

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2343/0F1
2.	Proposed Development:	ERECTION OF A TREEHOUSE (RETROSPECTIVE)
3.	Location:	BYWAYS, HALLTHWAITES, MILLOM
4.	Parish:	Millom Without
5.	Constraints:	ASC;Adverts - ASC;Adverts Coal - Off Coalfield - 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 Byways, a detached property located at the bottom of Chapel Brow within Hallthwaites, Millom.</p> <p>The site benefits from a large wrap-around garden, majorly located to the North of the parent property adjacent to the roadside of Chapel Brow, with a public right of way located to the South of the site, and fields to the rear.</p> <p>Proposal</p> <p>Retrospective Planning Permission is sought for the construction of a treehouse located to the North of the site to be used as a place to play for the applicants 6 grandchildren.</p> <p>The structure has been built upon a dead willow tree in the parent property garden and has an overall width at the widest point of approximately 5.35 metres. It has been designed to include a dual pitched roof with varying overall heights of between 4.35 – 6.3 metres from ground level due to its unbalanced design.</p>

The structure is elevated above ground level by 1.4 metres and contains a raised platform on the front elevation for access, with a timber pole support of 3.1 metres in overall height.

The structure contains 1 door on the South elevation, 1 window on the North elevation, 1 window on the West elevation and 1 dormer with window on the East elevation.

It will be finished in horizontal larch lap boarding on all sides, rustic timber spindles for handrails, and an ochre felt shingle roof.

Relevant Planning Application History

There has been no previous planning applications at this property.

Consultation Responses

Millom without Parish Council

The council resolved not to support this application for the following reasons:

The scale and size of this development is incongruous to the village.

The development is not confined to the environs of the tree and requires additional supports, therefore making it a "house with a tree growing through it".

Countryside Access Officer

No objections.

Public Representation

This application has been advertised by way of neighbour notification letters issued to 6 properties. 5 letters of support have been received which state the following comments:

- Although the treehouse looks tatty at present, it is clear that the design has been carefully thought through with a 'crooked house' theme.
- We know that the treehouse is being built with suitable materials that will weather quickly and add a focus of interest to a lovely village.
- We look forward to seeing children in it.
- The proposed treehouse will be visible from our house and garden. We do not consider this to be obtrusive and therefore we fully support the planning application be approved.
- It is overlooked at some distance from our property, we have no objections to what will be a sturdy construction which will be finished to blend in with the environment.
- It will be a play asset for her six young grandsons in our rural hamlet free from any traffic dangers.
- The Wooden Tree House will enable children to play in a safe and secure area within



Cumberland Council

the garden. Outdoor activities are extremely important for children's health and wellbeing.

- The Wooden Tree House is characterful and blends within the environment.

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

Policy ST2 – Spatial Development Strategy

Policy ENV6 – Access to the Countryside

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 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 will close on the 28th March 2024.

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. Once 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.

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)

The National Design Guide

Assessment

The main issues raised by this application are the principle of development, the effect of the development on the character and appearance of the area and the impact on the Public Right of Way.

Principle of Development

The proposed application relates to a residential dwelling within Hallthwaites, Millom and it seeks retrospective permission for the retention of a treehouse which has been constructed in the residential garden associated with this property. The wooden built structure is



**Cumberland
Council**

understood to provide a play apparatus for the applicants 6 young grandchildren.

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 development satisfies Policies ST2, DM18 and the NPPF guidance.

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

Policies ST1, DM10 and DM18 of the Copeland Local Plan seek to create high quality developments which respond positively to the character of the site and the wider setting.

Policy DM18 seeks to ensure domestic alterations are of an appropriate scale and design, which are appropriate to their surroundings. Draft Policy DS6PU and Policy H14PU also set out Design and Development Standards to ensure development does not adversely alter the character or appearance of the existing building, street scene or wider surrounding area.

Paragraph 130 of the NPPF seeks to safeguard high standards of amenity for existing and future users. Developments should add to the overall quality of the area, should be sympathetic to the local character, and should establish and maintain a strong sense of place. Developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

The National Design Guide also sets out ten characteristics to reflect the Government's priorities for well-designed places. This guidance is a material planning consideration that carries significant weight on the planning balance. The proposed scale, form and appearance are therefore the main considerations/concerns raised by this proposal.

The application site lies within a residential area of Hallthwaites, just outside of Millom and is located at the bottom of Chapel Brow between a cluster of other residential dwellings. The site benefits from a modest size wrap-around garden, located to the North of the parent property adjacent to the roadside of Chapel Brow, with a public right of way located to the South of the site, and fields to the rear.

The application is supported by a supporting statement which sets out the need for the structure as a safe place to for play for the applicants 6 grandchildren, as well as justification for the size of the structure and chosen materials.

Notwithstanding the supporting statement submitted with the application and the 5 letters of support received, these are not considered to outweigh the harm to the visual amenity and character of the area.

The structure due to its siting, scale, design and appearance results in an incongruous form of development which appears dominant within the street scene within this contained rural hamlet.

In addition, whilst the appearance of the structure in relation to the materials proposed may weather over time, they fail to relate in a coherent manner to its surroundings. The design of

the structure, particularly the dormer on the roof is considered to be excessive and does not mimic a typical treehouse design. The scale and mass of the structure, especially as it is elevated from the ground level, accentuates its prominence within the locality and exerts a harmful visual impact on the area.

The structure is located 2.2 metres from the roadside boundary adjacent to Chapel Brow at its nearest point, and 3.1 metres from its furthest point which is not suitably screened by the low drystone boundary wall. It is visible from the surrounding public vantage points, including from part of the adjoining public right of way. The appearance of structure has a significant detrimental impact on the character and appearance of both the existing property and the visual amenity of the wider area, including views from the adjoining public footpath.

On this basis, it is considered that the structure is an inappropriate form of development that exerts an adverse effect on the character and appearance of this residential area of Hallthwaites. This conflicts with Policies ST1, DM10, DM18 of the Copeland Local Plan 2013-228: Core Strategy and Development Management Policies DPD (the Local Plan), Policy H14PU of the Emerging Local Plan and the guidance set out in the National Design Guide. These policies seek to ensure that developments are of an appropriate scale, design and material, which are appropriate to their surroundings and respond positively to the character of the area.

Impact on the Public Right of Way

Section 7.7 of Policy ENV6 recognises that existing Public Rights of Way are protected in law. The Public Right of Way FP 416026 runs along the Southern boundary of the site. Whilst not directly adjacent to the structure, consideration must be given to the potential impacts on both the physical and amenity of the footpath.

A site visit confirmed the PRoW runs to the south of the structure. Whilst not directly impacting the use of the PRoW, the structure is visible from the Public Right of Way 416026 due to its siting, scale and design. This structure has changed the character of this part of the hamlet and would therefore affect the amenity of users of this part of the footpath.

Planning Balance and Conclusion

Section 12 of the National Planning Policy Framework and the National Design Guide clearly sets out that one of the key principles of the planning system is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings. This aim is reflected in the Copeland Local Plan, particularly within policies ST1 D(i) and D(ii), DM10 and DM18. Policies DM10 and DM18 set out the criteria on which this proposal has been assessed.

Despite the application receiving 5 letters of support, the structure is considered to be an inappropriate form of development which, due to its siting scale and design, is out of keeping with the character and appearance of the area. It fails to relate in a coherent manner to its



Cumberland Council

	<p>surroundings due to lack of adequate screening from public vantage points.</p> <p>The structure is in an elevated position from the ground level. Whilst the materials used seek to contrast a quirky, crooked house type design, it is not considered to mimic a typical treehouse structure and it accentuates its prominence within the locality. The structure is therefore considered to be inappropriate and out of character with the area.</p> <p>The NPPF and the National Design Guide place significant emphasis on high quality designs and therefore carry significant weight in the planning balance. The proposal is considered to produce an incongruous form of development that has a detrimental impact on the character and appearance of both the detached property and the visual amenity of the wider residential area, contrary to the above design priorities.</p> <p>On balance, the proposal is considered to be an inappropriate form of development which is in conflict with Policies ST1, DM10 and DM18 of the adopted Local Plan and Policies DS6PU and H14PU of the Emerging Local Plan.</p> <p>The local level of support is not considered to be sufficient to outweigh the adverse harm identified to both local residents and the visual amenity of the area and therefore the application is recommended for refusal.</p>
8.	<p>Recommendation: Refuse</p> <p>Reasons for Refusal:</p> <ol style="list-style-type: none">1. The structure due to its siting, scale, design and appearance would result in an incongruous form of development within the locality which would appear dominant within the street-scene. The elevated design would accentuate its prominence and as a result it would have a significant detrimental impact on the character and appearance of both the existing property and the visual amenity of the wider area, including views from the adjoining public footpath. This would therefore be in conflict with Policies ST1, DM10 and DM18 of the Copeland Local Plan 2013-2028 Policies H14PU of the Emerging Local Plan and guidance set out in section 12 of the NPPF and the National Design Guide.
	<p>Informative Notes</p> <ul style="list-style-type: none">• 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

- The right of way as shown on the definitive map and statement must be kept open and unaltered for public use until an order made to divert, stop up or to temporarily close it has been confirmed.
- The granting of planning permission would not give the applicant the right to block or obstruct the right of way shown on the attached plan.

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 : 29/04/2024

Authorising Officer: N.J. Hayhurst

Date : 01/05/2024

Dedicated responses to:-