

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/24/2037/0F1	
2.	<b>Proposed Development:</b>	CHANGE OF USE FROM AGRICULTURAL TO COMMERCIAL STORAGE, TO MAKE A STORAGE YARD TO STORE AGGREGATES AND BUILDING EQUIPMENT	
3.	<b>Location:</b>	STOUP DUB COTTAGE, HAWS LANE, HAVERIGG	
4.	<b>Parish:</b>	Millom	
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Off Coalfield - Data Subject To Change, Key Species - Known Sites for Natterjack Toads	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter	No
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	<b>Report:</b>		
	<b>Site and Location</b>		
	<p>This application relates to land to the rear of Stoup Dub Cottage, a semi-detached property located to the south west of Haverigg adjacent to the SSSI. The property is attached to Stoup Dub Farm and benefits from a large outbuilding sited to the west of the property.</p> <p>The property is accessed via a single unsurfaced access track from the public toilets/car park and beach café.</p>		
	<b>Relevant Planning History</b>		

No relevant planning history.

### **Proposal**

This application seeks planning permission for a change of use of agricultural land to a commercial storage area.

The land subject to this planning application is located to the north west of the existing residential property, and measures 40m x 40m. The application form states that the existing use of this site is for agricultural storage. The proposal seeks to change the use of this land to make a storage yard for aggregates and building equipment for a local groundworks company. It is stated that traffic generated from the development will be 1-2 vans per day and 1 HGV weekly between 8am – 6pm.

The site will be bounded by a 1m high bund with hedgerow planting. The ground will be surfaced with loose sand and gravel. Access to the site will remain as existing, through the yard of the residential property, Stoup Dud Cottage.

### **Consultation Responses**

#### Millom Town Council

*29<sup>th</sup> February 2024*

Following the meeting of the Millom Town Council last night it was agreed to oppose this application on the following grounds:

- The road leading to the property from Bank End Haverigg is the road going right through the area of the playground, café etc. It was felt that it is most unsuitable for heavy wagons driving up this route and is a major health and safety issue.
- The route for the HGV's is via a triple SSSI area
- Originally the route to this property was years ago via Haws Lane and the council feel that this underused route should be used if planning is agreed
- Parents and children use this road when accessing the public toilets, café, and play areas.

The Council feel very strongly about this as a few weeks ago heavy lorries carrying stone were accessing Stoup Dub and it did start to break up the gravel road which leads off the tarmac road to the recycling bins etc. Regular use of HGV's will undoubtedly not help keep the access road etc in a good condition. Please can you ensure that the council's comments are taken into consideration especially as we are trying to develop this area to encourage tourists. Multiple wagons travelling up and down this road is the major concern of the council and feel that it would not be within health and safety guidelines for users of the beach area and café.

*8<sup>th</sup> March 2024*



## Cumberland Council

We have looked at the Highway responses online to the planning department in relation to the above application. Millom Town Council feel strongly that this should not go ahead on the following grounds:

Our main concerns are as follows:

- The road leading to the property from Bank End Haverigg is the road going right through the access areas to the playground, café, toilets etc.
- It is felt that this road is most unsuitable for heavy wagons driving up and down, the council would like the Highways Authority to carry out a stress test on this road, they also would like to point out that the road is only a single vehicle road with no real pulling in stops.
- The Town Council feel that should this planning application be accepted it would be a major Health and Safety Issue for all users of the park and beach areas.
- The route to the property is via a SSSI area. The route is already being heavily used with traffic coming and going to the Rugby Club. This road is also the main route for the coastguard and life boat station and should a vehicle break down whilst there is an emergency it would not be easy to remove a heavy 20t stone wagon out of the way.

As you will know the Town Council feel very strongly about this application as a few weeks ago heavy lorries carrying stone were accessing Stoup Dub and it started to break up parts of the tarmac and gravel road.

At a time when the government are encouraging areas to level up to increase tourism etc we feel that lorries constantly driving through an area where children play and cross the road to the café, residents and visitors access this area to use the King Charles III Coastal footpath is definitely a big health and safety issue.

### Cumberland Council – Local Highway Authority & Local Lead Flood Authority

Cumberland Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have 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.

### Environment Agency

Environment Agency position

We have no objection to the proposed development but we wish to make the following comments:-

Flood risk:

The planning application is accompanied by a basic Flood Risk Assessment (FRA) prepared

by JW Plant Solutions (dated 30 January 2024). We have reviewed the submitted FRA in so far as it relates to our remit and we consider that it is appropriate to the nature and scale of the change of use. We are therefore satisfied that the proposed development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

The applicant, as owners of the existing property, will be aware of the potential flood risk and frequency. The applicant should be satisfied that the impact of any flooding will not adversely affect their proposals.

Sequential test - advice to LPA:

We have not objected to this application on flood risk grounds, but this does not remove the need for you to apply the sequential test and to consider whether it has been satisfied. Where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by flooding. A failure to satisfy the sequential test can be grounds alone to refuse planning permission.

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 168), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search has been used. Further guidance on the area of search can be found in the planning practice



## Cumberland Council

guidance here.

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance here.

Biodiversity Net Gain (BNG) – advice to applicant:

Applicants are encouraged to include biodiversity net gain (BNG) within their proposals. Paragraphs 180 and 185 of the National Planning Policy Framework (NPPF) recognise that the planning system should provide net gains for biodiversity. In England, providing a minimum 10% biodiversity net gain in new development is becoming a legal requirement due to provisions within the Environment Act 2021. Applicants should have regard to the latest planning practice guidance on BNG in new development proposals.

### Cumberland Council – Environmental Health

From an environmental health perspective, there are various issues to consider.

Perhaps the main point of interest may be potential nuisance from noise disturbance.

A recent site visit, however, confirmed that Stoup Dub Cottage and Farm are in the ownership of an extended family unit and the most noise sensitive neighbours to any disturbance are in support of this application.

It should be noted that the unmade approach road to Stoup Dub passes a holiday caravan and camping site and noise from HGVs during out-of-hours times could also be problematic.

A condition on times of operation may be required in this regard.

The parcel of land in question abuts farm buildings and is used for agricultural storage at present.

On a site walkover there was no evidence of past pollution other than a small pile of inert waste, and the re-use of clean gravel, together with clean imported aggregate, to form a compacted site surface is proposed.

Environmental Health are not minded to object to this application, though note the comments from Natural England about the particular sensitivity of the area.

### Natural England

Thank you for consulting Natural England on this application. Proposal 4/24/2037/0F1 is in close proximity to Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and

Duddon Estuary Special Protection Areas (SPA), Duddon Estuary Site of Special Scientific Interest (SSSI) and Duddon Estuary Ramsar. Natural England have reviewed the relevant documents and provide the following advice:

**HRA:**

Stoup Dub Cut watercourse runs directly adjacent development site, which hydrologically links the site to Morecambe Bay SAC, SPA and Duddon Estuary SSSI. Therefore, a Habitats Regulations Assessment (HRA) will need to be undertaken to assess if there will be any discharges into Stoup Dub Cut and the potential pollution impacts on the SAC, SPA, SSSI and Ramsar from the development. This should include both construction and operational stages of the proposal.

**CEMP:**

Natural England advice that a Construction Environmental Management Plan (CEMP) will need to be secured through Condition to detail the pollution prevention measures that will be implemented during the works. Appropriate pollution prevention guideline measures should include materials and machinery storage, biosecurity, and the control and management of noise, fugitive dust, surface water runoff and waste to protect any surface water drains, Stoup Dub Cut, and the SAC from sediment, and pollutants such as fuel and cement. There must be a 10m buffer strip to Stoup Dub Cut watercourse to prevent any sediment and pollution in surface water run-off from reaching the SAC. All materials and equipment must be stored outside the buffer strip, and there should be a designated concrete mixing / refuelling site outside the buffer strip, with spill kits on site and drip trays used for refuelling. The developer should produce a management plan on how they propose to manage surface water run-off in conditions of heavy rainfall to prevent the pollution of the SAC.

**SPA Birds:**

Special Protection Areas (SPAs) are classified for rare and vulnerable birds, and for regularly occurring migratory species. The birds for which SPAs are designated may also rely on areas outside of the SPA boundary. These supporting habitats may be used by SPA populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SPA bird populations, and proposals affecting them may therefore have the potential to affect the SPA. It should be noted that some of the potential impacts that may arise from the proposal relate SPA interest features due to the site's proximity to the SPA. It is advised that the potential impacts to SPA birds needs to be considered in the HRA.

Cumberland Council – Footpaths Officer

We have no objections to the proposed development. However, it should be noted that Public Right of Way Bridleway BW 415013 passes along the main access to the development site and then continues as a Public Footpath FP 415013. See attached Plan.



## Cumberland Council

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.

The applicant must be advised that:

- The granting of planning permission would not give the applicant the right to block or obstruct the rights of way shown on the attached plan.
- The rights 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.

### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to two properties. No comments have been received in relation to the statutory notification procedure from any neighbouring properties.

One letter of concern has been received from a local Councillor who made the following comments:

- The right of way to Stoop Dub Farm was always down Hawes Lane and not the route currently being used by the landowner across the SSSI past the Rugby Union Club from Haverigg foreshore this route has been used over the last several years with no permission or right of way and no contribution to upkeep of the road.
- The extra traffic this application will bring will make this access worse and detrimental to the SSSI.
- If this application is passed it should be linked to an agreement for upkeep of the road and ensure protection of the SSSI is mitigated.

### **Planning Policy**

Planning law requires that 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 ER6 – Location of Employment

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other service areas: Roles and Functions

Policy ER9 – The Key Service Centres, Local Centres and other small centres

Policy ER11 – Developing Enterprise and Skills

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP)

Policy DM3 – Safeguarding Employment Areas

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM22 – Accessible Developments

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

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





## Cumberland Council

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.

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS2PU: Reducing the impacts of development on Climate Change

Strategic Policy DS3PU: Settlement Hierarchy Strategic

Policy DS4PU: Settlement Boundaries

Policy DS6PU: Design and Development Standards

Policy DS7PU: Hard and Soft Landscaping

Strategic Policy DS8PU: Reducing Flood Risk

Policy DS9PU: Sustainable Drainage

Policy DS10PU: Soils, Contamination and Land Stability

Policy DS11PU - Protecting Air Quality

Strategic Policy E1PU: Economic Growth

Strategic Policy E2PU: Location of Employment

Strategic Policy E5PU: Employment Sites and Allocations

Policy SC5PU: Community and Cultural Facilities

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N2PU: Local Nature Recovery Networks

Strategic Policy N3PU: Biodiversity Net Gain

Strategic Policy N6PU: Landscape Protection

Strategic Policy N9PU - Green Infrastructure

Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy

Policy R5PU: Retail and service provision in rural areas

Strategic 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 (2023)

National Design Guide (NDG)

Cumbria Development Design Guide

The Conservation of Habitats and Species Regulations 2017 (CHSR)

Wildlife and Countryside Act 1981

Copeland Economic Development Needs Assessment (EDNA)

**Assessment**

The key issues raised by this application relates to the principle of the development; settlement character, and landscape and visual impacts; impact on residential amenity; access and highway safety; flood risk and drainage; and ecology.

Principle of the Development

The application site is located to the south west of Haverigg, outside the existing settlement boundary for the Local Centre. Policy ST2 of the Copeland Local Plan restricts development outside the defined settlement boundaries to that which have a proven requirement, including land use characteristically located outside settlements such as agriculture or forestry, farm diversification schemes or tourism activities requiring location in the countryside.

Policy DS3PU of the Emerging Local Plan continues to identify the application site as outside of any settlement boundary. Policy DS4PU of the Emerging Local Plan also continues to restrict development outside settlement boundaries unless the development has a provide need for an open countryside location which has been demonstrated to the Council, including agricultural, forestry, farm diversification or tourism proposals which require such a location.

Paragraph 89 of the NPPF also states planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and



## Cumberland Council

sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Policy ST1 of the Copeland Local Plan seeks to support development that provides or contributes to the Borough's social and community infrastructure enabling everyone to have good access to jobs, shops, services, and recreational/sport facilities.

Policy ER4 of the Copeland Local Plan states that the Council will maintain an adequate supply of land and floorspace for economic development by the allocation of land for employment development over the plan period at a rate ahead of that implied by projecting past take up rates, to allow a flexible response to emerging demand. The application site is not identified as an employment allocation within the existing Copeland Local Plan.

Policy ER6 of the Copeland Local Plan states that employment development will be supported in Whitehaven and Key Service Centres, outside of these areas and allocated sites, smaller scale economic development proposals will be considered on their merit, with the following matters being important: justification for rural location, transport impact, vulnerability to flooding; impact on residential amenity, and impact on landscape character, settlement character and biodiversity.

Within the Emerging Local Plan, Policy E1PU states that the economy of the Copeland Borough will be strengthened and broadened to provide a diverse range of employment and economic opportunities that will attract new key industries and provide the flexibility to accommodate existing businesses and new initiatives by helping the economy in rural areas by supporting rural diversification that will encourage, tourism, recreation, rural regeneration, and farm diversification, and complement new appropriate agriculture and forestry development where appropriate.

Policy E2PU within the Emerging Local Plan states that proposals for employment development will be supported where they provide the type and scale of development that is appropriate for its settlement and are located on allocated employment sites or existing employment land either through the reuse or redevelopment of existing premises and, where appropriate, intensification of uses. This policy further states that applications for economic development in the open countryside must be supported by a written statement justifying its rural location to the satisfaction of the Council.

The application site is located within an open countryside location and is significantly detached from existing and proposed settlement boundary for Haverigg. The only justification for this proposed location from the applicant has been that there are no other suitable sites available in this area, although no evidence has been submitted to show any other sites have been considered for the proposed use or the reasons why they were discounted. No evidence has been provided to verify that this application is proposed to support a farm diversification scheme or the requirement for a rural location for this use. Given the rural isolated nature of the application site, it is not considered that this is a sustainable location for the type and scale of development proposed which is therefore not considered to meet policy

requirements.

On this basis the principle of developing this site for commercial storage is considered to be unacceptable and contrary to Policies ST1, ST2, ER4 and ER6 of the Copeland Local Plan, Policies DS3PU, DS4PU, E1PU and E2PU of the Emerging Local Plan, and provisions of the NPPF.

#### Settlement Character, and Landscape and Visual Impacts

Policy ENV5 of the Copeland Local Plan states that the Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.

Policy DM26 of the Copeland Local Plan stated that where necessary development proposals will be required to include landscaping schemes that retain existing landscape features, reinforce local landscape character, and mitigate against any adverse visual impact. Care should be taken that landscaping schemes do not include invasive non-native species.

Within the Emerging Local Plan, Policy N6PU states that the Borough's landscapes will be protected and enhanced by supporting proposals which enhance the value of the Borough's landscapes, protecting all landscapes from inappropriate change by ensuring that development conserves and enhances the distinctive characteristics of that particular area in a manner commensurate with their statutory status and value. It is stated that proposals will be assessed according to whether the proposed structures and associated landscaping relates well in terms of visual impact, scale, character, amenity value and local distinctiveness and the cumulative impact of developments will be taken into account as part of this assessment and that consideration must be given to the Council's Landscape Character Assessment, Settlement Landscape Character Assessment and the Cumbria Landscape Character Guidance and Toolkit at the earliest stage.

The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within Sub Type 2d: Coastal Margin – Coastal Urban Fringe. The Key Characteristics of the land comprise: low lying flat land, urban influences linked to tourism development, derelict buildings and major transport routes, strong man-made landforms on coastal edges, mixed land cover of mown grass, pasture, scrub and semi natural grassland, and weak field patterns.

The Guidelines for development include: protect 'green' areas from sporadic and peripheral development, encourage new development on brownfield and vacant sites to protect and enhance habitats, minimise the impact of new development by careful siting, design and high standards of landscape treatment particularly where public views are affected, and establish new woodland belts or thick hedgerows along the edges of developments to soften their



## Cumberland Council

impact, provide a backcloth, define limits of urban expansion and integrate isolated development.

Although the application site is located to the rear of the existing residential property and large outbuilding, the development is considered to result in some localised change to the landform and would result in some minor impacts upon the local landscape. Given the existing use of the site these changes are considered to be minimal, with the main viewpoint from the existing PROW running along the north east of the site. The application details that the site would be enclosed by a 1m bund with hedgerow planting, this is considered to provide screening for the development in order to mitigate some of the impacts of the development upon the surrounding landscape. Whilst details of the proposed planting have not been provided this detail along with its installation and maintenance could be secured by conditions.

On this basis, the proposal is considered to comply with Policies ST1, ENV5 and DM26 of the Copeland Local Plan, Policy N6PU of the Emerging Local Plan, and the provisions of the NPPF.

### Impact on Residential Amenity

Policy SS1 of the Copeland Local Plan seeks to make Copeland a more attractive place to build homes and to live through requiring new development to be designed and built to a high standard.

Policy DM10 of the Copeland Local Plan expects high standards of design and the fostering of quality places. It is required that development responds positively to the character of the site and the immediate and wider setting and enhance local distinctiveness. It is required that development incorporate existing features and address vulnerability to and fear of crime and antisocial behaviour.

Policy DS6PU of the Emerging Local Plan requires all new development to meet high-quality standards of design. This includes creating and enhancing locally distinctive places, the use of good quality materials that reflect the local character, including high quality and useful open spaces, providing high levels of residential amenity, adopting active travel principles, creating opportunities for social interaction, and effective use of land whilst maintaining amenity and maximising solar gain.

The application site is located to the rear of two existing residential properties. The access to the site will be via the existing access for Stoup Dub Cottage which runs directly to the west of the gable of this dwelling. The application form confirms that the applicant does not live at Stoup Dub Cottage. Whilst no objections have been received from the occupiers of either of the residential properties, the proposal is considered to introduce movements of large/commercial vehicles in close proximity of Stoup Dub Cottage. It is considered that the movements associated with this development, although limited, would cause significant disturbance to the residential property, particularly as a number of windows are located within this western gable of the property. It is therefore considered that the proximity of the access

to this existing residential property would result in a significant and unacceptable increase in noise and disturbance, which would cause significant harm and would have a detrimental effect on the living conditions for existing and future occupants of this dwelling.

On this basis, the proposal is considered to be contrary to Policies SS1 and DM10 of the Copeland Local Plan, Policy DS6PU of the Emerging Local Plan, and the provisions of the NPPF.

#### Access and Highway Safety

Policy T1 of the Core Strategy requires mitigation measures to be secured to address the impact of major housing schemes on the Boroughs transportation system. Policy DM22 of the Copeland Local Plan requires developments to be accessible to all users and to meet adopted car parking standards, which reflect the needs of the Borough in its rural context.

Policies CO4PU, CO5PU and CO7PU of the ELP promotes active travel.

The application site is accessed via the single unsurfaced access track from the public toilets/car park and beach café at Haverigg along the sea front, which leads to Stoup Dub Cottage. The existing access to this residential property will then be utilised. The unsurfaced access track and residential access are both identified as public rights of way. Whilst no objections have been received from the Local Highway Authority or the Council's Footpath Officer, concerns regarding the use of the access track have been raised by the Parish Council. These concerns relate to the suitability of the unsurfaced track for use by commercial vehicles, and the route of this track through a public area served by a car park, play area, public toilets and a café. Based on these concerns the Highways and Footpaths Officer have suggested that conditions should be utilised to control the movement of vehicles which are stated within the application. This would result in 1-2 vans per day and 1 HGV weekly utilising this access road between 8am – 6pm.

Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Given the proposed number of movements from the development it is not considered that the development would have an unacceptable impact on highway safety or the cumulative impacts on the existing road network would be severe. The proposal is therefore considered to comply with Policies T1 and DM22 of the Copeland Local Plan, Policies CO4PU, CO5PU and CO7PU of the Emerging Local Plan and provisions of the NPPF.

#### Flood Risk and Drainage

Policy ST1 of the Copeland Local Plan and paragraph 165 of the NPPF seek to focus development on sites that are at least risk of flooding and where development in flood risk is unavoidable, ensure that the risk is minimised or mitigated through appropriate design for the lifetime of the development.

Policy ENV1 and DM24 of the Copeland Local Plan, and Policy DS8PU of the Emerging



## Cumberland Council

Local Plan state that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.

Policy DM11 of the Copeland Local Plan and Policy DS9PU of the Emerging Local Plan requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.

The application site is located within Flood Zones 2 and 3, therefore a Flood Risk Assessment has been submitted to support this application. This FRA states that a 1m bund will be erected around the site to protect the land from flooding, and loose sand and gravel will be used to aid natural drainage. Whilst the submitted assessment is basic the EA have confirmed that the document is appropriate with regard to the nature and scale of the proposed change of use. The EA and the LLFA have confirmed that the development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

The EA have stated that the application should also be supported by a sequential test. The applicant has provided a brief sequential test, however this is not considered to meet requirements set out in Government guidelines for this or the exception test. The NPPF however states that applications for some minor development and changes of use should not be subject to the sequential or exception test but should still meet the requirements for site-specific flood risk assessments. Footnote 60 of the NPPF confirms that these developments include householder development, small non-residential extensions (with a footprint of less than 250m<sup>2</sup>) and changes of use, except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site. On this basis a sequential test is not required for a development of this nature.

On this basis, the proposal is considered to comply with Policies ST1, ENV1 and DM24 of the Copeland Local Plan, Policy DS6PU of the Emerging Local Plan, and the provisions of the NPPF.

### Ecology

Policies ST1, ENV3, and DM25 seeks to ensure that new development will protect and enhance biodiversity and geodiversity.

Policy N1PU of the Emerging Local Plan LP defines a mitigation hierarchy.

Policy N3PU of the Emerging Local Plan requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

The application site is identified as a site known for natterjack toads and is located adjacent

to the Duddon Estuary Site of Special Scientific Interest (SSSI). The site is also located in close proximity to Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and Duddon Estuary Special Protection Areas (SPA), and Duddon Estuary Ramsar.

The application is not supported by an ecological survey therefore the impact on protected species, wildlife, geology or these protected sites has not be considered as part of this proposal. The application is therefore void of any necessary mitigation measures to protect and/or enhance biodiversity and geodiversity.

Natural England have reviewed this application and have confirmed that given the location of the site, the application should be supported by a Habitats Regulations Assessment (HRA) to include the potential impacts on SPA birds and to assess if there will be any discharges into Stoup Dub Cut and the potential pollution impacts on the SAC, SPA, SSSI and Ramsar from the development. A Construction Environmental Management Plan (CEMP), and a management plan for surface run-off in conditions of heavy rain to prevent the pollution of the SAC are also required. This information has not been provided by the applicant.

The application is considered to provide insufficient evidence relating to the proposed impacts on ecology and how the proposal, through the use of mitigation measures, would protect and enhance biodiversity and geodiversity in this sensitive location. On this basis, the proposal is considered to be contrary to Policies ST1, ENV3 and DM25 of the Copeland Local Plan, Policies N1PU and N3PU of the Emerging Local Plan, and provisions of the NPPF.

#### Planning Balance and Conclusion

The site is located within the open countryside and is significantly detached from the existing and proposed settlement boundary for Haverigg. Policy ST2 of the Copeland Local Plan and DS4PU of the Emerging Local Plan restricts development outside the defined settlement boundaries to that which have a proven requirement, including land use characteristically located outside settlements such as agriculture or forestry, farm diversification schemes or tourism activities requiring location in the countryside. No evidence has been submitted to provide justification for the countryside location in line with the criteria set out within the relevant planning policies. Given the rural isolated nature of the application site, it is not considered that this is a sustainable location for the type and scale of the commercial use proposed. This is afforded significant weight.

Whilst potential impacts on the overall landscape and character of the area can be mitigated through the proposed landscaping measures, the use of the existing residential access would result in an unreasonable loss of residential amenity for the existing and future occupants of the existing dwelling, Stoup Dub Cottage, due to the proximity of the access to the dwelling, the nature of the additional traffic, and the detrimental impacts of the associated movements and disturbance this development would create. This is afforded significant weight.

Although concerns have been raised by the Parish Council in relation to the use of the unsurfaced access track by the development given the proposed number of movements from





## Cumberland Council

	<p>the development it is not considered to create an unacceptable impact on highway safety or a serve impact on highway conditions. The development is also not considered to create an unacceptable flood risk within the site or elsewhere. This is afforded moderate weight.</p> <p>The is a sensitive area and the site is located adjacent to the Duddon Estuary Site of Special Scientific Interest (SSSI). The site is also located in close proximity to Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and Duddon Estuary Special Protection Areas (SPA), and Duddon Estuary Ramsar. Insufficient information has been provided to demonstrate that the development will not have an unacceptable impact on ecology or the nearby protected areas. This is afforded significant weight.</p> <p>In overall terms, it is considered that the direct conflict with the provisions of the Copeland Local Plan and Emerging Local Plan, the adverse impacts on residential properties, and failure to assess and mitigate the ecological constraints associated with the site are sufficiently harmful to significantly and demonstrably outweigh the potential benefits of the development.</p>
8.	<p><b>Recommendation:</b> Refuse</p>
9.	<p><b>Reasons for Refusal</b></p> <ol style="list-style-type: none"><li>1. The proposed development creates a commercial use located on a site outside of any defined settlement boundary with no justification provided for the open countryside location in direct conflict with Policies ST1, ST2, ER4 and ER6 of the Copeland Local Plan, Policies DS3PU, DS4PU, E1PU and E2PU of the Emerging Local Plan, and provisions of the NPPF.</li><li>2. The proposed development would result in an intensification of an existing residential access for larger commercial vehicle which would result in an unreasonable loss of residential amenity for the existing and future occupants of the dwelling, Stoup Dub Cottage. This impact would be exacerbated by the proximity of the dwelling to the access, the type of traffic involved, and the detrimental impacts of the associated movements and disturbance that the development would create. Consequently, this proposal would be in conflict with Policies SS1 and DM10 of the Copeland Local Plan, Policy DS6PU of the Emerging Local Plan, and the provisions of the NPPF.</li><li>3. The is a sensitive area and the site is located adjacent to the Duddon Estuary Site of Special Scientific Interest (SSSI). The site is also located in close proximity to Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and Duddon Estuary Special Protection Areas (SPA), and Duddon Estuary Ramsar. The proposed development fails to demonstrate that adequate assessment of the ecological constraints within and adjacent to the site have been assessed and any impacts</li></ol>

sufficiently mitigated, in conflict with Policies ST1, ENV3 and DM25 of the Copeland Local Plan, Policies N1PU and N3PU of the Emerging Local Plan, and provisions of the NPPF.

**Case Officer:** C. Burns

**Date :** 25.03.2024

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

**Date :** 26.03.2024

**Dedicated responses to:-**