

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2371/0G1
2.	Proposed Development:	REMOVAL OF CONDITION 2 (TIME LIMIT OF 12 MONTHS) OF PLANNING APPROVAL 4/22/2464/0F1 - CHANGE OF USE OF A STORE & CAR PORT TO A DOG GROOMING BUSINESS (RETROSPECTIVE)
3.	Location:	ROTHERY BARN, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC;Adverts - ASC;Adverts, 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 Rothery Barn, situated at an agricultural holding at Keekle Grove. There are agricultural fields surrounding the barn and the River Keekle lies to the west. The barn is accessed from a private road that stretches from the site to Cleator Moor to the north.</p> <p>Planning permission was granted in January 2023 for the change of use of the barn to allow the previous store and car port to be used as a dog grooming business (application reference 4/22/2464/0F1 relates). An amendment to this application to allow longer opening hours was</p>

then subsequently approved in 2023 (application reference 4/23/2047/0B1 relates).

PROPOSAL

This application seeks to remove condition 2 from Planning Application reference 4/22/2464/0F1 which reads:

2. The use hereby permitted must be for a limited period until 18th January 2024. At the end of this period the use shall cease, all materials and equipment brought onto the land in connection with the use must be removed and the land restored in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason

The use hereby approved may not be considered suitable as a permanent form of development to protect local amenity in accordance with Policy ST1 and DM10 of the Copeland Local Plan.

The removal of condition 2 will allow for the permanent use of this building for dog grooming.

RELEVANT PLANNING APPLICATION HISTORY

Implement/agricultural store, approved in November 2015, application reference 4/15/2348/0F1;

Change of use of a store and car port to a dog grooming business (retrospective), approved in January 2023 (application reference 4/22/2464/0F1 relates).

Variation of condition 4 (amend opening hours) of planning application 4/22/2464/0F1 – Change of use of a store and car port to a dog grooming business, approved in April 2023 (application reference 4/23/2047/0B1 relates).

CONSULTATION RESPONSES

Parish Council

No comments received



Cumberland Council

Environmental Health

There are no objections from Environmental Health regarding this proposal. The premises was seen to be well-constructed and there has not been any reports received of disturbance, noise etc during its use over the past year since the original approval.

Cumbria Highways and Local Lead Flood Authority

The LHA and LLFA did not recommend this condition therefore we have no comments to make.

Public Representation

The application has been advertised by way of neighbour notification letters issued to 2 no. properties.

No consultation responses have been received as a result of this advertisement.

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 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.

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principles
Policy ST2 – Spatial Development Strategy
Policy ER4 – Land and Premises for Economic Development
Policy ER5 – Improving the Quality of Employment Space
Policy ER6 – Location of Employment
Policy ER11 – Developing Enterprise and Skills
Policy SS4 – Community and Cultural Facilities and Services

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place
Policy DM22 – Accessible Developments

Emerging Copeland Local Plan

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 relating to this application are:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development
Strategic Policy DS3PU: Settlement Hierarchy
Strategic Policy DS4PU: Settlement Boundaries
Strategic Policy E2PU: Location of Employment



Cumberland Council

Policy RE3PU: Conversion of rural buildings to commercial or community use
Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

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 or remove 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

The proposal is to remove the condition relating to the temporary use of the building for a dog grooming parlour until 18th January 2024. The Applicant wishes to continue with the use in this building on a permanent basis.

The building being utilized at Rothery Barn is located approximately 230 metres to the south west of the nearest residential property on Brantwood Lane. Furthermore, the building is constructed from robust materials which will considerably dampen any noise. The separation distances are considered to be significant which will limit any impact on neighbouring amenity from barking or other noise. The dwelling at Rothery Barn has been protected from noise due to the use of a planning condition, imposed on the change of use application in 2023, to ensure that the barn is used in association with the dwelling at all times, during the lifetime of the business.

No complaints with regards to the business have been received and Environmental Health were supportive of the continued use of the barn. With the latest opening of the business to be 19:00 on week days, there are no unsociable working hours proposed, therefore

	<p>protecting the surrounding amenity.</p> <p>All other details of the previously approved development are unchanged apart from condition 4 which is amended to reflect the revised opening times agreed under the 2023 variation. These conditions will ensure that the business use is controlled to minimize its impact within the locality. This is consistent with the guidance set out in the NPPG.</p> <p>CONCLUSION</p> <p>In my opinion, the use of the barn for a dog grooming parlour is acceptable as a permanent use and therefore it is acceptable to remove the condition that restricts it as a temporary use.</p> <p>The other original conditions are retained and condition 4 amended to provide an element of control and protect residential amenity.</p> <p>Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPG and the policies within the adopted Local Plan.</p>
8.	<p>Recommendation: Approve removal of condition</p>
9.	<p>Conditions:</p> <p>1. 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: -</p> <ul style="list-style-type: none"> • Application form, received 05th December 2023; • Site Location Plan, scale 1:1250, drawing number 01001 01, received 20th February 2023; • Block Plan, scale 1:200, drawing number 01002 01, received 20th February 2023; • Existing and proposed plans and elevations, scale 1:100, drawing number 01003 01, received 20th February 2023; • Proposed Plan, scale 1:50, drawing number 04001 01, received 20th February 2023. <p>Reason</p> <p>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.</p>



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2. -

3. The business hereby approved must be used in association with the parent dwelling known as Rothery Barn and must not be sold, let or otherwise used in isolation at any time whatsoever for the lifetime of the development.

Reason

In order that an inappropriate form of development is not introduced to the area and in accordance with Policy ST1 of the Copeland Local Plan.

4. The use hereby permitted shall not be open to the public / customers outside the following times:

- Monday – Friday – 10:00 – 19:-00

- Saturday – 10:00 – 17:00

Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality and in accordance with Policy ST1 of the Copeland Local 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: Sarah Papaleo

Date : 30/01/2024

Authorising Officer: N.J. Hayhurst

Date : 02/02/2024

Dedicated responses to:- N/A