



CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2241/0F1
2.	Proposed Development:	VEHICLE ACCESS INSTALLATION ONTO EXISTING DRIVEWAY
3.	Location:	MYRTLE BANK, EGREMONT ROAD, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>Site and Location</p> <p>This application relates to Myrtle Bank, a detached property located on Egremont Road, Whitehaven. The site benefits from an existing driveway to the south of the dwelling and the front garden is elevated above the street-scene and includes a 1-metre-high front wall.</p> <p>The new driveway to the north of the site is bound by a stone wall to the south and a boundary hedge to the north.</p> <p>Proposal</p> <p>Planning Permission is sought for the vehicle access onto an existing driveway to the north of the dwelling.</p> <p>The new access would measure 5.7 metres in width onto a classified road and it includes a reduced fence height of 1 metre adjacent to the driveway.</p>

The concrete driveway proposal also includes an ACO drain adjacent to the pavement to prevent surface water running off onto the highway.

The application is supported by the following:

- Site Location Plan;
- Proposed Layout Plan;
- Proposed Vehicle Access;
- Proposed Cross Section Plan;
- Visibility Splays.

Relevant Planning Application History

There have been no previous planning applications at this property.

Consultation Responses

Whitehaven Town Council

No objections or comments.

Highway Authority and Lead Local Flood Authority

Initial response (20th September 2023):

The proposed access visibility plan showing 60m in both directions measured to the opposite side of the carriageway would not be acceptable to this authority. The required visibility splay we would accept is 43m at the minimum in both directions back by 2.0m and at a height of 1.05m above the carriageway. These splays need to be measured to the nearside kerb. Within the visibility splay or sight line envelope there should be no obstructions to vision such as walls or vegetation etc within the vertical profile. If any obstructions need to be reduced or removed within the visibility splay, it should be within the applicants ownership.

Details of a drainage channel (ACO DRAIN) needs to be installed at the bottom of the driveway to stop surface water runoff onto the highway as the driveway is constructed in non permeable material.

Upon receipt of this plan we will be better placed to make a final decision

Second response (16th October 2023):

As presented the visibility splays cross 3rd party land, unless the applicant can demonstrate there is an agreement with the adjoining land owners to allow the splay to cross their land and remove or lower any obstruction down to 1.05cm to allow uninterrupted visibility for the lifetime of the development then as drawn on plan DWC 004 they are not acceptable.

Unless an agreement can be demonstrated then we would have no alternative but to



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recommend refusal for the following reason.

Final response (23rd January 2024):

Whilst it is contended the new access may provide better visibility than the existing and is therefore safer, it does not meet the criteria in regard to highway safety from a planning perspective.

Our previous comments stipulated that visibility splays of 43m in both directions were required, however the plans as presented showed that the visibility splays passed over 3rd party land in both instances and without an agreement from either party allowing the splays to pass over their land uninterrupted (meaning reduction in height of existing wall and hedges) then we would have no alternative but to recommend refusal.

As presented the latest plan "Myrtle Bank" details 61+m visibility looking north, but it is unclear on the plan if this still passes over 3rd party land, again unless the applicant can demonstrate they have an agreement to allow the splay to pass over the land uninterrupted in perpetuity we recommend refusal as the splay cannot be guaranteed.

The visibility splay looking south is measured to the centre line of the carriageway which is not acceptable unless a physical barrier is in place to prevent overtaking, therefore in reality the visibility splay is shorter than the 37m measured and not the required 43m.

Considering the above, as statutory consultee to the LPA our way forward is quite clear and our comments remain unchanged, we have no alternative but to recommend refusal on the grounds of highway safety.

Refusal:

The Local Planning Authority considers that clear visibility of 43 metres cannot be achieved along the public highway in both directions from a point 2.0 metres from the carriageway edge measured down the centre line of the access driveway and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety.

Public Representation

This application has been advertised by way of neighbour notification letters issued to 5 no. properties – No comments have been received as a result of the consultation.

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

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

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 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



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Policy DS6PU – Design and Development Standards

Policy CO7PU – Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework

Cumbria Development Design Guide

Assessment

The main issues raised by this application are the principle of development, the impact of the development on highway safety, drainage and flood risk, the character and appearance of the development and residential amenity.

Principle of Development

The proposed application relates to a residential dwelling within Whitehaven and it seeks to install a new vehicle access onto a classified road. The driveway has already been installed. Policy DM18 supports extensions and alterations to residential properties 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, DM18 of the Copeland Local Plan and the NPPF guidance subject to site specific considerations as detailed below.

Impact of Development on Highway Safety

Policies ST1 and DM22 seek to ensure development proposals incorporate innovative approaches to manage vehicular access and parking and maintain highway safety.

The Cumbria Development Design Guide also sets out design and highway safety standards. This planning practice guidance is given significant weight in the material planning considerations balance.

Paragraph 115 of the NPPF states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

The site fronts Egremont Road, a 30mph classified road. The application seeks to install a new vehicles access onto an already installed second driveway.

The Highway Authority initially raised concerns regarding the 60m visibility slays on the site plan, measured to the opposite side of the carriageway, which would not be acceptable.

It was advised that the required visibility splay the Highway Authority would accept is a minimum of 43m in both directions measures 2.0m from within the site and at a height of 1.05m above the carriageway. These splays need to be measured to the nearside kerb. Within the visibility splay or sight line envelope there should be no obstructions to vision such as walls or vegetation etc within the vertical profile. If any obstructions need to be reduced or

removed within the visibility splay, it should be within the applicant's ownership.

Amended plans were provided by the agent but the visibility splays shown cross third-party land. The Highway Authority advised that unless the applicant can demonstrate there is an agreement with the adjoining landowners to allow the splay to cross their land and remove or lower any obstruction down to 1.05cm to allow uninterrupted visibility for the lifetime of the development then as drawn on plan DWC 004 they are not acceptable.

The agent has carried out a site visit with the Highway Authority, although no agreement has been demonstrated across the third-party land. In this case, the Highway Authority, as statutory consultee to the Local Planning Authority have indicated that they had no alternative but to recommend refusal on the grounds of highway safety, as the splay cannot be guaranteed.

Overall, despite the proposal creating additional off-street parking for the dwelling, the required 43m visibility splays cannot be achieved within the applicant's ownership. In considering the tests set out in the NPPF, due to the unachievable visibility splays, the development would have an unacceptable impact on highway safety. On this basis, the harm to highway safety does not outweigh the additional parking 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 8 of the NPPF, which seek to maintain highway safety standards.

Drainage and Flood Risk

Policy DM24 seeks to protect developments against flood risk.

The site is located on land located completely within Environment Agency Flood Zone 1.

The Highway Authority requested details of a drainage channel (ACO DRAIN) that would need to be installed at the bottom of the driveway to stop surface water runoff onto the highway as the driveway is constructed in non-permeable material.

A driveway plan was submitted by the agent to include an ACO drain along the edge of the driveway which is to be connected to a soakaway within the front garden.

This proposed drainage proposal is considered to suitably stop surface water runoff onto the highway, in accordance with Policy DM24 of the Copeland Local Plan.

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

Policies ST1 and DM18 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 sets 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.

The application site relates to a residential site with Whitehaven and the driveway is of a suitable scale and design for the proposed use. It is appropriate to its surroundings, and it would not have an adverse effect on the character and appearance of this residential area of



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Whitehaven.

On this basis, the proposal does conflict with Policies ST1, DM18 of the Local Plan, Policy DS6PU of the Emerging Local Plan

Impact of Development on Residential Amenities of Adjoining Properties

Policies ST1 and DM18 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.

No objections have been received as a result of the neighbour consultation and, due to the nature of the development, it is not considered that the driveway and vehicle access will result in significant harm on neighbouring amenity.

On this basis, the proposal does conflict with Policies ST1, DM18 of the Local Plan, Policy DS6PU of the Emerging Local Plan and the NPPF guidance.

Planning Balance and Conclusion

The National Planning Policy Framework seeks to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings, along with promoting sustainable transport and maintaining highway safety.

Policies ST1 and DM18 supports extensions and alterations to residential properties and DM22 seeks to ensure development proposals incorporate innovative approaches to manage vehicular access and parking and maintain highway safety.

The Cumbria Development Design Guide also sets out design and highway safety standards. This planning practice guidance is given significant weight in the material planning considerations balance.

The application relates to a residential site with Whitehaven. The site fronts Egremont Road, a classified road subject to a 30mph restriction. The application seeks to install a new vehicles access onto an already installed second driveway.

The Highway Authority have lodged an objection to the installation of the vehicle access as it would have an unacceptable impact on highway safety. The proposed additional off-street parking benefit is not considered to outweigh the harm to highway safety.

Despite raising no issues relating to drainage, residential amenity and the character of the area, the impact on highway safety is unacceptable and significant weight is given to this in the planning balance.

Paragraph 115 of the NPPF states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety. In this case, the Highway Authority, as statutory consultee to the LPA, have stressed that they have no alternative but to recommend refusal on the grounds of highway safety and in applying the NPPF tests, due to the unachievable visibility splays, the development would have an unacceptable impact on

	<p>highway safety.</p> <p>The proposed vehicle access onto a classified road cannot achieve the clear 43 metres highway visibility along the public highway in both directions from a point 2.0 metres from the carriageway edge measured down the centre line of the access driveway and consequently traffic generated by the proposed development would be likely to create conditions prejudicial 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 and DM22 of the adopted Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 8 of the NPPF, which seek to maintain highway safety standards and therefore the application is recommended for refusal.</p>	
8.	<p>Recommendation: Refuse</p>	
9.	<p>Reason for Refusal:</p> <ol style="list-style-type: none"> 1. The proposed vehicle access onto a classified road cannot achieve the clear 43 metres highway visibility along the public highway in both directions from a point 2.0 metres from the carriageway edge measured down the centre line of the access driveway and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. Therefore, the proposal conflicts with Policies ST1 and DM22 of the Local Plan, Policies DS6PU and CO7PU of the Emerging Local Plan and section 8 of the NPPF, which seek to maintain highway safety standards. <p>Statement</p> <p>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.</p>	
<p>Case Officer: C. Wootton</p>		<p>Date : 12/02/2024</p>
<p>Authorising Officer: N.J. Hayhurst</p>		<p>Date : 14/02/2024</p>
<p>Dedicated responses to:- N/A</p>		