

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/24/2065/0F1
2.	<b>Proposed Development:</b>	REPLACEMENT DWELLING TYPES ON PLOTS 12, 14, 15, 15A, 16 AND 16A INCLUSIVE - 6 DWELLINGS
3.	<b>Location:</b>	PLOTS 12, 14, 15, 15A, 16 AND 16A, HIGH STILE GARDENS, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Key Species - Bounds of Sensitive Area for Hen Harriers, Preferred Route Corridor - Within Preferred Route Corridor
6.	<b>Publicity Representations &amp; Policy</b>	See report.
7.	<b>Report:</b>	<p><b>Site and Location:</b></p> <p>The Application Site comprises part of the property previously known as Cumberland Cold Storage Ltd, Hensingham, Whitehaven.</p> <p>The wider development extends to c.2 hectares in area.</p> <p>The site was formerly occupied by a fish-processing factory constructed in the late 1970s.</p> <p><b>Direct Planning Application History</b></p> <p>4/14/2176/001 – Outline for 34no. dwellings. Approve subject to planning conditions and S106.</p> <p>4/14/2177/0F1 – Demolition of vacant former fish factory and erection of 1,521 sqm of B1 and B2 commercial development with associated landscaping and access. Approved subject to planning conditions.</p>

4/16/2433/0R1 – Reserved Matters for 25no. dwellings. Approved subject to planning conditions.

4/19/2238/0B1 – Variation of Condition 2 (site plan) of planning permission 4/16/2433/0R1 (Reserved matters for 25 dwellings). Approved subject to planning conditions.

4/20/2377/0B1 - Variation of condition 1 of 4/19/2238/0B1 (Site plan and amended and new dwelling types). Approved subject to planning conditions.

The development is currently under construction.

**Proposal:**

This application seeks Full Planning Permission for the erection of 6no. single storey and two storey dwellings.

The Full Planning Permission is effectively sought for replacement dwelling types on the development approved under application ref. 4/20/2377/0B1 through a Full Planning Application rather than a Section 73 to vary the approved planning permission.

Some limited revisions are proposed to the design/specification of the general layout and highway specifications to accommodate the proposed revisions.

It is proposed to dispose of foul water and surface water to the public mains drainage system.

It is proposed to finish the properties externally with a combination of dark grey concrete tiles, brick and render with buff colour sandstone details. White uPVC windows and a combination of grey and green doors are proposed.

The planning application has been amended during the determination period in response to comments from the Planning Officer. The revisions comprise: the replacement of a timber boundary fence with a masonry wall, the amendment of a proposed window and introduction of a new window to the front elevation of Plot 16a and the addition of clarity in relation to the proposed surface water drainage scheme.

<b>Consultee:</b>	<b>Nature of Response:</b>
Town Council	No comments or objections.
Cumberland – 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



**Cumberland  
Council**

	existing highway conditions nor will it increase the flood risk on the site or elsewhere.
The Coal Authority	We have reviewed the site location plan provided and can confirm that the site falls within the Coal Authority's defined Development Low Risk Area. On this basis we have no specific comments to make. However, in the interest of public safety, it is requested that the Coal Authority's Standing Advice note is drawn to the applicant's attention, where relevant.
<b>Neighbour Responses:</b>	
The application has been advertised by way of a planning application site notice and neighbour notification letters issued to 15no. neighbouring dwellings.	
No written representations have been received in respect of the proposals.	

**Development plan policies:**

**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 (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST4 – Providing Infrastructure

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

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure  
Policy T1 – Improving Accessibility and Transport  
Policy ENV1 – Flood Risk and Risk Management  
Policy ENV3 – Biodiversity and Geodiversity  
Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place  
Policy DM11 – Sustainable Development Standards  
Policy DM12 – Standards for New Residential Development  
Policy DM22 – Accessible Developments  
Policy DM24 – Development Proposals and Flood  
Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species  
Policy DM26 - Landscaping  
Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP) Saved Policies:

Policy TSP8 – Parking Requirements

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 closed on the 28<sup>th</sup> March 2024. The Planning Inspectors report is 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 advanced stage of preparation of the ELP full weight can be attached to policies



## Cumberland Council

where no objections have been received or objections have been resolved. Now that 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.

Policy DS1PU - Presumption in favour of Sustainable Development  
Policy DS2PU - Reducing the impacts of development on Climate Change  
Policy DS3PU - Settlement Hierarchy  
Policy DS4PU - Settlement Boundaries  
Policy DS6PU - Design and Development Standards  
Policy DS7PU - Hard and Soft Landscaping  
Policy DS8PU - Reducing Flood Risk  
Policy DS9PU - Sustainable Drainage  
Policy DS10PU - Soils, Contamination and Land Stability  
Policy DS11PU - Protecting Air Quality  
Policy H1PU - Improving the Housing Offer  
Policy H2PU - Housing Requirement  
Policy H3PU - Housing delivery  
Policy H4PU - Distribution of Housing  
Policy H5PU - Housing Allocations  
Policy H6PU - New Housing Development  
Policy H7PU - Housing Density and Mix  
Policy H8PU - Affordable Housing  
Policy SC1PU - Health and Wellbeing  
Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic  
Policy N2PU - Local Nature Recovery Networks Strategic  
Policy N3PU - Biodiversity Net Gain  
Policy N5PU - Protection of Water Resources  
Policy N6PU - Landscape Protection  
Policy N9PU - Green Infrastructure  
Policy N10PU - Green Wedges  
Policy N11PU - Protected Green Spaces  
Policy N12PU - Local Green Spaces  
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 (NPPF).  
Planning Practice Guidance (PPG).  
National Design Guide (NDG).  
The Conservation of Habitats and Species Regulations 2017 (CHSR).  
Cumbria Development Design Guide (CDDG).  
Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).  
Copeland Borough Council Housing Strategy 2018-2023 (CBCHS).

## **Assessment:**

### Principle

Outline Planning Permission was approved and Reserved Matters Approval subsequently approved for the erection of 34 dwellings under planning application ref. 4/14/2176/001 and planning application ref. 4/16/2433/0R1 respectively.

The relevant pre-commencement planning conditions have been approved/discharged and the development has been commenced. As such it remains an extant planning permission.

Section 73 planning applications have been approved under planning application ref. 4/19/2238/0B1 and application ref. 4/20/2377/0B1.

The proposed development will result in a reduction in the number of dwellings from 22no. dwellings to 21no. dwellings on the overall site.

### Housing Mix

No affordable housing is secured.

The development in part comprises the replacement of one design of executive style house with another design of executive style house.

The development does propose the replacement of some smaller dwellings with larger properties including bungalows. The provision of bungalows as part of the housing mix for which need exists is considered to off set the loss of the smaller dwellings.

### Design and Landscape Impact

The layout of the development remains consistent with that previously approved, with only minor revisions to the design of the highway and proposed accesses/driveways.

The revised house types proposed are consistent in overall scale, form and design to the dwellings approved on the remainder of the development.

### Highways Impacts

Minor revisions are proposed to the design/specification of the highway and do not materially impact the highway layout and operation etc..

The number of dedicated and visitor parking spaces are acceptable.

Cumberland Council Highways have confirmed no objection.



## Cumberland Council

A planning condition is proposed to secure a detailed highway specification and construction details.

### Drainage

It is proposed to dispose of foul water to the existing mains drainage system and surface water to the existing mains drainage system via a scheme of attenuation as per the approved drainage scheme.

The Applicant has confirmed that the approved scheme has been completed and is operational.

Minor revisions only are required to the connections from the plots to the primary drainage infrastructure only.

Cumberland Council Lead Local Flood Authority have confirmed no objection.

### Ecology

The Application Site is currently operating as a compound serving the construction of the wider development.

In the context of the existing extant planning permission, the requirement to achieve biodiversity net gain is not required/justifiable.

### Landscaping

An indicative scheme of landscaping is detailed on the submitted layout plan. This broadly follows the landscape design principles etc. of the previously approved scheme; however, no specific planting details are submitted.

A planning condition is proposed to secure the submission, approval and implementation of a detailed scheme of landscaping.

### Residential Amenity

Given the scale, form and layout of the proposed development, unacceptable impacts through overlooking, loss of light, overshadowing and overbearing will not result.

The interface separation distances of less than 21m are achieved between Plot 10 and Plot 16a and Plots 14/15/15a and Plot 16. In both instances this relates to the distances between primary windows in one property and second windows serving primary habitable rooms.

In relation to Plots 14/15/15a and Plot 16, the proposed boundary will deliver screening and

so limit impacts.

In relation to Plot 10 and Plot 16a, the window in Plot 16a is limited in size and so will not result in material levels of overlooking, especially given that the window faces onto a highway. The inclusion of the window introduces interest what would otherwise comprise a banal gable elevation.

A planning condition is proposed to secure acceptable hours of construction.

#### Ground Conditions/Contamination

Application Ref. 4/14/2176/001 was approved subject to a planning condition requiring the submission of a ground investigation relating the contamination risks on the Application Site.

A ground investigation report and remediation strategy were submitted in approved in 2018 – Report Ref. 2016-2053 prepared by Geo Environmental Engineering.

The Applicant has previously submitted a revised ground investigation report and remediation strategy - Report Ref. 2018-3413 prepared by Geo Environmental Engineering which was completed in late 2018/early 2019. This report confirms there are now no mitigation measures required and therefore no remediation strategy or validation report is needed.

Thom Greer – Environmental Protection of Copeland Council has previously been consulted and has confirmed that the conclusions and provisions of Report Ref. 2018-3413 prepared by Geo Environmental Engineering are acceptable.

A planning condition is proposed to require completion in accordance with the provisions of Report Ref. 2018-3413 prepared by Geo Environmental Engineering and remove the requirement for a validation report.

A planning condition is proposed to control any instances of unexpected land contamination.

#### Planning Balance and Conclusion

The principle of the development has previously been established.

The proposed revisions to the layout and proposed dwelling designs are appropriate to the development.

No issues are arising in respect of highway safety and drainage.

The resulting amenity impacts are not considered sufficiently harm to warrant refusal.

The planning balance weighs in favour of approval of the planning application.





**Cumberland  
Council**

8.	<p><b>Recommendation:</b> Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p>1. The development hereby permitted shall begin not later than three years from the date of this decision.</p> <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <p>2. Permission shall relate the following plans and documents and development shall be carried out in accordance with them:</p> <p>Application Form</p> <p>Site Location Plan – Drawing No. 13/07/805-01</p> <p>Revised Site Plan (Residential) – Drawing No. 13/07/805-69 g)</p> <p>Plot 12 (Type G) – Plans &amp; Elevations – Drawing No. 13/07/805-89 Plots 14 &amp; 15a (Type H) – Plans &amp; Elevations – Drawing No. 13/07/805-87 Plot 15 (Type H) – Plans &amp; Elevations – Drawing No. 13/07/805-88 Plot 16 (Type J) – Plans &amp; Elevations – Drawing No. 13/07/805-86 Plot 16a (Type K) – Plans &amp; Elevations – Drawing No. 13/07/805-85 a)</p> <p>External Material Specification – Ref. REF: 13/07/805 EMS/1</p> <p>Supplementary Phase 2: Ground Investigation Report (Ground Gas Risk Assessment) Report Ref. 2018-3413 prepared by Geo Environmental Engineering.</p> <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> <p><u>Pre-Commencement Planning Conditions</u></p> <p>3. Notwithstanding the submitted details, no development shall commence until details,</p>

including longitudinal/cross sections of the carriageway, footways, footpaths etc. have been submitted to and approved in writing by the Local Planning Authority.

The carriageway, footways, footpaths etc. serving the development shall be designed, constructed, drained and lit to a standard suitable for adoption and accord with the standards laid down in the Cumbria Development Design Guide or any such replacement documentation.

The development shall be completed in accordance with the approved details before the development is complete.

**Reason**

To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2021.

4. Notwithstanding the submitted details, no development shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

These details shall include:-

- proposed finished levels or contours;
- other vehicle and pedestrian access and circulation areas; and,
- hard surfacing materials.

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers / densities; and an implementation programme.

The agreed scheme shall be carried out as approved to the agreed timetable.

Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

**Reason**

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with the provisions of Policy DM26 of the Copeland Local Plan 2013-2028.

**Pre-Occupation Planning Conditions**



**Cumberland  
Council**

5. No dwelling hereby approved shall be occupied until foul water and surface water infrastructure to serve that dwelling has been completed in accordance with the approved details and brought into operational use. The foul and surface water infrastructure shall be retained, maintained and managed in accordance with the approved details.

Reason

For the avoidance of doubt and to secure an appropriate form of drainage in accordance with the provisions of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013-2028.

6. No dwelling hereby approved shall be occupied until the highway required to serve that dwelling has been constructed to a minimum of base course level.

Reason

To ensure a minimum standard or access provision when the development is brought into use in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.

7. No dwelling hereby approved shall be occupied until the access and parking facilities to serve that dwelling have been constructed in accordance with the approved details. The access and parking facilities shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local Planning Authority.

Reason

To ensure a minimum standard or access provision for the lifetime of the development in accordance with the provisions of Policy T1 of the Copeland Local Plan 2013-2028.

Other Planning Conditions

8. The development hereby approved shall be completed in accordance with the provisions of Supplementary Phase 2: Ground Investigation Report (Ground Gas Risk Assessment) Report Ref. 2018-3413 prepared by Geo Environmental Engineering.

Reason

To prevent harm to human health and the environment in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

#### Reason

To prevent harm to human health and the environment in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

10. No work for the construction of these developments, including demolition, shall take place on the site, except between the hours:

- 07:30 - 18.00 Monday to Friday; and
- 08.00 - 13.00 on Saturdays.

No work should be carried out on Sundays or officially recognised public holidays.

#### Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

#### **Informative**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority) <



**Cumberland  
Council**

<b>Statement</b>  The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and negotiating with the applicants acceptable amendments to address them. As a result the Local Planning Authority has been able to grant planning permission for an acceptable proposal in accordance with Copeland Local Plan policies and the presumption in favour of sustainable development as set out in the National Planning Policy Framework.	
<b>Case Officer:</b> C. Harrison	<b>Date :</b> 01.05.2024
<b>Authorising Officer:</b> N.J. Hayhurst	<b>Date :</b> 02/05/2024
<b>Dedicated responses to:-</b> N/A	