



## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/24/2060/0F1
2.	<b>Proposed Development:</b>	ERECT ROOF OVER EXISTING SHEEP PENS
3.	<b>Location:</b>	PART FIELD NO 1654 & 1041, NEAR GREEN ROAD, THE GREEN
4.	<b>Parish:</b>	Millom Without
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, SSSI - SSSI, 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 Planning Policies: See report
7.	<b>Report:</b> <b>SITE AND LOCATION</b>	The application relates to a field associated with Water Blean Farm complex, located to the south of The Hill, Millom. The site is accessed by a single track off "Aggie's Lonnin". The site also lies adjacent to a public right of way and the Duddon Estuary SSSI and is located within flood zones 2 and 3.

## **PROPOSAL**

Planning Permission is sought to erect a building to cover existing sheep pens along the edge of the field and the marsh of the Duddon Estuary.

The building will measure 20m x 18.3m and it will have an eaves height of 2.3 metres and a ridge height of 3.71 metres. The proposed east elevation will include an opening for the existing gate access to the marsh and the north and south elevations will be blank. The west elevation facing the field will include galvanised metal sheet clad doors/gates along the full elevation. It will be constructed out of grey big 6 corrugated cement fibre roofing and concrete side panels with Yorkshire boarding above.

## **RELEVANT PLANNING APPLICATION HISTORY**

There have been no previous planning applications at this site.

## **CONSULTATION RESPONSES**

### Millom Without Parish Council

Support the application.

### Highways and LLFA

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.

However, it should be noted that Public Right of Way - Public Footpath 416057 passes along the boundary of the development site.

Public Footpath 416057 also forms part of the King Charles III England Coast Path which is a National Trail. The Silecroft to Green Road section of the National Trail was opened to the public on 9 February 2022 by order of the Secretary of State.

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



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obstruct the right of way shown on the attached plan.

- The right of way as shown on the definitive map and statement must be kept open and unaltered for public use until an order made to divert, stop up or to temporarily close it has been confirmed.

### Environment Agency

No objections.

**Proximity to main river** - The watercourse to the southwest of the site is a designated statutory main river. In addition to any planning approval, the Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### Natural England

Initial consultation: Adjacent 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 has reviewed the relevant documents and provided the following advice:

**CEMP** As construction will be taking place adjacent to the SAC, SPA, SSSI and Ramsar, Natural England advise 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 that

are hydrologically connected to the SAC from sediment or pollutants such as fuel and cement. There must be a bund or a buffer to the 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.

SPA Birds Special Protection Areas (SPAs) are classified for rare and vulnerable birds, and for regularly occurring migratory species. Morecambe Bay and Duddon Estuary SPA is nationally important for wintering wildfowl, waders and Tadorna tadorna. Designated SPA birds may also rely on areas outside of the SPA boundary such as the development site. 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. Therefore, Natural England strongly advise that all construction should be avoided during the overwintering bird season (Sept- March) to reduce disturbance to the SPA birds. If works are required during the overwintering season, the applicant will need to provide assurance that all noise impacts can be mitigated. If noise cannot be mitigated, then the applicant will need to quantify how many birds are using the site so that an assessment of overall impacts to the SPA integrity can be made.

Second consultation with CEMP:

Thank you for re-consulting Natural England on this application. Adherence to the measures outlined in the submitted CEMP will ensure no adverse effect on the site integrity of the 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. Therefore, Natural England has no objection subject to this mitigation and avoiding construction works during the overwintering bird season (Sept-March).

#### Public Representations

The application has been advertised by way of site notice - No objections have been received as a result of the consultation.

One anonymous question regarding the proposed location was received but this could not be responded to as no details were provided.

#### **PLANNING POLICIES**

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.



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### **Development Plan**

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

### **Copeland Local Plan 2013 – 2028 (Adopted December 2013):**

#### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 - Protecting and Enhancing the Borough's Landscape

Policy ENV6 – Access to the Countryside

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 - Landscaping

Policy DM30 – Rural Buildings

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Cumbria Landscape Character Guidance and Toolkit (CLCGT)

Wildlife and Countryside Act 1981

**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 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.

The following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy DS8PU – Reducing Flood Risk

Policy RE1PU – Agricultural Buildings

Policy N1PU – Conserving and Enhancing Biodiversity and Geodiversity

Policy N3PU – Biodiversity Net Gain

Policy N6PU – Landscape Protection



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### **ASSESSMENT**

The key issues raised by this proposal are the principle of development, its scale and design and impact on the landscape and visual impact, flood risk, ecology and the public right of way.

#### Principle of Development

Policy ST2 of the Local Plan supports development outside of settlements, which have a proven requirement for such location, including agriculture related development.

The proposal relates to existing sheep pens along the edge of the field associated with Water Blean Farm and the new structure will reduce contaminated run-off. Policy DM30 and RE1PU support new agricultural buildings subject to detailed criteria, which are considered below.

On this basis, the principle of development is acceptable in accordance with Policy ST2 of the Copeland Local Plan.

#### Siting, Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM30 states proposals for new agricultural buildings and small holdings will be permitted as long as they are well related to existing settlement of farm building complex, or where this is not possible or appropriate are accessible and well screened; are of an appropriate design and scale, use materials and colour to blend into its surroundings; and do not adversely impact on local landscape or the amenity of nearby residential properties.

Policy RE1PU supports new agricultural buildings where a demonstrable need for the building in relation to the functional operations of the agricultural business is demonstrated; is located within or adjacent to the existing farm complex unless justification for an alternative location is demonstrated; is of a scale, form and design which is appropriate to the location and will not result in adverse visual impacts or adverse harm to the landscape character.

Concerns were originally raised as the proposal relates to a field, rather than an existing settlement or farm building complex. The applicant provided additional justification for the proposed location.

The sheep pens are used on average weekly throughout the year and depending on the time of year will be used to sort between 500 to 1000 sheep or more each time. These pens are the farmers only handling facility in the area and are necessary to carry out their work. They stress that it would not be possible to take all the sheep the long distance and over the railway back to the farmstead every time the tides changed and the marsh had to be gathered.

The applicant has been working closely with Natural England's Countryside Stewardship

Officer to improve the water quality across the farm, which is in a high priority area for water quality. One recommendation was to roof over the sheep pens as this would eliminate the chances of dirty water run-off from the pen area into the water courses. The rainwater from the roof could be directed into clean water field drains and the area under the roof can be kept clean much easier, which is currently very muddy on top of the existing hardcore.

The building would improve animal welfare, providing shelter when the sheep have to be in the pens for long periods of time during the husbandry practices that are needed. In addition, the building would allow the applicant to improve the sheep handling system.

The applicant provided a letter of approval from Countryside Stewardship in which it shows they support roofing the sheep pens and a letter of support from the Environment Agency saying they can confirm that the Environment Agency supports applications for a grant under the CSF Scheme and 'Work to minimise the risk of agricultural runoff reaching groundwater or surface water is good environmental practice and is something that the Environment Agency would recommend wherever appropriate.' On this basis, the proposal is considered to be suitably justify the location in the open countryside.

The scale and design of the proposed structures are considered to be modest in height and of a typical design to be used as a farm building. In addition, the proposed building is considered to be accessible from "Aggie's Lonnin", the access track which also provides an access to Water Blean Farm and therefore it is considered to comply with Policy DM30 requirements. The existing boundary hedge and embankment will help provide screening.

On this basis, the proposal is considered to comply with Policies ST1, DM30 and RE1PU.

#### Landscape and Visual Impact

Policy ENV5 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.

The application site relates to the sheep pens within an agricultural land at The Green. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within Sub Type 2d 'Coastal Urban Fringe', which seeks to enhance, restore and improve the landscape.

Despite the proposal being visible from the surrounding fields, the proposed building will viewed in the context of the worked landscape and the existing hedge and embankment will provide some screening. This will minimise the impact of the development on the surrounding





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landscape and therefore the works are not considered to result in a significant intrusion into the open countryside.

The proposal is therefore considered to comply with policies ST1, ENV5 and DM26 of the Copeland Local Plan and provision of the CLCGT.

### Flood Risk

The NPPF and Policy DM24 requires proposed developments in Flood Zones 2 and 3 to be accompanied by a Flood Risk Assessment (FRA). Policies ENV1 and DM24 seeks to protect developments against risks of flooding.

The application is accompanied by a Flood Risk Assessment as the site falls within flood zones 2 and 3. The supporting documents also include a plan for the flood defence measures, including the estuary embankment.

The LLFA and the Environment Agency have raised no objection to the proposal.

The raised tidal embankment reduces the risk of flooding from rivers and seas to low. Given the nature and scale of the development and the fact that the applicant is aware of the potential risk and frequency, the proposal is considered to be acceptable. In addition, due to the remote location, the development will not increase surface water flood risk elsewhere.

An informative note is attached for the Environmental Permit from the Environment Agency.

On this basis, it is considered that the proposed agricultural building will not have a detrimental impact on increasing flood risk and therefore, the proposal is considered to meet Policies ENV1, DM24 and the NPPG guidance.

### Ecology

Policy ST1, ENV3 and DM25 and section 15 of the NPPF outline how the Council will protect and enhance the biodiversity and geodiversity within the Borough. These policies set out the approach towards managing development proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

The application site is located adjacent to Duddon Estuary SSSI.

The application is supported by a Protected Species Survey/Protection Plan.

As part of the consultation, Natural England requested a Construction Environmental Management Plan (CEMP). The agent has provided this document and Natural England have been re-consulted. Following the re-consultation with Natural England, they have confirmed that adherence to the measures outlined in the submitted CEMP will ensure no adverse effect on the site integrity of the 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. Therefore, Natural England has no

objection subject to this mitigation and avoiding construction works during the overwintering bird season (Sept- March).

These measures can be secured by the use of planning conditions and therefore subject to the inclusion of planning conditions, the proposal is considered to comply with Policies ENV3 and DM25.

#### Public Right of Way

Section 7.7 of Policy ENV6 recognises that existing Public Rights of Way are protected in law. As the Public Right of Way 416057 runs adjacent to the site, consideration must be given to the potential impacts on the footpath.

The proposed structure will be visible from a small section of the Public Right of Way 416057, although it will be modest in scale and it will be partially screened by the existing boundary hedge and as such will not have any detrimental impact on the Public Right of Way.

The site visit confirmed the PROW runs along the embankment but it will not be directly adjacent to the proposed building, which will be approximately 25 metres away. Due to this distance, it will not significantly harm the physical footpath or the amenity of the user and the proposal is considered to satisfy Policies ENV6, DM10 and the NPPF guidance.

An informative note is attached to ensure the PROW is not blocked.

#### Planning Balance and Conclusion

This application seeks to erect a new structure over the existing sheep pens along the edge of the field associated with Water Blean Farm. The main issue raised by the application was the siting of the development within the open countryside and the potential impacts on the landscape character. The applicant has provided additional justification for the development which is supported by Natural England and the Environment Agency and it will reduce contaminated water run-off.

The proposal relates to existing sheep pens and the location is justified. The development will be modest in scale and the design is considered to be suitable for its use. In addition, the proposal will not have an adverse impact on the landscape and visual impact, flood risk, ecology and the public right of way.

Planning conditions are included to secure the Construction Environmental Management Plan measures, protected species measures and the flood risk measures.

Informative Notes are also included for the public right of way and the Environment Agency's Environmental Permit.

Overall, the potential harm will not significantly and demonstrably outweigh the identified



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	benefits of the development and therefore the proposal is considered to be an acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.
8.	<b>Recommendation:</b> Approve (commence within 3 years)
9.	<b>Conditions:</b>  1. The development hereby permitted must commence before the expiration of three years from the date of this permission.  Reason  To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.  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 19 <sup>th</sup> February 2024; Site Plan, scale 1:2500, drawing ref 1800, received 19 <sup>th</sup> February 2024; Proposed Floor Plan, scale 1:100, drawing ref 1800, received 19 <sup>th</sup> February 2024; Proposed Elevations, scale 1:100, drawing ref 1800, received 19 <sup>th</sup> February 2024; Proposed Section AA, scale 1:50, drawing ref 1800, received 19 <sup>th</sup> February 2024; Design and Access Statement, received 19 <sup>th</sup> February 2024; Flood Risk Assessment, received 19 <sup>th</sup> February 2024; Protected Species Survey/Protection Plan, received 19 <sup>th</sup> February 2024; Construction Environmental Management Plan, received 10 <sup>th</sup> April 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 development hereby approved must be carried out work in accordance with the Construction Environmental Management Plan received by the Local Planning Authority on 10 <sup>th</sup> April 2024 and avoid construction works during the overwintering bird season (Sept- March). Development must be carried out in accordance with the

approved measures in the Construction Environmental Management Plan thereafter.

Reason

To ensure suitable protection measures are carried out in accordance with Policy DM25 of the Copeland Local Plan

4. Prior to the commencement and during the works, the mitigation measures must be carried out in accordance with the details set out in the Protected Species Survey and Management Plan received by the Local Planning Authority on 19<sup>th</sup> February 2024.

Reason

To ensure suitable protection measures are carried out in accordance with Policy DM25 of the Copeland Local Plan.

5. Prior to the first use of the building hereby approved, the flood resilience and mitigation measures shall be implemented in accordance with the details set out in the Flood Risk Assessment received by the Local Planning Authority on 19<sup>th</sup> February 2024. These measures shall be retained and maintained at all times thereafter.

Reason

To prevent flood risk in accordance with Policy DM24 of the Copeland Local Plan.

**Informative Notes**

**Public Right of Way**

- The granting of planning permission does not give the applicant the right to block or obstruct the right of way 416057.
- The right of way 416057 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.

**Environmental Permit**

The watercourse to the southwest of the site is a designated statutory main river. In addition



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to any planning approval, the Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### 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 : 17/04/2024**

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

**Date : 17/04/2024**

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