style house with another design of executive style house and does not therefore amend/revise the approved housing mix on the development.

*Design*

The layout of this element of the development has been established under application ref. 4/16/2181/0R1 and application ref. 4/18/2075/0R1.

The development extends beyond the site boundary of the dwelling approved under application ref. 4/12/2259/001 and application ref. 4/16/2181/0R1 and extends into the area for which further dwellings have been approved under application ref. 4/12/2259/001 and application ref. 4/18/2075/0R1.

The Applicant and Agent have confirmed that a revision of the layout of the development approved under application ref. 4/12/2259/001 and application ref. 4/18/2075/0R1 is to be submitted that resolves any conflict.

The design of the dwelling proposed exists elsewhere on the wider development.

The proposed external finishes are appropriate to the dwelling and are consistent with the previously approved and developed dwellings on the wider site.

*Highways Impacts*



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The layout and access to this element of the development has been established under application ref. 4/16/2181/0R1 and application ref. 4/18/2075/0R1.

No material revisions are proposed to the access approved under application ref. 4/16/2181/0R1 and application ref. 4/18/2075/0R1.

Off highway vehicle parking for 3+no. vehicles is proposed.

### *Drainage*

It is proposed to dispose of foul water to the public main and surface water to watercourse.

This is consistent with the means of drainage approved under application ref. 4/16/2181/0R1.

### *Residential Amenity*

The development achieves the interface separation distances required by Policy DM12 of the CS.

Given the scale, form and layout of the development no adverse impacts upon existing or approved dwellings (that could be implemented under application ref. 4/18/2075/0R1 without conflict) would result through loss of light, overshadowing or overbearing.

A planning condition is proposed in relation to construction working hours to prevent unacceptable impacts upon nearby occupied dwellings during the construction works.

### *PRoW*

A PRoW previously routed through the Application Site.

The PRoW has been the subject of a diversion order and now routes to the northeast of the Application Site.

The development will not result in materially greater impacts on the setting or users of the PRoW than the development approved under application ref. 4/16/2181/0R1 and application ref. 4/18/2075/0R1.

### *Ecology*

The Application Site is of limited ecological interest.

In the context of the existing planning permission for the erection of a dwelling as approved under application ref. 4/12/2259/0O1 and application ref. 4/16/2181/0R1, the requirement to achieve biodiversity net gain is not required/justifiable.

### *Ground Conditions*

The Geo-environmental Assessments submitted in support of application ref. 4/12/2259/001 identifies: the potential for ground gas and that a ground gas risk assessment should be completed to identify the requirement for mitigation/remediation; the potential for ground contamination and the requirement for assessment on removal of the slag banks; the unknown condition of two mineshafts; and, the requirement for approval of any importing or soils to or from the site and definition of the slag bank material as waste.

Planning Condition 4 of application ref. 4/12/2259/001 secured provisions in relation to unexpected contamination identified during construction.

Condition 5 of application ref. 4/12/2259/001 required that the developer undertake gas monitoring and further investigation works in relation to the known mine entries.

Planning Condition 5 was approved via the submission of information. One mine entry was outside of the Application Site and identified a suitable no build area and specified that the other mine entry would be treated to an appropriate specification. Ground gas testing identifies the requirement for gas protection measures to be applied in the form of a membrane and ventilated subfloor.

The slag material was the subject of testing and concluded that a quality control system should be put in place that will enable the material to be used safely and in appropriate applications i.e. not in environmentally sensitive areas.

The mine features are not location on or adjacent to the current Application Site.

The Applicant has confirmed the following:

- the slag bank was fully remediated and re-cycled by 2017.
- The mine shaft was capped in 2015.
- The site was the subject of a secondary gas testing regime in 2015 which concluded that no ground gas protection was required; therefore, ground gas barriers have not been installed on the development since 2015, the properties having been inspected and signed off by Building Control.

On the basis of the above, a planning condition to control unexpected contamination identified during construction only is proposed.

### **Planning Balance:**

The Application Site benefits from planning permission for the erection of a dwelling as approved under application ref. 4/12/2259/001 and application ref. 4/16/2181/0R1. The planning permission has been commenced and remains extant.

The principle of residential development is therefore established, with the development





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|    | <p>proposed effectively comprising a substitution of dwelling design on a single plot.</p> <p>The layout this area of the development was established under application ref. 4/16/2181/0R1.</p> <p>The dwelling proposed is acceptable in respect of the design, residential amenity, ground conditions, ecology and highway safety subject to the planning conditions proposed.</p>  |
| 8. | <p><b>Recommendation:</b><br/>Approve (commence within 3 years)</p>   |
| 9. | <p><b>Conditions:</b></p> <p>1. The development hereby permitted shall begin not later than three years from the date of this decision.</p> <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <p>2. The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Application Form<br/>Site Location Plan – DWG No. 06/11/542-100<br/>Phase 6 Site Plan) plots 41-45 &amp; plot 61) – Drawing No. 06/11/542 – 116 b)<br/>Dwelling Type B+ (Handed) – Plans and Elevations – Drawing No. 06/11/542-211<br/>Single Detached Garage – Plan &amp; Elevations – Drawing No. 06/11/542-36 d)</p> <p>Reason</p> <p>For the avoidance of doubt and in the interests of proper planning.</p> <p>3. The dwelling hereby approved shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and brought into use. The vehicular access/turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior written consent of the Local Planning Authority.</p> <p>Reason</p> |

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

**Reason**

To prevent harm to human health and the environment in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

5. No work for the construction of these developments, including demolition, shall take place on the site, except between the hours:  
07:30 - 18.00 Monday to Friday; and  
08.00 - 13.00 on Saturdays.

No work should be carried out on Sundays or officially recognised public holidays.

**Reason**

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

**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:



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[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:** Chris Harrison

**Date :** 09.11.2023

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

**Date :** 13.11.2023

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