

**CUMBERLAND COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/23/2252/0F1
2.	Proposed Development:	DECKING AREA IN REAR GARDEN
3.	Location:	8 BRYER CLOSE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone 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 8 Bryer Close, a detached dwelling situated on an existing modern housing estate at Edgehill Park within Whitehaven. The site benefits from a large, sloped garden to the rear.</p> <p>PROPOSAL</p> <p>Retrospective Planning Permission is sought for the retention of a raised decking area that has been installed within the rear garden. The decking projects 4.9 metres in width from the boundary fence with number 7 Bryer close and has an overall length of 10.53 metres.</p> <p>The decking has been designed to offset the steep sloped garden by stepping down the</p>

slope. It has a maximum height of 0.63 metres from the highest point.

The decking is constructed of light grey composite decking with an anthracite grey composite border.

RELEVANT PLANNING APPLICATION HISTORY

The application site relates to a wider Story Homes residential development at Edgehill Park that has been subject to a number of planning applications over last few years.

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 2 no. properties. No objections have been received as a result of this consultation.

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 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



Cumberland Council

Policy ST2 – Spatial Development Strategy

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

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

Policy DS6PU – Design and Development Standards

Policy H14PU – Domestic Extensions and Alterations

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 and the potential impacts on residential amenity.

Principle of Development

The proposed application relates to a residential dwelling on an existing housing estate within Whitehaven and it will provide a raised decking area in the rear garden. 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 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 is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings. The main issues raised by the application is the scale and design of the structure and its location adjacent to the neighbouring boundary fence.

Whilst the decking area is located adjacent to the boundary fence with 7 Bryer Close, the proposal is considered to be acceptable in terms of its scale and design in relation to the modest size rear garden. Following a site visit, it was considered that the decking is appropriately located within the rear garden, and it would be unreasonable to ask the applicant to re-configure the design to increase the separation distance with regards to the boundary fence.

Despite the structure being relatively large overall, the height of the decking has resulted from the sloped garden levels existing on site as a result of the Edgehill Park development. On this basis, given the existing character of this elevated and sloping site, the proposal is considered to be acceptable in terms of its scale and design.

In addition, the materials are considered to be suitable for its use and respect the character of the residential garden and the wider housing estate.

On this basis, the raised platform is considered to meet Policies DM10 and DM18(A) from the Local plan and NPPF guidance.

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. Overlooking issues were considered as part of this proposal due to the large area of the decking and its height in relation to it's the location next to the neighbouring properties boundary.

The decking area is positioned adjacent to the existing boundary fence with number 7 Bryer Close. Due to the orientation of the dwellings and the layout o the garden on these plots, in conjunction with a sloped site, only the first 4.88 metre length of the structure would potentially impact the neighbouring property at 7 Bryer Close when the decking is in use. The remainder of the decking area projects downwards past the rear boundary of 7 Bryer Close, and a solid fence runs along the boundary to screen the development. On this basis the proposal is therefore not considered to cause an unacceptable impact in terms of overlooking



Cumberland Council

	<p>or overdominance. In addition, no objections were received as a result of the neighbour consultation.</p> <p>On balance, given the existing sloping site, it is considered that the proposal will not cause a detrimental loss of amenity to the existing property or the neighbouring properties. Despite a small element of overlooking, the inclusion of the current solid boundary fence is considered to provide suitable mitigation. A planning condition is proposed to ensure that the current 2 metre fence height is maintained to protect residential amenity further in lieu of any potential issues arising.</p> <p>On this basis the proposal is considered to comply with Policy DM18 and the NPPF guidance.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This application seeks retrospective planning permission for the retention of a raised decking area which has been installed within the rear garden. The main issues raised by the application were the siting of the decking area adjacent to the neighbouring boundary and the potential overlooking from the decking.</p> <p>The proposal is considered to be acceptable in terms of scale and design and the impact upon neighbouring amenity is not considered to be unacceptable.</p> <p>On balance, subject to the imposition of the planning conditions proposed, the application 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>Recommendation:</p> <p>Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none">1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p> <ol style="list-style-type: none">2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

- Application form, received 7th September 2023;
- Site Location Plan, scale 1:1250, received 7th September 2023;,,
- Site Layout Plan, scale 1:500, received 7th September 2023;
- Elevation Drawing, drawing reference 8BC/1, received 7th September 2023;
- Ariel View Drawing, drawing reference 8BC/2, received 7th September 2023;
- Rear Deck Drawing 1 of 2, scale 1:50, received 7th September 2023;
- Rear Deck Drawing 2 of 2, scale 1:50, received 7th September 2023;

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The current solid boundary fence with no. 7 Bryer Close must be maintained at its current height and retained in perpetuity thereafter.

Reason

To protect residential amenity in accordance with Policy DM18 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. 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.



**Cumberland
Council**

Case Officer: Demi Crawford	Date : 06/11/2023
Authorising Officer: N.J. Hayhurst	Date : 07/11/2023
Dedicated responses to:- N/A	