

**CUMBERLAND COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/24/2010/0B1
2.	Proposed Development:	VARIATION OF CONDITION 2 TO INCREASE ROOF HEIGHT OF PLANNING APPROVAL 4/22/2250/0F1 - 1ST FLOOR EXTENSION TO REAR OVER EXISTING GROUND FLOOR EXTENSION, TWO VELUX WINDOWS ON 2ND FLOOR TO FRONT, FULL WIDTH DORMER WINDOW WITH BIFOLD ALUMINIUM DOORS & SMALL WINDOW TO REAR, SMALL WINDOW TO REAR OF 2ND FLOOR
3.	Location:	4 LAKE VIEW, KIRKLAND
4.	Parish:	Lamplugh
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 4 Lake View, a terraced property situated within Kirkland. The site benefits from an existing two-storey flat roof projection and a single-storey lean-to extension along the rear elevation of the terraced property. The site also benefits from an existing garden with off-street parking and a detached garage to the rear of the property, which is separated by a rear access lane along the rear of the terraced row.</p>

PROPOSAL

In July 2022, planning permission was granted (ref: 4/22/2250/0F1) for the erection of a first-floor rear extension over the existing ground floor extension, the installation of two velux windows on the front roof slope and a full width rear dormer with Juliet balcony on the rear elevation. This current application seeks to vary condition 2 relating to the submitted plans for this application to allow an increase of the dormer window roof height.

The first-floor extension matches the existing ground floor projection and the flat roof design matches the existing rear projection. It has also been designed to include one window on the rear elevation and the side elevations are blank.

The rear dormer measures the full width of the property and it has an overall height of 0.1 metres above the existing dwelling. It has been designed to include a bathroom window and glazed doors with a Juliet balcony on the rear elevation and the side elevations are blank. The Juliet balcony includes a 1.1 metre high glazed balustrade. The roof alterations also include the installation of two velux windows on the front elevation.

The extension is finished in render, slate roof tiles and UPVC windows to match the existing property. The extension also includes aluminium doors and EPDM rubber roofing membrane on the first-floor flat roof and rear dormer.

RELEVANT PLANNING APPLICATION HISTORY

Planning Permission has previously been granted for:

- FIRST FLOOR EXTENSION TO REAR OVER EXISTING GROUND FLOOR EXTENSION, TWO VELUX WINDOWS ON SECOND FLOOR TO FRONT, FULL WIDTH DORMER WINDOW WITH BI-FOLD ALUMINIUM DOORS & SMALL WINDOW TO REAR OF SECOND FLOOR (ref: 4/22/2250/0F1).

CONSULTATION RESPONSES

Lamplugh Parish Council – No comments received.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 3 no. properties.

One letter of concern was received which raised the following comments:

- Limited consultation with neighbours;
- The as-built construction varies from the 4/22/2250/0F1 proposal / approved plans;
- Dormer roof level above the ridge height sight line of the terrace of houses cannot be



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justified;

- Concerns the full width dormer window description is misleading;
- Overlooking of adjoining properties remains an issue, despite the limiting planning condition which prohibits the first-floor extension flat roof being used as a roof terrace or balcony;
- Openable glazed door allows access onto the first-floor extension roof which is unacceptable;
- Other matters relating to Building Regulations;
- By granting permission it sets a precedent on the terraced streetscape;
- There is little or no effective regulatory control in Kirkland with respect to Planning or Building Control and there are many examples of regulatory breaches.

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

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Emerging Copeland Local Plan 2017 - 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)

ASSESSMENT

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. 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.

The section 73 application only relates to changes in conditions and therefore the description cannot be changed. Concerns were received regarding the 'full width dormer window'



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description being misleading and that the design includes a window and glazed door rather than the full width window design. However, the 'dormer and dormer window' terminology are used simultaneously, and the description is correct.

The NPPG outlines that 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. In terms of the conditions attached to the previous decision notice (4/22/2250/0F1), development has commenced on site therefore, it is not necessary to repeat the condition relating to timescales but the other condition (3) is repeated.

The current application seeks to vary condition 2 of the original planning approval. The issues relating to this element of the scheme are considered below:-

Principle of Development

The proposed amendment to this scheme seeks to increase the dormer window roof height. Policy DM18 and Policy H14PU support extensions and alterations 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 extension satisfies Policies ST2, DM18, H14PU and the NPPF guidance.

Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

Policy H14PU of the ELP also supports house extensions where the scale, design and materials of the proposed development would not adversely alter the character or appearance of the existing building, street scene or wider surrounding area.

The proposed first-floor extension and dormer will be appropriately located to the rear of the property, behind the main element of the existing dwelling and they will be relatively modest in scale. Despite the amended dormer proposal sitting above the existing ridge line by 0.1 metres, the proposal is considered to be modest and it will reflect a similar ridge line at no. 5 Lake View. The applicant has also provided justification for the proposed 0.1 metres roof increase to allow insulation to be installed and the ceiling height to be acceptable in the attic room. This is considered to be acceptable given the existing situation along the terraced row.

The application did receive an objection which raised concerns that granting permission would set a precedent on the terraced streetscape. On balance, taking these comments into account along with the existing situation along the terraced row, the amended proposal still appears subservient to the main dwelling, and it will not be excessively prominent within the locality. The existing chimneys help screen the development and ensure the character and appearance of the existing property is maintained. The proposal is not considered to

significantly harm the appearance of the terraced row.

In addition, the materials are considered to be appropriate and this will ensure the appearance of the dwelling is maintained.

The condition to restrict the use of the flat roof is repeated but the concerns that were received related to the protection from falling. As a result, the design of the glazed balustrade has been provided and is included in the list of approved plans (design document). This installation is a requirement of the Building Regulation requirements.

On this basis, the alteration is considered to comply with Policies DM10, DM18 and H14PU.

Residential Amenity

Policy ST1, Policy DM18 and H14PU and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings.

Whilst overlooking and overshadowing issues between the proposed extension and the neighbouring properties were considered, the proposal will have little impact on residential amenity due to its modest scale and siting. It will infill the rear corner between the existing property and the adjoined property and it will not project further than the existing rear elevation of the property.

In addition, the dormer will be located adjacent to two existing rear dormers and therefore despite the 0.1 metre increase in height, it is not considered to be overbearing or result in any loss of light. On this basis, the extension and dormer are therefore considered to not cause any overshadowing impacts on the neighbouring properties.

Concerns were received regarding overlooking, despite the planning condition restricting the use of the flat roof extension. Given the orientation of the property, with no residential properties located to the rear of the dwelling and the significant distance away from the neighbours to the side, overlooking concerns are not considered to be unacceptable in this case.

Concerns were also received regarding the openable glazed door which would allow access onto the first-floor extension roof. A condition which restricts the use of the flat roof as a raised platform and this will protect neighbouring amenity further is repeated. In addition, the Juliet balcony proposal includes a glazed balustrade to address the safety concerns. The installation will be covered by the Building Regulations process.

On this basis, the amended proposal is not considered to have a detrimental impact on any residential amenity and therefore the proposal will satisfy Policy DM18, H14PU and the NPPF guidance.

Planning Balance and Conclusion

The current Section 73 application seeks to vary condition 2 of the original planning approval.

The amended proposal is modest in scale and it is not considered to be excessively



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	<p>prominent within the locality. The design is considered to respect the character and appearance of the existing property and is consistent with other dormer extensions along the terraced row. In addition, taking into account the orientation of the proposal, the proposed design is acceptable and it will not adversely harm the neighbouring amenity.</p> <p>The NPPG outlines that to assist with clarity decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. The site visit confirmed the development has commenced on site and therefore it is not necessary to repeat the condition relating to timescales. The other condition (3) attached to the previous permission (4/22/2250/0F1) to restrict the use of the flat roof is repeated to ensure the development is carried out as per the approved detail and also to protect residential amenity. In addition, the Juliet balcony balustrade details have been provided and are conditioned in the list of approved plans.</p> <p>The other concerns received as part of the application consultation relate to private matters and issues that will be considered under the Building Regulations and therefore cannot be considered in the planning assessment.</p> <p>Overall, the revised information which seeks to amend the originally approved plans condition, satisfies the policy criteria and is considered to be in keeping with the surrounding properties. 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 and the Emerging Local Plan.</p>
8.	<p>Recommendation:</p> <p>Approve amendment of condition</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none">1. -2. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: Application Form, received 12th January 2024; Site Location Plan, scale 1:1250, received 12th January 2024; Block Plan, scale 1:500, received 12th January 2024; Existing Floor Plans, scale 1:50, drawing no. 003 Rev A, received 12th January 2024; Proposed Floor Plans, scale 1:50, drawing no. 004 Rev A, received 12th January 2024;

Existing Elevations, scale 1:50, drawing no. 001 Rev A, received 12th January 2024;
Proposed Elevations, scale 1:50, drawing no. 002 Rev A, received 12th January 2024;
Extension Design, Document Version 2.1, received 6th March 2024.

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. The roof area of the rear first-floor extension hereby permitted must not be used as a balcony, roof garden or similar amenity area.

Reason

To satisfactorily protect the residential amenity of the nearby occupiers in accordance with Policy DM18 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: C. Wootton

Date : 07/03/2024

Authorising Officer: N.J. Hayhurst

Date : 08/03/2024

Dedicated responses to:- N/A