

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2328/0B1
2.	Proposed Development:	VARIATION OF CONDITION 2 (LANDSCAPING AND RETAINED TREES) OF PLANNING PERMISSION REF. 4/21/2464/0F1 (VARIATION OF CONDITION 2 (PLANS) OF PLANNING APPROVAL 4/20/2066/0R1)
3.	Location:	PLOT 7, WEST END, RHEDA PARK, FRIZINGTON
4.	Parish:	Arlecdon and Frizington
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See report.
7.	Report: Site and Location: The Application Site comprises the land known as Plot 7, West End, Rheda Park, Frizington. Planning Application History: Outline Planning Permission for residential development - Application ref. 4/16/2393/0O1 – Approved. Reserved Matters Plots 5, 7 and 9 - Application ref. 4/20/2066/0R1 – Approved. Variation of design of the dwelling approved under application ref. 4/20/2066/0R1 - Application ref. 4/21/2464/0F1 – Approved. Proposal:	

This application seeks a variation of the development approved under planning application ref. 4/21/2464/0F1.

No changes are proposed to the design of the dwelling approved under planning application ref. 4/21/2464/0F1.

The proposed development includes the removal of trees the subject of a Tree Preservation Order and the planting of replacement trees.

Consultee:	Nature of Response:
Parish Council	No response received.
Arb. Consultant	<p>DISCUSSION</p> <p>Following our site visit, we have the following comment/observation to make on the proposed development.</p> <p>The applicant has submitted a Memorandum tree report (dated 07/11/2023), which recommends the removal of seven trees – 1.20, 1.26, 2.13, 2.18, 999.03, 999.04 & 999.05. Four of these trees (1.20, 1.26, 2.13 & 2.18) were included in the original tree report, and the other three trees (999.03, 999.04 & 999.05) are smaller and less significant in the landscape.</p> <p>The Memorandum also contains a proposed tree planting plan.</p> <p>On balance, we consider the removal of these trees will not significantly impact the visual amenity of the area.</p> <p>During our site visit, we noticed the necessary tree protection measures have not been erected around the retained trees, as recommended in the Tree Protection Plan submitted with the original planning application.</p> <p>RECOMMENDATIONS</p> <p>We recommend attaching the following conditions to any planning permission:</p> <ul style="list-style-type: none">• Carry out the work recommendations in the Memorandum tree report (dated 07/11/2023). Implement in full the tree protection measures in the Tree Protection Plan submitted with the original planning application. Erect the necessary tree protection barriers prior to any further construction work on-site and maintain them for the duration of the



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		construction operations. Any amendments to the Memorandum tree report or tree protection measures must be submitted to the Local Planning Authority and approved in writing.
	Cumberland Council – Highways and LLFA	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.
	United Utilities	No response received.
Neighbour Responses:		
<p>The application has been advertised by way of an application site notice and neighbour notification letters.</p> <p>Representations in objection have been received from two parties:</p> <p>1:</p> <ul style="list-style-type: none"> Traditionally Rheda Park has been characterised by its woodland nature – in particular the large scotch pine trees. This feature has attracted many residents to choose to buy or build properties on the estate. Significant felling of trees of all nature has already taken place as part of the clearance for the West End development to the point that the original characteristics of the estate are slowly being eroded. I did not object to the original outline planning applications as my understanding was that a significant number of trees would be retained as outlined in these proposals. This new application now seems to suggest a wholesale deviation from these plans. I cannot comment on the individual tree survey details as I am not qualified in these matters. The current layout of the remaining tress (as per the image attached) suggests they are healthy and in a formation that provides a natural barrier to the Rheda Park boundary. The trees are in a relatively dense formation which seems to be providing some mutual protection against the recent strong winds we have experienced since the most recent fellings on Plot 7/8 in the spring of 2023. In addition, Tree Ref 2.18 now provides the last natural barrier between the new development and the existing developments along the north side of Rheda Park. My concerns are that if further trees are removed from the current formation this will expose the remaining trees to the point they will also eventually succumb to the winter elements. There seems to be concerns that the trees may now pose a hazard to the new property on Plot 7. I would question why the property was built in its current location with full knowledge of its proximity to trees covered by a preservation order? 		

2:

- The removal of 8 trees seems quite a substantial amount considering I struggled obtain permission for 3.
- My concerns are where these trees will be felled and will they fall onto my land?
- If you approve this application, if possible, could you please ensure there something in to say that trees are not to be felled over neighbouring properties please. If I had a fully installed boundary fence and a house built, they'd have to pay the price and have them size reduced from the top down. before felling onto their own land. This is no different.

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 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 (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST4 – Providing Infrastructure

Policy ER7 – Principal Town Centres, Local Centres and other service areas: Roles and Functions

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy T1 – Improving Accessibility and Transport



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Policy ENV1 – Flood Risk and Risk Management
Policy ENV3 – Biodiversity and Geodiversity
Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

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

Copeland Local Plan 2001-2016 (LP):

Policy TSP8 – Parking Requirements

Emerging Copeland Local Plan (ELP):

Cumberland Council are continuing the preparation and progression to adoption of the ELP.

The Local Plan Examination Hearing Sessions were completed in March 2023.

The appointed Planning Inspector issued their post hearing letter in June 2023, which identified the next steps for the examination.

The appointed Planning Inspector has now considered all representations and the discussions that took place during the Local Plan Examination Hearing Sessions in 2023 and has identified a number of amendments or 'modifications' that are required in order to ensure the ELP is sound i.e. positively prepared, justified, effective and consistent with national planning policy.

A six week public consultation seeking views on the proposed modifications to the ELP commenced on Wednesday 14th February 2024 and closed on the 28th March 2024. The Planning Inspectors Report is 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 advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Now that the

consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.

Policy DS1PU - Presumption in favour of Sustainable Development
Policy DS2PU - Reducing the impacts of development on Climate Change
Policy DS3PU - Settlement Hierarchy
Policy DS4PU - Settlement Boundaries
Policy DS5PU - Planning Obligations
Policy DS6PU - Design and Development Standards
Policy DS7PU - Hard and Soft Landscaping
Policy DS8PU - Reducing Flood Risk
Policy DS9PU - Sustainable Drainage
Policy DS10PU - Soils, Contamination and Land Stability
Policy DS11PU - Protecting Air Quality
Policy H1PU - Improving the Housing Offer
Policy H2PU - Housing Requirement
Policy H3PU - Housing delivery
Policy H4PU - Distribution of Housing
Policy H5PU - Housing Allocations
Policy H6PU - New Housing Development
Policy H7PU - Housing Density and Mix
Policy H8PU - Affordable Housing
Policy SC1PU - Health and Wellbeing
Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic
Policy N2PU - Local Nature Recovery Networks Strategic
Policy N3PU - Biodiversity Net Gain
Policy N5PU - Protection of Water Resources
Policy N6PU - Landscape Protection
Policy N9PU - Green Infrastructure
Policy N10PU - Green Wedges
Policy N11PU - Protected Green Spaces
Policy N12PU - Local Green Spaces
Policy N13PU - Woodlands, Trees and Hedgerows
Policy CO4PU - Sustainable Travel
Policy CO5PU - Transport Hierarchy
Policy CO7PU - Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (NPPF).
Planning Practice Guidance (PPG).
National Design Guide (NDG).
The Conservation of Habitats and Species Regulations 2017 (CHSR).
Cumbria Development Design Guide (CDDG).
Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).



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Copeland Borough Council Housing Strategy 2018-2023 (CBCHS).
Self-build and Custom Housebuilding Act 2015.
Self-build and Custom Housebuilding (Register) Regulations 2016.

Assessment:

Principle:

The principle of the proposed development was established under planning application ref. 4/16/2393/001 and planning application ref. 4/20/2066/0R1.

Application ref. 4/21/2464/0F1 created a new planning permission that sits alongside the planning permission approved under planning application ref. 4/16/2393/001 and planning application ref. 4/20/2066/0R1.

Application ref. 4/21/2464/0F1 comprises the planning permission that is being implemented.

Landscaping and Arboriculture:

The application is supported by updates to the Pre-development Arboricultural Report previously submitted in support of planning application ref. 4/21/2464/0F1.

It is proposed to retain the main of the existing trees that are of amenity value; remove those trees that are compromised and those trees located in close proximity to or within the proposed development area where future conflicts could exist; and, introduce a combination of structural and ornamental trees to compensate for the trees to be removed.

The Arboricultural Consultant has confirmed that on balance, the removal of the identified trees will not significantly impact the visual amenity of the area.

Land Contamination:

A Phase 1 Preliminary Environmental Risk Assessment was prepared in support of Application Ref. 4/16/2393/001.

This concludes that the development site is currently considered to represent a low to moderate geotechnical risk; is currently considered to pose a very low risk to the proposed end users (ground contamination); is currently considered to pose a negligible risk to adjacent sites (the surrounding environment) and controlled waters with respect to potential ground/groundwater contamination; and, that a negligible risk is currently considered in relation to present ground gas.

Notwithstanding the above the Assessment recommends that a Phase 2: Ground Investigation be completed to ensure the “*geohazards*” are identified.

	<p>The dwelling has been partially constructed and no issues have been identified; therefore, a Phase 2: Ground Investigation is not reasonably required.</p> <p>A planning condition remains proposed to control and remediate any unexpected land contamination should this be identified during the construction.</p> <p><u>Planning Condition 3 and Planning Condition 4 of Application Ref. 4/21/2464/0F1:</u></p> <p>Application ref. 4/21/2464/0F1 was approved subject to a pre-commencement planning condition requiring the submission, approval and implementation of a scheme of tree protection (planning condition 3) and a pre-superstructure planning condition requiring the approval of the external finishes and their implementation (planning condition 4).</p> <p>The requirements of planning condition 3 and planning condition 4 of application ref. 4/21/2464/0F1 have not been approved and the development has been commenced.</p> <p>The requirements of planning condition 3 and planning condition 4 of application ref. 4/21/2464/0F1 have been submitted as part of the current application.</p> <p>The Arboricultural Consultant has confirmed that the proposed tree protection measures are acceptable.</p> <p>The proposed external finishes are appropriate to the design of the dwelling and the site context.</p> <p><u>Section 73 Planning Permission:</u></p> <p>A Section 73 planning application has the effect of creating a new planning permission that sits alongside the original planning permission.</p> <p>The planning conditions proposed have been prepared to secure the and align with the provisions of application ref. 4/21/2464/0F1.</p> <p><i>Planning Balance;</i></p> <p>The development accords with the provisions of the development plan.</p>
8.	<p>Recommendation:</p> <p>Approve amendment of condition</p>
9.	<p>Conditions:</p>



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Defining Planning Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan - 1:1250 received 13th February 2020

As Proposed Site Plan – Drawing No. 05 Rev. A received 1st November 2020

Highway Improvement West - 1:100 Drawing Number 10 received on 22nd December 2016

Highway Improvements East - 1:100 Drawing Number 11 received on 22nd December 2016

Phase 1 Desk Top Study (Preliminary Environmental Risk Assessment)- Reference 2016-2203, prepared by Geo Environmental Engineering dated 09th November 2016

Bat Survey – Preliminary Roost Assessment prepared by Arbtech dated 06th October 2016

Design and Access Statement, prepared by MJN Associates dated November 2016 and received on 11th November 2016

Plots 5 and Plot 9

As Proposed Garage Plans – Drawing No. 04 received 13th February 2020

As Proposed Floor Plans – Drawing No. 03 received 13th February 2020

As Proposed Elevations 1 of 2 – Drawing No. 01 received 13th February 2020

As Proposed Elevations 2 or 2 – Drawing No. 02 received 13th February 2020

Landscaping Specifications Detailed in Pre-development Arboricultural Report – Ref. EJC/61-2017-Plot 5 received 13th February 2020 and as amended by the details received 29th July 2020

Landscaping Specifications Detailed in Pre-development Arboricultural Report – Ref. EJC/61-2017-Plot 9 received 13th February 2020 and as amended by the details received 29th July 2020

Plot 7

Proposed Amendments to Floor Plans – Drawing No. 0146-001 Rev. B received 19th January 2022

Proposed Amendments to Elevations – Drawing No. 0146-002 Rev. B received 19th January 2022

Landscaping Specifications Detailed in Pre-development Arboricultural Report – Ref. EJC/61-2017 Plot 7 received 13th February 2020 and as amended by the details received 29th July 2020

Pre-development Arboricultural Report – Ref. EJC/61-2016 dated 29th June 2016 as amended by Plot 7 West End Rheda Park Frizington – Memorandum Date 07/11/2023 - Ref: EJC/131-2023

Tree Protection Measures (Condition 3) and External Materials Details (Condition 4) Statement

Reason

For the avoidance of doubt and in the interests of proper planning.

Pre-occupation / First Planting Season Planning Conditions

Arboriculture

2. a) No site clearance, preparatory work or development shall take place on Plot 5 and Plot 9 hereby approved until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with Clause 7 of British Standard BS5837 - Trees in Relation to Construction - Recommendations has been submitted to and approved in writing by the Local Planning Authority.
- b) The measures shall be carried out as described and approved and shall be maintained until the development is completed.

Reason

These details are required to be approved before the commencement of development to ensure the protection and retention of important landscape features in accordance with the provisions of Policy ENV3 of the Copeland Local Plan 2013-2028.

External Finishes

3. a) No superstructure of the dwellings hereby approved on Plot 5 and Plot 9 shall be erected until samples and details of the materials to be used in the construction of the external surfaces of the dwellings have been submitted to and approved in writing by the Local Planning Authority.
- b) Development shall be carried out in accordance with the approved details.

Reason

To ensure the development is of a high quality design in accordance with Policy DM10 of the Copeland Local Plan 2013-2028.

Highways

4. No dwelling hereby approved shall be occupied until the vehicular access and turning requirements to serve that dwelling have been constructed in accordance with the approved details and brought into use.

The vehicular access/turning provisions shall be retained capable of use at all times for the lifetime of the development.



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Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy T1 and Policy DM22 of the Copeland Local Plan 2013-2028.

Drainage

5. No dwelling hereby approved shall be occupied until a Sustainable Drainage Management and Maintenance Plan for the lifetime of the dwelling has first been submitted to and approved in writing by the local planning authority.

The Sustainable Drainage Management and Maintenance Plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development in accordance with the provisions of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013-2028.

Landscaping

6. All hard and soft landscape works shall be carried out in accordance with the approved details.

The works shall be carried out in the first planting season following first occupation of the dwelling on the plot to which the works relate.

Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Reason

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with Policy DM26 of the Copeland Local Plan 2013-2028.

Other Planning Conditions

SW Drainage

7. The drainage for the development hereby approved shall be carried out in accordance with principles set out in the submitted Design and Access Statement and Planning Statement by MJN Nov 16 proposing surface water discharging into soakaway and attenuation tank.

No surface water will be permitted to drain directly or indirectly into the public sewer.

Reason

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding in accordance with the provisions of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013-2028.

Ecology

8. The development shall implement all of the mitigation and compensation measures set out in the Bat Survey, prepared by Arbtech, dated 06th October 2016, and submitted as part of the planning application.

Reasons

To protect the ecological interests evident on the site in accordance with the provisions of Policy ENV3 and Policy DM25 of the Copeland Local Plan 2013-2028.

Arb. Plot 7

9. All tree works in relation to Plot 7 shall be carried out in full accordance with the details set out in the Pre-development Arboricultural Report – Ref. EJC/61-2016 dated 29th June 2016 as amended by Plot 7 West End Rheda Park Frizington – Memorandum Date 07/11/2023 - Ref: EJC/131-2023.

Reason



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For the avoidance of doubt and to ensure adequate protection to the existing trees on the site which are subject to a Tree Preservation Order in accordance with the provisions of Policy DM26 and Policy DM28 of the Copeland Local Plan 2013-2028.

Permitted Development Rights

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the dwellings, nor shall any detached building, enclosure, domestic fuel containers, pool or hardstandings be constructed within the curtilage other than those expressly authorised by this planning permission.

Reason

To safeguard the character and appearance of the development in the interests of visual amenity and to ensure that any future development does not have a detrimental impact on the mature trees on the site in accordance with the provisions of Policy DM10, Policy DM26 and Policy DM28 of the Copeland Local Plan 2013-2028.

Ground Conditions

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

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

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

Reason

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

	<p>Informative Notes</p> <p>1. 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.</p> <p>Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority</p> <p>Statement</p> <p>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.</p>
<p>Case Officer: Chris Harrison</p>	<p>Date : 25.06.2024</p>
<p>Authorising Officer: N.J. Hayhurst</p>	<p>Date : 27/06/2024</p>
<p>Dedicated responses to:- N/A</p>	