



## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/23/2360/0F1
2.	<b>Proposed Development:</b>	SUBSTITUTION OF DWELLING TYPES ON PLOTS 46 TO 52 INCLUSIVE (7 DWELLINGS) APPROVED UNDER PLANNING REFERENCE 4/18/2075/0R1
3.	<b>Location:</b>	PLOTS 46 TO 52, KEEKLE MEADOWS, CLEATOR MOOR
4.	<b>Parish:</b>	Cleator Moor
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	<b>Publicity Representations &amp;Policy</b>	See report.
7.	<b>Report:</b>	<p><b>Site and Location:</b></p> <p>This application relates to part of the residential development known as Keekle Meadows, which is located to the western boundary of Cleator Moor.</p> <p>The development is currently under construction.</p> <p><b>Directly Relevant Planning History:</b></p> <p>4/12/2259/0O1 - Outline application for residential development of 66 dwellings including associated infrastructure – Approved.</p> <p>4/18/2075/0R1 - Application for approval of reserved matters for 16 dwellings including associated infrastructure – Approved.</p> <p><b>Proposal:</b></p> <p>This application seeks Full Planning Permission for the erection of 7no. detached single</p>

storey and two storey dwellings.

Access to the dwellings is via Keekle Meadows Road, from which a shared private driveway is proposed to serve three of the proposed dwellings and three existing dwellings. Paved off highway driveways are proposed.

It is proposed to finish the dwellings externally with a combination of facing bricks and sandstone complemented by stone details under smooth grey concrete tiled covered roof structures. Grey uPVC windows and doors are proposed.

Close-boarded timber fences are proposed to delineate the site boundaries to the rear and the frontage is to remain open.

It is proposed to dispose of foul water to the public main and surface water to a watercourse via the existing surface water infrastructure/connection serving the wider Keekle Meadows development.

Additional information in relation surface water drainage and ground conditions was submitted for clarity only. This was not considered to necessitate re-consultation with neighbours.

<b>Consultee:</b>	<b>Nature of Response:</b>
Town Council	No comments received.
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.
Countryside Access Team	<p>No objection to the substitution of house types on Plots 46 to 52.</p> <p>Our records show that an order was confirmed on 13 October 2022 under section 257 of the Town and Country Planning Act 1990 to divert this section of Public Footpath No. 403001 onto its current / new alignment.</p> <p>Section 7.7 of Policy ENV6 – Access to the Countryside within the Copeland Local Plan 2013-2028 recognises that existing Public Rights of Way are protected in law.</p> <p>We would advise that:</p> <ul style="list-style-type: none"><li>• The recorded width of this section of Public Footpath No. 403001 is 2 metres and the centre line of the footpath must be no less than 1.5</li></ul>



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	<p>metres from any adjacent boundary.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>
<p>United Utilities</p>	<p>No comments received.</p>
<p>The Coal Authority</p>	<p>The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.</p> <p>Our records also indicate the presence of a recorded mine entry (shaft) within the planning boundary. An untreated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety.</p> <p>The Coal Authority does not appear to have been consulted on 4/18/2075/0R1, which may represent a failing on behalf of the LPA. The applicant has therefore not demonstrated that the wider site is capable of being developed safely to meet the requirements of paragraphs 189 to 190 of the NPPF. Whilst we do acknowledge the supporting report, the content of which confirms that the mine entry within the site has been capped, we have no record of this and without a definitive site layout are unable to comments on how it might affect the consented layout in its entirety.</p> <p>Notwithstanding the above, in considering that the mine entry within the site does not appear to affect 7 dwellings, together with the applicant's fall-back position in being able to implement the layout as approved, the Coal Authority <b>has no objection</b> to this planning application.</p>
<p><b>Neighbour Responses:</b></p>	
<p>The application has been advertised by way of a planning application site notice and letter sent to seven neighbouring properties.</p> <p>No written representations have been received in respect of the proposals.</p>	
<p><b>Planning Policy:</b></p> <p>Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.</p>	

## **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 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

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) Saved Policies:

Policy HSG2 – New Housing Allocations

Policy TSP8 – Parking Requirements



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### 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 will close on the 28<sup>th</sup> 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.

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 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).  
Copeland Borough Council Housing Strategy 2018-2023 (CBCHS)

### **Assessment:**

#### *Principle*

The Application Site benefits from planning permission for the erection of a dwelling as approved under application ref. 4/12/2259/001 and application ref. 4/16/2181/0R1.

The planning permission has been commenced and remains extant.

The principle of residential development is therefore established, with the development proposed effectively comprising a substitution of dwelling designs.

#### *Housing Mix*

The development comprises the replacement of one design of executive style house with another design of executive style house and does not therefore materially amend/revise the approved housing mix on the development.



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### *Design*

The layout of this element of the development has been established under application ref. 4/12/2259/0O1 and application ref. 4/18/2075/0R1 and this application seeks only minimal revisions.

The designs of the dwellings proposed exist elsewhere on the wider development.

The proposed external finishes are appropriate to the dwelling and are consistent with the previously approved and developed dwellings on the wider site.

### *Highways Impacts*

The layout and access to this element of the development has been established under application ref. 4/12/2259/0O1 and application ref. 4/18/2075/0R1.

No material revisions are proposed to the access approved under application ref. 4/16/2181/0R1 and application ref. 4/18/2075/0R1.

Off highway vehicle parking for 3+no. vehicles per dwelling is proposed.

### *Drainage*

It is proposed to dispose of foul water to the public main and surface water to a watercourse via the existing surface water infrastructure/connection serving the wider Keekle Meadows development.

This is consistent with the means of drainage approved under application ref. 4/16/2181/0R1.

### *Residential Amenity*

The development achieves the interface separation distances required by Policy DM12 of the CS.

Given the scale, form and layout of the development no adverse impacts upon existing or approved dwellings would result through loss of light, overshadowing or overbearing.

A planning condition is proposed in relation to construction working hours to prevent unacceptable impacts upon nearby occupied dwellings during the construction works.

### *PRoW*

A PRoW previously routed through the Application Site.

The PRow has been the subject of a diversion order and now routes to the northeast of the Application Site.

The development will not result in materially greater impacts on the setting or users of the PRow than the development approved under application ref. 4/12/2259/001 and application ref. 4/18/2075/0R1.

### *Ecology*

The Application Site is of limited ecological interest.

In the context of the existing planning permission for the erection of a dwelling as approved under application ref. 4/12/2259/001 and application ref. 4/18/2075/0R1, the delivery of a measurable ten percent biodiversity net gain is not required/justifiable.

### *Ground Conditions*

The Geo-environmental Assessments submitted in support of application ref. 4/12/2259/001 identifies: the potential for ground gas and that a ground gas risk assessment should be completed to identify the requirement for mitigation/remediation; the potential for ground contamination and the requirement for assessment on removal of the slag banks; the unknown condition of two mineshafts; and, the requirement for approval of any importing or soils to or from the site and definition of the slag bank material as waste.

Planning Condition 4 of application ref. 4/12/2259/001 secured provisions in relation to unexpected contamination identified during construction.

Condition 5 of application ref. 4/12/2259/001 required that the developer to undertake gas monitoring and further investigation works in relation to the known mine entries.

Planning Condition 5 was approved via the submission of information. One mine entry was outside of the Application Site and identified a suitable no build area and specified that the other mine entry would be treated to an appropriate specification. Ground gas testing identifies the requirement for gas protection measures to be applied in the form of a membrane and ventilated subfloor.

The slag material was the subject of testing and concluded that a quality control system should be put in place that will enable the material to be used safely and in appropriate applications i.e. not in environmentally sensitive areas.

The Applicant has confirmed the following:

- the slag bank was fully remediated and re-cycled by 2017.
- The mine shaft was capped in 2015.
- The site was the subject of a secondary gas testing regime in 2015 which concluded that no ground gas protection was required; therefore, ground gas barriers have not





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been installed on the development since 2015, the properties having been inspected and signed off by Building Control.

Evidence of the capping has been provided.

The Coal Authority has confirmed that the application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The presence of a recorded mine entry (shaft) is confirmed within the planning boundary and that an untreated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety.

The Coal Authority confirms that they do appear to have been consulted on 4/18/2075/0R1. The applicant has therefore not demonstrated that the wider site is capable of being developed safely to meet the requirements of paragraphs 189 to 190 of the NPPF. Whilst they acknowledge the supporting report, the content of which confirms that the mine entry within the site has been capped, they have no record of this and without a definitive site layout are unable to comment on how it might affect the consented layout in its entirety.

Notwithstanding the above, in considering that the mine entry within the site does not appear to affect 7 dwellings, together with the applicant's fall-back position in being able to implement the layout as approved, the Coal Authority **has no objection** to this planning application.

On the basis of the above, a planning condition to control unexpected contamination identified during construction only is proposed.

**Planning Balance:**

The principle of residential development is established, with the development proposed effectively comprising a substitution of dwelling design.

The layout this area of the development was established under application ref. 4/12/2259/001 and application ref. 4/18/2075/0R1.

The dwellings proposed are acceptable in respect of the design, residential amenity, ground conditions, ecology and highway safety subject to the planning conditions proposed.

8. **Recommendation:**  
Approve (commence within 3 years)

9.

**Conditions:**

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- Application Form
- Site Location Plan – DWG No. 06/11/542-100
- Site Plan – Phase 7 – Drawing No. 06/11/542 – 127 b)
- Dwelling Type A/1 – Plans & Elevations – Drawing No. 06/11/542 – 212
- Dwelling Type A/2 – Plans & Elevations – Drawing No. 06/11/542 – 151
- Dwelling Type K – Plans & Elevations (Handed) – Drawing No. 06/11/542 – 213
- Dwelling Type L – Plans & Elevations – Drawing No. 06/11/542 – 203
- Single Detached Garage – Plans & Elevations – Plans & Elevations – Drawing No. 06/11/542 – 36 d)
- Ground Gas Risk Assessment – Ref. 2015-1559
- Capping of Hope Pit Shaft at Mill Hill, Cleator Moor, Cumbria – Project No. 15-108

Reason

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

3. The dwelling hereby approved shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and brought into use. The vehicular access/turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered.

Reason

To ensure a minimum standard of access provision when the development is brought into



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use in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.

4. 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.

5. No work for the construction of these developments, including demolition, shall take place on the site, except between the hours:

- 07:30 - 18.00 Monday to Friday; and
- 08.00 - 13.00 on Saturdays.

No work should be carried out on Sundays or officially recognised public holidays.

### Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

### Informative Notes

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.

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)

2. The recorded width of this section of Public Footpath No. 403001 is 2 metres and the centre line of the footpath must be no less than 1.5 metres from any adjacent boundary.
3. 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.
4. 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.

#### **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:** Chris Harrison

**Date :** 03.04.2024

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

**Date :** 05.04.2024

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