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**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/23/2243/0F1
2.	<b>Proposed Development:</b>	CHANGE OF USE FROM DWELLING TO AIRBNB HOUSE; PROPOSED FIRST FLOOR EXTENSION TO REAR TO PROVIDE NEW BEDROOM AND ENSUITE; NEW STAIRCASE TO LOFT BEDROOM
3.	<b>Location:</b>	7 HILTON TERRACE, 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
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>	<p><b>SITE AND LOCATION</b></p> <p>This application relates to 7 Hilton Terrace, a mid-terraced property within Whitehaven. The site benefits from a garden to the rear and it falls within Whitehaven Conservation Area.</p> <p><b>PROPOSAL</b></p> <p>Planning Permission is sought for the change of use from the dwelling to an Airbnb</p>

house/holiday-let (sui generis) and the erection of a first-floor extension to the rear to provide a new bedroom and en-suite.

The property will benefit from 4 bedrooms with 2 bathrooms and an open-plan kitchen-dining-living room. It also benefits from a garden to the rear, spread across several levels.

The proposed extension will project 4.4 metres from the rear elevation at first floor level, above the existing ground floor kitchen. It has been designed to include a pitched roof with an eaves height to match the existing property and an overall height of 5.8 metres. It will also include a Juliet balcony on the rear elevation with the side elevations will be blank.

The application is supported by the following:

- Site Location Plan;
- Block Plan;
- Existing and Proposed Floor Plans and Elevations;
- Building and Garden Sections;
- Design and Access Statement;
- Noise Management Plan.

### **RELEVANT PLANNING APPLICATION HISTORY**

There have been no previous planning applications at this property.

### **CONSULTATION RESPONSES**

#### Whitehaven Town Council

Initial consultation:

No objections.

Second consultation:

No comments received.

#### Highway Authority and Lead Local Flood Authority

Initial consultation:

Cumberland Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have no objection to the proposed development as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.



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It is noted that there is no onsite parking provision for this building currently, a point your Authority may wish to consider when determining this application, however this has always been the case and given its current usage this proposal is unlikely to adversely impact on the on-street parking situation overall. Please do note that residential/on-street parking permits are no longer issued to new developments and therefore the guests will be responsible for their own parking.

Informative's: The LLFA surface water map show flooding close to the site and indicate 1 in 1000 chance of occurring each year.

Second consultation:

Cumberland Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have no objection to the proposed development as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

Recent supporting information submitted by the applicant in December 2023 regarding on street parking, states that visitors will be eligible to receive a parking permit during their stay is incorrect.

Cumberland Council Parking Services Team have confirmed that: To qualify for a residential Parking Permit the property must be the primary residency therefore Airbnb's are not eligible for any type of residential permit.

Therefore our previous reply still applies regarding parking permits, however on street parking is a disc zone between Mon - Sat 0830am-6pm 1 hour Only.

### Conservation and Design Officer

Initial consultation:

No objection.

This is a non-designated heritage asset with a modest level of significance, which is primarily an asset in terms of its group membership. The frontage of this building and its neighbours makes a characterful impression on the street, although character has been eroded by the familiar combination of surfacing loss, plastic fenestration, pebble dashing and satellite dishes.

The change of use is unlikely to have an impact on the character and appearance of the conservation area, except through intangible erosion of the cumulative sense of people calling the place home. While this is nonzero, I can't place a value on it beyond assuming it is small enough to be considered negligible in this case.

The works to the rear aspect of the building will entail harm to the asset itself, and harm to the row as a whole by eroding the characteristic building form of projecting outriggers.

However, this will be essentially concealed from the conservation area.

In summary, I would advise against disrupting the pattern of outriggers to the rear, and instead on fenestrating the building using two-over-two timber sliding sash windows and a timber front door, however that is my recommendation only. I am glad that the proposal includes redecorating the frontage, as it definitely needs it, and would also suggest it may be beneficial to replace the rainwater goods with black cast iron effect ones, and investigate whether the aerials on the roof can be dispensed with.

I would draw attention to our Conservation Area Design Guide, which is accessible from our conservation documents webpage.

Second consultation:

No additional comments to add.

#### Environmental Health

Initial consultation:

The Environmental Health team have no objection to the general principle of the change of use to a short-term holiday let but are not happy with the proposed elevated rear balcony. The terrace is situated on a hill, sloping upwards from both gable to gable / party wall and front to back, with the rear gardens sequentially stepped with the rising contours.

Whilst the far back of the rear gardens forms the highest external point of each property on the terrace, the stepped design of each respective garden does afford some element of privacy.

The elevated design of the prospective rear balcony at number 7, however, would partially but significantly circumvent this stepped arrangement and create an external level off the back of the property that in turn would reduce privacy of neighbours and would dominate the external viewpoint across the other rear gardens of at least nine other dwellings on the terrace.

This prominent lofted position may also allow for later evening / night disturbance from patrons using the proposed balcony that would unduly affect other residents. The rear bedrooms of other dwellings on the terrace are within earshot of the proposed balcony. This, together with the current quiet, sheltered nature of the rear terrace, is likely to cause noise disturbance to residents and loss of amenity.

An acceptable alternative would be to renovate the rear garden of no.7 on its current levels so that it may both provide an attractive useable external area but one that fitted in with the immediate environment.

Second consultation:

Environmental Health are supportive of the applicant's amendments submitted in December 2023 to this proposal and have no objections to the development on this basis.



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Noise from construction works should be confined to standard construction hours to avoid undue disturbance to neighbours.

Environmental Health are also mindful of the future on-going potential for noise, anti-social behaviour and disturbance to neighbours from unruly behaviour of holiday guests at the property in what is otherwise a residential area, should the development receive approval.

Accordingly, the following conditions are requested to be imposed on any approval to the planning application:

- Noise from Development

All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours: Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00, and at no time on Saturday and Bank Holiday. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above. Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

- Noise Management Plan

No building or use hereby permitted shall be occupied or the use commenced until a Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall include undertakings and procedures for: (i) The name/s of an (on-site) supervisor/s responsible for the behaviour of guests and for liaison with local residents and this Council; (ii) The control and use of outside areas; (iii) The control of noise breakout from within the building; (iv) Access and egress to and from the property by guests including arrangements for vehicle parking; (v) Recording of complaints and response to those complaints; (vi) The annual review of the Noise Management Plan and, if necessary, the submission and approval in writing by the Local Planning Authority of any revised Noise Management Plan; (vii) Any other matters that are reasonably required by the Local Planning Authority. Reason: To safeguard the amenity of nearby residents and the area generally.

Final consultation:

The Noise Management Plan is satisfactory and discharges the condition on the planning application.

### Public Representations

The application has been advertised by way of site notice and neighbour notification letters issued to 2 no. properties.

Five letters of objection were received as part of the initial consultation, which raised the following comments:

- The change of use to Airbnb is inappropriate for the building and the area;
- Reservations with uncertainty surrounding the identity and frequency of guests;

- Noise levels and potential for disruptions from up to 8 guests coming and going from the property at all times of day and night;
- Concerns short-term rentals such as Airbnb may lead to transient occupants with limited accountability;
- On-street parking issues and the prospect of accommodating additional vehicles from a short-term rental, potentially up to four different residents at a time, is impractical and unsustainable;
- Do not agree with the Highway Authorities assessment;
- Impact on neighbouring structural integrity due to the proposed extension;
- Impact on lighting in neighbouring habitable rooms and overshadowing from the extension in neighbouring gardens;
- The balcony elevation at the rear of the property will completely overlook neighbouring properties and gardens, compromising privacy;
- Impact on property value and disrupt quality of life;
- Impact on residential amenity, with excessive noise, dust, vibrations and damage to neighbouring properties;
- Request an open line of communication with affected neighbours regarding the anticipated duration of the works and the proposed schedule would enable neighbours to plan and adapt accordingly;
- Issues with refuse collection, recycling and sea gulls and bird proof bags procedures and concerns if not followed;
- Limited access to the rear of the properties and management of refuse;
- Issues with hygiene and vermin if the refuse process is not completed in a timely manner by the residents;
- Existing issues with vermin infestation;
- Concerns with how safeguarding will be addressed given the close proximity to two schools;
- Concerns with the use of this location for this type of business and the authorities duty of care for its younger residents.;
- There is a mineshaft in the adjacent rear garden so any development of the rear garden in number 7 will need to take this into consideration.

One letter of objection was received as part of the second consultation, which raised the



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following comments:

- Continued objections to the amended planning application;
- Despite slight modifications, the core concerns outlined in my original objection (attached below) remain unaddressed;
- The proposed use of the dwelling as an Airbnb remains a significant point of contention;
- The potential implications of temporary occupants in the neighbourhood;
- Concerns with the first-floor extension causing overlooking and obstructing light;
- The challenges with on-street parking;
- Disruption on the community and individual residents, which includes young families and elderly residents in close proximity to a school and impact on residential amenity;
- Impact on property values within the vicinity;
- Request clarification on the planning process and impact on neighbouring properties during the construction or subsequent occupation of the amended property.

### **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 ER10 – Renaissance through Tourism

Policy ENV4 – Heritage Assets

Development Management Policies (DMP)

Policy DM9 – Visitor Accommodation

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

Policy DM27 – Built Heritage and Archaeology

**Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

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

Conservation Area Design Guide

**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.

The following policies are relevant to this proposal:

Strategic Policy DS1PU - Presumption in favour of Sustainable Development

Strategic Policy DS3PU - Settlement Hierarchy

Strategic Policy DS4PU - Settlement Boundaries

Policy DS6PU - Design and Development Standards





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Strategic Policy T1PU - Tourism Development

Strategic Policy BE1PU - Heritage Assets

Policy BE2PU - Designated Heritage Assets

Policy BE4PU - Non-Designated Heritage Assets

### **ASSESSMENT**

The key issues raised by this proposal are the principle of development, the potential impacts on residential amenity, its scale, design and potential impact on the conservation area and highways safety.

#### Principle of Development

This application relates to a proposed holiday-let within the centre of Whitehaven. Whitehaven is the Principal Town where expansion of tourism is supported.

Policies ER10 and DM9 of the Copeland Local Plan seek to encourage holiday accommodation within sustainable locations within the Borough and subject to policies protecting the environment and neighbouring amenity. Policy T1PU from the Emerging Local Plan also supports tourism development in line with the settlement hierarchy.

On this basis, the principle of development is therefore considered to be acceptable, and the extension satisfies Policies ST2, ER10 and DM9 of the Local Plan and the NPPF guidance.

#### Residential Amenity

Policy ST1, Policy DM10 and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings.

Significant concerns were received regarding the proposed change of use of the dwelling to a holiday-let and the first-floor rear extension. Amended extension plans were therefore received with the balcony removed and additional details were provided regarding the proposed holiday-let use.

Several site visits were undertaken to assess the proposal and, on balance, the proposed first-floor projection is considered to be acceptable. Due to the orientation of the extension in relation to the existing terraced row, the extension is unlikely to cause unacceptable overshadowing and dominance. The amendment to the scheme to remove the balcony has addressed Environmental Health's initial concerns and therefore it is considered that the extension will not cause unacceptable overlooking issues.

Concerns regarding the potential noise and disruption with the proposed use were received. The application is supported by a Design and Access Statement setting out that the property will be rented out as one dwelling and a Noise Management Plan has been provided to secure suitable mitigation and monitoring measures. Environmental Health confirmed that

they were satisfied with the Noise Management Plan as submitted.

Disruption on the community and individual residents, which includes young families and elderly residents, in close proximity to a school and the impact on residential amenity were raised. The mitigation measures secured as part of the application process are considered to be acceptable to control the proposed use.

Other concerns regarding refuse collection and management of the property were noted and these details have been added to the Design and Access Statement. Issues with vermin would fall to Environmental Health to deal with and the applicant also advised that he plans to re-open the rear access which will improve access to the rear gardens along the terraced row.

Issues relating to safeguarding are not material planning considerations and therefore cannot be taken into account in the application assessment. Whilst any noise disturbance could be followed up with Environmental Health they have suggested timeframe conditions for the work to protect the surrounding residential amenity and minimise disturbance during the construction phase. Any breach of this condition would be a planning enforcement issue.

The terraced property is located on Hilton Terrace within Whitehaven and, given the details set out above, it is not considered that the proposal will significantly harm the amenity of neighbouring properties. A planning condition is proposed to ensure the use and the management of noise operates in accordance with the submitted details.

On balance, the proposal is considered to comply with Policy DM10 and the NPPF guidance.

#### Scale, Design and the Impact on the Conservation Area

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 seek to ensure developments are of an appropriate scale and design which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings. Draft Policy DS6PU also set out Design and Development Standards.

Policy ENV4 and DM27 seek to protect the built heritage and maximise the value. DM27 supports development proposals which protect, conserve and where possible enhance the historic and cultural architectural character of the Borough's historic sites and their settings. Draft Policy BE1PU and BE2PU support the preservation and enhancement of the character and appearance of a Conservation Area.

Draft Policy BE4PU seeks to protect non-designated heritage assets and their setting from harm or loss.

The Listed Building and Conservation Areas Act sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 72 of the LBCA requires that in considering whether to grant planning permission for development which affects a conservation area, the Local Planning Authority shall pay



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“special attention... to the desirability of preserving or enhancing the character of appearance” of the conservation area.

Paragraphs 195 – 214 of the NPPF in respect of heritage include a requirement that when considering the impact of development proposals on designated heritage assets such as a conservation area, great weight should be given to the conservation of the asset’s significance; however, less than significant harm should be weighed against the public benefits of a development.

The application is located within the Whitehaven Conservation Area and the mid-terraced property is a non-designated heritage asset, with a modest level of significance, which is primarily an asset in terms of its group membership. The frontage of this building and its neighbours makes a characterful impression on the street, although character has been eroded by the familiar combination of loss of surfacing, plastic fenestration, pebble dashing and satellite dishes.

The Conservation Officer raised no objections to the proposal as the change of use to a 4-bedroom holiday-let is unlikely to have an impact on the character and appearance of the Conservation Area. Although the proposal is likely to have some impact on the heritage assets, it is considered to be small enough to be considered negligible in this case.

The Conservation Officer also noted that the works to the rear aspect of the building will entail harm to the asset itself, and harm to the row as a whole by eroding the characteristic building form of projecting outriggers. However, the extension will be essentially concealed in views from the Conservation Area and there are similar first-floor projections along the terraced row. The extension will therefore be in-keeping with the character of the terraced row.

Significant concerns were originally raised with the proposed first-floor balcony and therefore amended plans were received to remove this element of the proposal. Following discussions with the agent, the pitched roof design was considered to be the most acceptable option for the Conservation Area and it will reflect similar extensions along the terraced row.

On this basis, the proposal is considered to comply with Policies DM10, DM27 and the NPPF guidance.

### Highway Safety

Policy DM22 requires development proposals to be accessible to all users; respond positively to existing movement patterns in the area; and incorporate parking provision to meet adopted car parking standards.

Concerns regarding on-street parking were received as part of the public consultation. The Highway Authority were consulted as the statutory consultee, and it was noted that there is currently no onsite parking provision for this building. However, this has always been the case and given its current usage as a three-bedroom dwelling, this proposal is unlikely to adversely impact on the on-street parking situation overall.

	<p>It was also noted that residential/on-street parking permits are no longer issued to new developments and therefore the guests will be responsible for their own parking. However, the on-street parking is a disc zone restricted between Mon - Sat 0830am-6pm to 1 hour Only.</p> <p>Despite public comments, the Highway Authority raised no objections as it is considered that the change of use will not have a material effect on existing highway conditions. The application site also lies within close proximity to the town centre boundary and benefits from good public transport within vicinity and therefore it is considered to be accessible.</p> <p>On balance, given the existing use, the proposed change of use and extension are considered to satisfy Policy DM22 and the Cumbria Development Design Guide.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This application relates to a proposed holiday-let within Whitehaven. Whitehaven is the Principal Town where expansion of tourism is supported and therefore the location is suitable. Despite concerns from the public consultation, the location within Whitehaven is considered to be a sustainable location.</p> <p>The proposed scale of the rear extension and the 4-bedroom holiday-let use are considered to be appropriate. The application is supported by a Design and Access Statement and a Noise Management Plan, and the submitted operation details can be secured by the use of a planning condition.</p> <p>No objections have been received from the Highway Authority, the Conservation Officer and the Environmental Health Officer relating to the amended plans and updated information. On this basis, the proposal is considered to be acceptable.</p> <p>Concerns regarding property value and structural integrity are not material planning considerations and therefore cannot be taken into account in the application assessment. However, the extension works would be subject to Building Regulations so this should provide residents with reassurance regarding the building works.</p> <p>Any noise disturbance during the construction period could be followed up with Environmental Health and the Planning Enforcement Officer.</p> <p>In addition, given public concerns, an informative note is attached with standing advice for the coal advice area.</p> <p>On balance, this is considered to be an 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><b>Recommendation:</b> Approve (commence within 3 years)</p>



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9. **Conditions:**

1. The development hereby permitted must commence 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. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: -

Application Form, received 1<sup>st</sup> September 2023;

Site Location Plan, scale 1:1250, drawing no. 448 01001-01, received 1<sup>st</sup> September 2023;

Block Plan, scale 1:200, drawing no. 448 01002-01, received 1<sup>st</sup> September 2023;

Existing Floor Plans, scale 1:50, drawing no. 448 01003-01, received 1<sup>st</sup> September 2023;

Existing Elevations, scale 1:50, drawing no. 448 02001-01, received 1<sup>st</sup> September 2023;

Proposed Ground and Firsts Floor Plans, scale 1:50, drawing no. 448 04001-01, received 1<sup>st</sup> September 2023;

Proposed Loft Plan and Section, scale 1:50, drawing no. 448 04002-01, received 1<sup>st</sup> September 2023;

Proposed Elevations, scale 1:50, drawing no. 448 05001-03, received 7<sup>th</sup> December 2023;

Proposed Section, scale 1:50, drawing no. 448 06001 01, received 1<sup>st</sup> September 2023;

Design and Access Statement, received 7<sup>th</sup> December 2023;

Noise Management Plan, received 19<sup>th</sup> January 2024.

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. All works and ancillary operations which are audible at the site boundary shall be

carried out only between the following hours:

Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00, and at no time on Saturday and Bank Holiday. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

**Reason**

In the interests of the amenities of surrounding occupiers during the construction of the development.

4. Prior to the first use of the property hereby permitted the noise mitigation measures shall be installed as set out in the approved 'Noise Management Plan' received by the Local Planning Authority on 19<sup>th</sup> January 2024. Once installed these measures shall be retained and the development shall be operated in accordance with the approved Noise Management Plan at all times thereafter.

**Reason**

To safeguard the amenity of nearby residents and the area generally in accordance with Policy DM10 of the Copeland Local Plan.

5. The holiday let use hereby permitted must operate in accordance with the details set out in the 'Design and Access Statement' received by the Local Planning Authority on 7<sup>th</sup> December 2023 and be maintained thereafter.

**Reason**

To safeguard neighbouring amenity in accordance with Policy DM10 of the Copeland Local Plan.

**Informative Note**

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.



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Further information is also available on the Coal Authority website at:

[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: C. Wootton**

**Date : 23/01/2024**

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

**Date : 29/01/2024**

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