



CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2369/0B1
2.	Proposed Development:	VARIATION OF CONDITION 9 (LANDSCAPING) OF PLANNING APPLICATION 4/21/2339/0F1 - CONSTRUCTION OF 14 DWELLINGS FOR AFFORDABLE RENT AND ASSOCIATED INFRASTRUCTURE, PARKING AND LANDSCAPING
3.	Location:	JEFFERSON PARK, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	Publicity Representations & Policy	Neighbour Notification Letter: NO Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: Site and Location:	This application relates to land at Jefferson Park. Outline planning permission was originally granted for the redevelopment of the site for residential use in 1998 (application reference 4/98/0311/0 relates). A subsequent application for the erection of 48 dwellings was approved in 2007 (application reference 4/06/2681/0

relates). Phase one of the development comprising 24 units has been complete.

Full planning permission was granted by the Members of the Planning Panel in November 2021 for the erection of 14 dwellings on the site for affordable rent, including the associated infrastructure, parking and landscaping (application reference 4/21/2339/0F1 relates).

The Application Site covers an area of 0.32 hectares and includes land to the west of Rose Cottage and the undeveloped areas on the site between the existing estate road and the 24 dwellings that were erected under phase one.

Jefferson Park is accessed directly from Low Road and is adjoined by the cemetery to the south and open fields to the north and west.

Proposal:

A planning condition imposed on application ref. 4/21/2339/0F1 states the following:

9. Development must be undertaken and retained in accordance with the Landscaping Plan, scale 1:200, drawing number 208, received 16th December 2021.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DM26 of the Copeland Local Plan.

This application seeks to vary this condition for development to be carried out in accordance with an updated plan due to minor amendments to the landscaping scheme.

Consultee:	Nature of Response:
Whitehaven Town Council	No response received.
Neighbour Responses:	
None received.	

Development plan policies:

Copeland Local Plan 2013-2028 (Adopted December 2013):

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



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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.

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Development Management Policies (DMP):

Policy DM12 – Standards for New Residential Development

Policy DM26 - Landscaping

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 policies relevant to this application are as follows:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Policy DS6PU: Design and Development Standards

Policy DS7PU: Hard and Soft Landscaping

Other Material Planning Considerations

National Planning Policy Framework 2023 (NPPF)

The Planning Practice Guidance (NPPG):

This web based resource was launched in March 2014 by the Department for Communities

and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

Assessment:

This application seeks to vary condition 9 of application reference 4/21/2339/0F1 to allow minor amendments to the approved landscaping scheme.

The landscaping scheme will be simplified with previously proposed hedges and shrubberies having to be removed leaving small pockets of public open space as turf and the area of public open space behind plots 1-3 and 9-14 to grow naturally.

Policies DM26 of the CS and DS7PU of the ELP seek to ensure that landscaping schemes are suitable for each development. Areas of public open space will remain, breaking up the development and providing roadside relief from the built area. Each individual plot will have its own garden and the area of public open space to the far west of the space will be left to grow naturally, allowing for a transition between the built environment and the wooded area beyond.

On the basis that the proposals are modest and serve the development suitably, they are considered to be acceptable and comply with Policies DM26 of the CS and DS7PU of the ELP. The condition should be amended to reflect the updated plans.

Other Planning Conditions

In accordance with the guidance set out in the NPPG it is relevant to consider the other conditions that were imposed on the original planning permission. It is necessary to amend the wording of several of the conditions to reflect the details that have already been agreed but which require ongoing compliance. These are summarized below:-

Condition 1 – time limit – complied with due to the development having started.

Condition 2 – plans – requires ongoing compliance.

Condition 3 – coal legacy – requires compliance during construction.



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	<p>Condition 4 – abandoned mine workings - satisfied in May 2022 (application reference 4/22/2104/DOC refers) and requires ongoing compliance.</p> <p>Condition 5 – gas regime – satisfied in December 2021 (application reference 4/21/2553/0B1 refers).</p> <p>Condition 6 – contamination remediation - satisfied in May 2022 (application reference 4/22/2104/DOC refers) and requires ongoing compliance.</p> <p>Condition 7 – culvert survey – satisfied in December 2021 (application reference 4/21/2553/0B1 refers) and requires ongoing compliance.</p> <p>Condition 8 – construction management plan - satisfied in December 2021 (application reference 4/21/2553/0B1 refers) and requires ongoing compliance.</p> <p>Condition 9 – landscaping – subject of this application for variation.</p> <p>Condition 10 – arboricultural method statement - satisfied in December 2021 (application reference 4/21/2553/0B1 refers) and requires ongoing compliance.</p> <p>Condition 11 – signed statement for site investigations – satisfied in July 2023 (application reference 4/23/2317/DOC refers).</p> <p>Condition 12 – external lighting – requires ongoing compliance.</p> <p>Condition 13 – drainage – requires ongoing compliance.</p> <p>Condition 14 – drainage – requires ongoing compliance.</p> <p>Condition 15 – ecology – requires ongoing compliance.</p>
8.	<p>Recommendation:</p> <p>Approve amendment of condition</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none">1. -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: - Site Location Plan, scale 1:1250, drawing number 101, received 22nd July 2021; Block Plan, scale 1:200, drawing number 201A, received 16th December 2021; Site Plan, scale 1:200, drawing number 202A, received 16th December 2021; HT01 Floor Plans and Elevations, scale 1:100, drawing number 203, received 22nd July 2021;

HT01 Floor Plans and Elevations, scale 1:100, drawing number 204, received 22nd July 2021;

Plot 1-3 Overall Elevations, scale 1:50, drawing number 21039-90003A-A, received 16th December 2021;

Plot 4-8 Overall Elevations, scale 1:50, drawing number 21039-90004A-A, received 16th December 2021;

Plot 4-8 Overall Elevations 2, scale 1:50, drawing number 21039-90005A-A, received 16th December 2021;

Plot 9-12 Overall Elevations, scale 1:50, drawing number 21039-90007A-A, received 16th December 2021;

Plot 13-14 Overall Elevations, scale 1:50, drawing number 21059-90008A-A, received 6th December 2021;

Materials and Boundary plan, scale 1:200, drawing number 205A, received 16th December 2021;

Site Sections, scale 1:200, drawing number 206, received 22nd July 2021;

House Types, scale 1:100, drawing number 207, received 22nd July 2021;

External Materials Schedule, drawing number 001, received 22nd July 2021;

Topographical Information, scale 1:200, drawing number 102, received 22nd July 2021;

Phase 1 and II Geo-Environmental Site Investigation, written by E3P, received 22nd July 2021;

Preliminary Ecological Appraisal, written by Hesketh Ecology, received 14th September 2021;

Coal Mining Risk Assessment, written by E3P, received 14th September 2021;

Flood Risk Assessment and Drainage Strategy Phase 2, written by RG Parkins, received 14th September 2021;

Operation and Maintenance Plan for Sustainable Drainage Systems Phase 2, written by RG Parkins, received 8th November 2021;

Affordable Housing Statement, received 22nd July 2021;

Transport Statement, written by Modal Highway Consultants Limited, received 22nd July 2021;

Pre-development Arboricultural Report, written by Treescapes Consultancy Ltd, received 22nd July 2021;

Design and Access Statement, written by Home Group, received 22nd July 2021.

Construction/Environmental Management Plan (CEMP), dated May 2023, received 4th May 2023;

Boundary and Materials Plan, scale 1:200, drawing number 205B, received 8th December 2023;

Landscaping Plan, scale 1:200, drawing number 208A, received 8th December 2023;

Arboricultural Method Statement, dated December 2021, written by Treescapes Consultancy Ltd, received 16th December 2021;

CCTV Inspection Report, written by SK Drainage Solutions Ltd, received 16th December 2021;

Construction parking and storage plan, written by Thomas Armstrong, received 13th March 2023;



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Proposed foul and surface water drainage plan, scale 1:200, drawing number K8379-20G, received 13th March 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. No development must commence until the remediation works and/or mitigation measures to address land instability arising from coal mining legacy have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.
The intrusive site investigations and remedial works must be carried out in accordance with authoritative UK guidance.

Reason

To ensure that land stability is ensured in accordance with Policy ST1 of the Copeland Local Plan.

4. The development hereby approved must be carried out in accordance with the Specification for Consolidation of Mine Workings, written by e3p, reference 10-365-L3 and dated 24th February 2022 submitted and approved under application reference 4/22/2104/DOC. Development must be maintained as such at all times thereafter.

Reason

In order to ensure that the land is stable and in accordance with Policy ST1 of the Copeland Local Plan.

5. -

6. The development hereby approved must be carried out in accordance with Remediation and Enabling Works Strategy, written by e3p, reference 10-365-R2-1 and dated 24th February 2022, submitted and approved under application reference 4/22/2104/DOC. Development must be maintained as such at all times thereafter.

Reason

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework and in accordance with

Policy ST1 of the Copeland Local Plan.

7. The application hereby approved must be carried out in accordance with the CCTV Inspection report, written by SK Drainage Solutions Ltd, reference SK-S 256/2021 and dated 22nd November 2021 submitted and approved under application reference 4/21/2553/0B1. The development must be maintained as such at all times thereafter.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

8. Construction must be undertaken at all times in accordance with the submitted Construction/Environmental Management Plan (CEMP), dated May 2023 and received 4th May 2023.

Reason

To safeguard the amenity of the existing occupants on Jefferson Park and in accordance with Policy ST1 of the Copeland Local Plan.

9. Development must be undertaken and retained in accordance with the Landscaping Plan, scale 1:200, drawing number 208A, received 8th December 2023.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DM26 of the Copeland Local Plan.

10. Development must be undertaken at all times with the submitted Arboricultural Method Statement, dated December 2021, written by Treescapes Consultancy Ltd, received 16th December 2021.

Reason

To ensure a satisfactory appearance and method in accordance with Policy DM26 of



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the Copeland Local Plan.

11. -

12. All external lighting must meet the guidelines and obtrusive limits details in the institute of lighting professionals Guidance Notes for the Reduction of Obtrusive light (GN01:2011) and be retained as such at all times thereafter.

Reason

To ensure the amenity of all occupants in accordance with Policy ST1 of the Copeland Local Plan.

13. The drainage for the development hereby approved, must be carried out in accordance with principles set out in the submitted Foul & Surface Water Drainage Design Drawing K38379 – 20G, dated 24.02.2023 which was prepared by RGPARKNS. For the avoidance of doubt and unless otherwise agreed in writing by the Local Planning Authority. No surface water will be permitted to drain directly or indirectly into the public sewer. The development must be completed in accordance with the approved details.

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 and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

14. The development must be constructed, maintained and managed in accordance with the Operation and Maintenance Plan for Sustainable Drainage Systems, written by R.G. Parkins, received 14th September 2021 for the lifetime of the use of the site.

Reason

To ensure a satisfactory scheme of surface water disposal from the site and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

15. All recommendations and mitigations set out in the Preliminary Ecological Appraisal, written by Hesketh Ecology, received 14th September 2021 must be considered and implemented at all times during the site clearance and ongoing development.

Reason

To ensure the protection of all species and possible species on site and in accordance with Policy ENV3 of the Copeland Local Plan.

Informatives

1. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or



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coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

2. A PROW (public footpath/bridleway/byway) number 43101 lies adjacent to the site. The Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

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 a variation of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: Sarah Papaleo

Date : 17/01/2024

Authorising Officer: N.J. Hayhurst

Date : 22/01/2024

Dedicated responses to:- N/A