

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2242/0F1
2.	Proposed Development:	EXTENSION OF DOMESTIC CURTILAGE & CHANGES TO GARDEN LEVEL TO DWELLINGS APPROVED UNDER PLANNING APPROVAL 4/17/2431/0F1 (ERECTION OF TWO EXECUTIVE DWELLINGS)
3.	Location:	MILL HILL FARM, CLEATOR MOOR
4.	Parish:	Weddicar
5.	Constraints:	ASC;Adverts - ASC;Adverts Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations & Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>SITE AND LOCATION</p> <p>This application relates to Mill Hill Farm, a pair of executive detached new build dwellings located on the Western edge of Cleator Moor between Whinney Hill and Galemire. They lie in close proximity to the hamlets of Keekle and Summergrove.</p> <p>The land is adjoined immediately to the north by a row of mews houses and three larger dwellings, and to the east by a cluster of other existing residential properties. To the south is a large agricultural building that is within the ownership of the applicant.</p> <p>PROPOSAL</p> <p>The application is part-retrospective. Retrospective Planning Permission is sought for the extension of the garden boundaries and land levels previously approved under application reference 4/17/2431/0F1, and the erection of a close boarded fence around the site.</p>

It is also proposed to provide landscaping/planting to the amenity areas to both the dwellings.

Works to extend the garden boundaries and the erection of the close boarded fence around the perimeter of the site boundary (other than the boundary between Plot 1 and Mill Hill Cottage) have already been carried out. The garden boundaries have been extended by approximately 11 metres from the widest point at the north of Plot 1, and approximately 6 metres from the narrowest point at the south of Plot 2.

The close boarded fence is 1.8 metres in height.

RELEVANT PLANNING APPLICATION HISTORY

4/07/2497/0 REINSTATEMENT AND EXTENSION TO MILL HOUSE, CONVERSION OF MILL BUILDING AND BARNs TO 7 HOLIDAY UNITS AND 1 RESIDENTIAL UNIT AND THE ERECTION OF AN EQUESTRIAN CENTRE

4/17/2431/0F1 - ERECTION OF 2 EXECUTIVE DWELLINGS

4/22/2157/0B1 VARIATION OF CONDITION 2 (TO CHANGE WINDOWS FROM TIMBER FRAMED TO ALUMINIUM) OF PLANNING APPROVAL 4/17/2431/0F1 - ERECTION OF 2 EXECUTIVE DWELLINGS

CONSULTATION RESPONSES

Cleator Moor Town Council

No objections.

Local Highway Authority (LHA)

No objections.

Lead Local Flood Authority (LLFA)

No objections.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 11 no. properties. A re consultation took place as part of the process in determining this application. 2 objections were received in response to the initial consultation and the re consultation which state the following:

Initial responses:

Objection 1

- Work has already been completed. Not for the first time with this development the work has been done before the planning process has been completed i.e. Before approval has been granted. It would appear therefore the Developer can ignore the



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views of those affected and then provide amended plans on a retrospective basis. This is surely not how the planning process should work as this is allowing the Developer to do whatever they want and the council seem quite happy to allow this.

- The garden level was changed in 2021. The fence was erected in the last week of August. The fence that is now in place does not comply with the proposed planning application. The plan clearly specifies that the boundary fence will be of post and rail construction.
- The Council's planning processes have failed to make affected parties able to make their comments /objections after the work has been completed. There seems to be no genuine intent to allow an affected party to have meaningful responses into developments that will impact us.

Objection 2

- Although this application is a "retrospective" application I feel I must comment on the fact that under section 22, the applicant as ticked 'NO' in the box against "is the proposal a Waste Management Development". This was clearly a waste Management Development, as we witnessed/suffered 30 ton tipper lorries, going to and from the development through our hamlets, at a rate of 6 to 8 per hour, 8 hours a day, 5 days a week, for a good number of months, meaning thousands upon thousands of tonnes, of inert landfill/waste has been brought to the site and recycled.
- The landscape has been totally changed, merely to extend an already large garden, or was it just to recycle waste?
- The applicant has also ticked in section 12 "Assessment of Flood Risk" that the development is not within a flood zone or within 20 metres of a water course, river or beck. The proposal is right beside the river Keekle, and is close to, if not within a Flood zone, this needs to be assessed thoroughly by a site visit.
- Section 5, Pre-application advice, was only a virtual meeting, the extent of the level changes, and the amount of material needed to be brought to site, to achieve these level changes should not be acceptable for the purpose of Landscaping. I believe in this instance; it should have required a site visit.
- The application does not mention a retaining wall!! Due to the amount of waste recycled, and the level changes involved, what will prevent the gardens land sliding into the River Keekle, or onto the nearby flood zones in the future, without a retaining wall.

Responses Received Following Re-consultation:

Objection 1

The ground level was raised during construction of Plot 1 of the development in 2021.

- The proposed fence was erected during the last week of August 2023 prior to the receipt of the above planning application dated 7th September 2023. In principle we had no issue with the details of the proposed post and rail boundary fence as shown in the same application or the extension of the extended garden boundaries, indeed at this point we had verbally agreed with the developer that there would be no fence between Mill Hill Cottage and Plot 1 of the development.
- As the work had already been completed this cannot be classed as a revision but surely has to be a retrospective planning application.
- Lodge an objection with regard to the fence detailed in that plan in terms of type and height. We would point out that we had already spoken with the Developer in August, and he agreed not to put a fence between his development and Mill Hill Cottage as we already have an identifiable boundary between the two properties: A low sandstone wall with dwarf hedge. Our reason for this was following construction of Plot 1 of the development had had a detrimental impact on restricting the daylight within our property and the vista at the rear of our property.
- The latest planning proposal would see a 1.8 metre fence being placed on ground that has already been raised by 0.9 meters above our adjoining land, meaning that from our property we would have a 2.7 metre fence and the incumbent loss of amenity with reduced daylight and diminished vistas at the rear of our property and although we have confidence Mr Mossop will keep to agreement regarding the boundary between our property and Plot 1 we would want to ensure that any fence erected now or in the future would not exceed 1 metre. We would ask for Cumberland Council Planning to ensure this stipulation is included as a planning approval requirement not only for this application but any future applications on this site.

Objection 2

- In the application form at Section 22, Industrial Commercial Processes and Machinery, it is asked "Is the proposal a waste management development". The applicant has ticked NO and has not declared that this site turned from a small redundant farm, into a large-scale industrial recycling plant, importing thousands of tons of waste from miles away, using 30-ton tipper trucks (day in day out for months) to achieve the change in levels of the garden. This impacted on the locals, local traffic and the environment, due to noise and a air pollution. No calculations are given in the application on the amount of waste needed to raise the levels, or how it was to be achieved.



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- The raising of the garden impacts on existing biodiversity, due to the amount of waste/rubble/soil imported to raise the levels of the garden, which equates to thousands of tons, changing the natural landscape, in an area of outstanding natural beauty, for the purpose of extending an already large garden.
- The 6ft solid wooden fence is not in keeping with the local rural area, nor indeed is environmentally friendly. It will restrict the natural growth of the hedgerows that are detailed on the plans, it will also restrict the movement of the natural habitat. A simple post and wire fence is more in keeping with existing fencing, within the rural area that this development sits. Other developments in the area ie, Keele Meadows are not allowed fencing or hedges around the front gardens, how does this development differ?
- There are no signs of any planting of the hedgerows, as the grass appears to go up to the fencing, does this indicate that the hedgerows may not be planted. A completion certificate should not be issued until the hedgerows and trees are planted.
- Ironically due to the already substantial level changes, plus a 6ft solid fence, it now obscures views from the very farmhouse, that the land being developed, used to belong too. Even more ironic, the developer states in the design and Access Statement, 2.1 Context "The site occupies an elevated position, and has significant views in all directions" it also mentions "Mill Hill Farm cottages are to the North of the site with a large Agricultural Shed to the South" but does not mention the 18th Century Farm House, that shares the developments boundary, which used to enjoy such views, but are now severely restricted, along with a restriction in daylight.
- With a change in climate, and the wetter conditions we are experiencing, there is no provision in the plans for a retaining wall to prevent future landslides of the extended garden onto the flood zone below.
- The Carbon Footprint of this recent development needs to be calculated, to ensure that the planting of a few trees and hedgerows offsets it.
- As this work is already complete (apart from the trees and hedgerows), I would like to ask the Council how such a large scale operation on this development site has gone unnoticed, and how this is now a retrospective application?

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 EV1 – Flood Risk and Risk Management

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM24 – Development Proposals and Flood Risk

Policy DM26 - Landscaping

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



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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

Policy DS6PU – Design and Development Standards

Policy H14PU – Domestic Extensions and Alterations

Policy DS7PU: Hard and Soft Landscaping

Strategic Policy DS8PU: Reducing Flood Risk

Other Material Planning considerations:

National Planning Policy Framework (NPPF)

ASSESSMENT

The key issues raised by this proposal are the principle of development, its scale and design, the potential impacts on residential amenity, landscaping and flood risk.

Principle of Development

The proposed application relates to a pair of executive detached new build dwellings located on the Western edge of Cleator Moor. The land is adjoined immediately to the north by a row of mews houses and three larger dwellings, and to the east by a cluster of other existing residential properties. To the south is a large agricultural building that is understood to be within the ownership of the applicant.

The application is part-retrospective. Retrospective Planning Permission is sought for the extension of the garden boundaries and changes in land levels previously approved under application reference 4/17/2431/0F1, and the erection of a close boarded fence around the site.

Works to extend the garden boundaries including changes in level and the erection of the close boarded fence around the perimeter of the site boundary (other than the boundary between to Plot 1 and Mill Hill Cottage) have already been carried out. The garden boundaries have been extended by an additional 11 metres from the widest point at the north of Plot 1, and 6 metres from the narrowest point at the south of Plot 2 and the close boarded fence is 1.8 metres in height.

The application also proposes to provide landscaping/planting to the amenity areas to both the dwellings which have yet to take place.

Policy DM18 supports extensions 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, and the extension satisfies Policies ST2, DM18 and the NPPF guidance.

Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design which are appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

The garden boundaries have been extended by an additional 11 metres from the widest point at the north of Plot 1, and 6 metres from the narrowest point at the south of Plot 2 to that which was previously approved under application reference 4/17/2431/0F1. The changes in levels are approximately 0.9 metres.

Whilst the garden boundaries are large overall, the extension of their size is considered to be a relatively modest alteration in relation to the large scale of the dwellings and their curtilage on this site.

Concerns were raised that the original plans proposed a post and rail fence to be erected, however, a close boarded fence had been erected in its place. The close boarded fence along the perimeter of the site is 1.8 metres high. The fence along the boundary adjacent to Plot 1 with the rear of Mill Hill Cottage is yet to be erected, but this is also proposed to be 1.8 metres in height. Following a site visit, amended drawings were sought to reflect the as built boundary treatment, and advice given that the fence should be coated with creosoted to reflect the other fences already existing to the south of the site. This external treatment will reduce the visual impact of the fence within the wider landscape and can be secured by a suitably worded planning condition.

The application also seeks permission for additional planting/landscaping to ensure that the fence is suitably screened. The installation of the planting can also be secured by the use of a Planning Condition and will further protect residential amenity.

On this basis, the close boarded fence is considered to be suitably located within the site and acceptable in terms of its scale and design.

In addition, the choice of materials already used, and those proposed are considered to be suitable for their use and will therefore ensure that the proposed extension is not excessively prominent within the locality. The overall proposal will, therefore, respect the character and appearance of the existing property and the wider residential area subject to compliance with the proposed planning conditions.

On this basis, the proposal is considered to meet Policy DM18 and the NPPF guidance.



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Residential Amenity

Policy ST1, Policy DM18 and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings.

An objection received raised concerns with regards to the height of the fence along the side elevation boundary of Plot 1 with the rear of Mill Hill Cottage due to the land levels already having been raised, and the fact that there had already been an agreement with the developer that there would be no fence between Mill Hill Cottage and Plot 1 of the development. This verbal agreement cannot be considered as part of this application as the application seeks permission for a 1.8 metre fence and will therefore be assessed on that basis and on the merits of the proposal.

Significant consideration was given to the fence on this boundary of the site in relation to both its potential overbearing and overshadowing impacts on the neighbouring properties due to the increase in garden boundaries and the height of the fence due to level changes.

In a second objection in relation to the fence height on this boundary, it was requested that the proposed fence be reduced to 1 metre in height to minimise the potential impact from loss of light and loss of a view. A site visit to assess the impact of the proposed fence on this boundary was carried out, however, it is not considered that an additional 80cm would cause a significant detrimental impact on the amenities of the occupiers of the neighbouring property in relation to loss of light, given the size of the two-storey dwelling that has already been erected on this plot. On this basis the proposed fence is considered to be acceptable at this height in this location.

Photographs provided by the applicant's agent also confirmed that a fence erected of similar construction and height was originally present along this boundary prior to the two new dwellings being constructed. The height of the fence at 1.8 metres can be secured by the use of a Planning Condition to ensure that its height is maintained and will not be increased without prior consent from the Local Planning Authority.

The loss of a view is not considered to be a material planning consideration and so cannot be taken into account in the assessment of this planning application.

The extension of the garden boundaries is not considered to be overbearing on the neighbouring properties given the scale of the dwellings already constructed.

On balance, it is considered that the proposal will not have a significant detrimental impact on the immediate residential amenity and therefore it is considered to meet Policy DM18 and the NPPF guidance.

Flood Risk

Policy ENV 1 sets out an approach to ensure that development is not prejudiced by flood risk and that any risk is managed appropriately. Paragraph 103 of the NPPF sets out that when

determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

An objection was received which stated that the information provided on the application form was incorrect as the application is within a flood zone or within 20 metres of a water course, river or beck, and, due to the amount of waste recycled, and the level changes involved, raised concerns with any potential land sliding into the River Keekle, or onto the nearby flood zones in the future, without the provision of a suitable retaining wall.

The Environment Agency flood zone map shows the application site to be within Flood Zone 1, where the annual probability of surface water flooding is less than 0.1%. Whilst the fill on site does change the gradient of the bank which extends slightly into the flat ground, consultation with the Local Lead Flood Authority (LLFA) raised no objections to the application as it is considered that it will not increase the flood risk on the site or elsewhere.

In addition, land stability and any retaining wall installation would be subject to Building Regulations Approval which is separate to Planning Approval. Any contamination to the river Keekle as a result of the development would fall under the remit of the Environment Agency.

On balance, the development is therefore considered to comply with Policy ENV 1 and Paragraph 103 of the NPPF.

Landscape and Visual Impact

Policy ENV5 and DM26 relates to the protection and enhancement of the Borough's landscapes.

An objection was received which states that the extent of the level changes, and the amount of material needed to be brought to site to achieve these level changes should not be acceptable for the purpose of Landscaping, and that this was clearly a waste management development with thousands upon thousands of tonnes of inert landfill/waste having been brought to the site and recycled.

This issue was previously dealt with as a Planning Enforcement Complaint before the submission of this planning application by the Waste and Minerals Planning Team. The investigation that took place resulted in negotiations with the applicant and the removal of the waste material that had previously been brought to the site. Confirmation has subsequently been received from the Waste and Minerals Planning Team that the works that were undertaken to remove the material and the site has resulted in the land essentially being returned to correspond to the previous contours. On this basis, it is considered that the issue with material brought to site has already been resolved and does not impact on the current application. The only issue with waste material that has been considered as part of this application is the slight increase in levels within the extended garden area which amounts to a height of 0.9 metres.

A further objection raised concerns that the 1.8 metre solid wooden fence is not in keeping



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with the local rural area, nor is it environmentally friendly and will restrict the natural growth of the hedgerows that are detailed on the plans and the movement of the natural habitat. The objector raised concerns that there are no signs of any planting of the hedgerows, as the grass appears to go up to the fencing which seems to indicate that the hedgerows may not be planted.

The submitted landscaping and planting details have been designed to screen the boundary fence and soften the impact of the two dwellings. The use of two planning conditions will ensure that the fence is coated with creosoted in order repeat the finish that has been applied to the existing gate and fencing to the south of the site. An additional planning condition is proposed to ensure that the native hedge and subsequent proposed planting is installed as per the approved details within a specific time period.

On the basis of the above it is considered that, subject to compliance with the conditions stipulated, the visual impact of the development within the local landscape will be minimised and the development is acceptable.

Other issues raised by objectors

An objection was raised which raises the question as to why the applicant can carry out works before permission has been granted. Anyone is entitled to apply retrospectively for works carried out without the benefit of Planning Permission, however this is done entirely at the applicant's own risk and cost. There is no guarantee that any subsequent retrospective application will be approved. It falls to be determined on its merits.

The same objector also raised the question as to how such a large-scale operation on this development site has gone unnoticed, and how this is now a retrospective application. This issue has already been addressed in previous correspondence with the objector.

Planning Balance and Conclusion

The application seeks retrospective Planning Permission for the extension of the garden boundaries associated with two large dwellings and an increase in the land levels of approximately 0.9 metres and the erection of a 1.8 metre close boarded fence and additional planting and landscaping around the site.

The extension of the garden boundaries is considered to be relatively minor given the overall size of the dwellings and their curtilage.

The erection of a 1.8 metre close boarded fence is considered to be suitably located within the site and acceptable in terms of its scale and design and would not have a significant impact on the amenities of the occupiers of the adjoining residential properties. .

The imposition of 3 planning conditions ensure that the fence is screened by a native hedge and subsequent planting as per the proposed drawings, that the fence is finished with creosote to provide a muted colour to reflect the other fences already present on this site, and that the height of the fence is maintained at 1.8 metres unless prior consent is given by

	<p>the Local Planning Authority in order to further protect residential amenity.</p> <p>Taking into account the siting and orientation of the 1.8 metre fence and the garden extensions, along with the proposed planting and the planning conditions proposed development is not considered to have a significant detrimental impact on the amenities of the neighbouring properties or the appearance of the wider locality.</p> <p>On balance, the application is considered to be acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.</p>
8.	<p>Recommendation:</p> <p>Approve subject to conditions</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. 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: - <ul style="list-style-type: none"> - Application Form, received 23rd August 2023; - Design & Access Statement, received 23rd August 2023; - Section A-A, drawing number 16057-202, scale 1:200, received 23rd August 2023; - Location Plan, drawing number 16057-202, scale 1:1250, received 23rd August 2023; - Existing and Proposed Block Plan, drawing number 16057-202, scale 1:500, received 23rd August 2023; - Revised Garden Boundaries (amended), drawing number 16057-201, scale 1:200, received 20th October 2023. <p>Reason</p> <p>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.</p> 2. The boundary fence with Mill Hill Cottage shall be installed and maintained at a height not exceeding 1.8 metres in accordance with details submitted to and approved in writing by the Local Planning Authority and shall not be raised to a height exceeding 1.8 metres thereafter. <p>Reason</p> <p>To protect residential amenity in accordance with Policy DM18 of the Copeland Local</p>



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Plan.

3. The boundary fence hereby permitted shall be painted or stained in a colour to be agreed in writing with the Local Planning Authority within two months of this permission and shall be so maintained in accordance with the approved details thereafter.

Reason

To ensure a satisfactory finish in the interests of visual amenity.

4. The proposed landscaping and planting must be carried in accordance with the approved document 'Revised Garden Boundaries (amended)', drawing number 16057-201, scale 1:200, received by the Local Planning Authority on the 20th October 2023 and shall be installed within the next available planting season. The development must be retained in accordance with this approved detail at all times thereafter unless agreed in writing with the Local Planning Authority.

Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that Order with or without modification) no external alterations including any building, enclosure (fence/gate/wall), extension, domestic fuel container, pool or hardstanding be constructed within the curtilage without the prior written consent of the Local Planning Authority.

Reason

To safeguard the appearance of the site in the interests of visual amenity.

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

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: Demi Crawford

Date : 23/11/2023

Authorising Officer: N.J. Hayhurst

Date : 24/11/2023

Dedicated responses to:-