

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2110/0B1
2.	Proposed Development:	VARIATION OF CONDITION 5 (OPERATING HOURS) OF PLANNING APPLICATION 4/23/2331/0F1 CHANGE OF USE OF BUILDING FROM CLASS F1 (OFFICE, EDUCATION, WORKSGOP) TO CLASS E (INDOOR SPORTS, RECREATION, FITNESS)
3.	Location:	OLD PROSPECT WORKS, MAIN STREET, DISTINGTON
4.	Parish:	Distington
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Outer Consultation Zone - Cycliffe 3KM
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: Site And Location This application relates to Unit 2, located at Old Prospect Works off Main Street in Distington. There are other commercial buildings to the north and south, parking and open space to the west and Main Street to the east. Planning permission was granted in February 2024 for the change of use of the building from Class F1 (office, education, workshop) to Class E (D) (indoor sport, recreation, fitness). Relevant Planning Application History	

Fascia sign and non-illuminated monument sign, approved in March 1994 (application reference 4/94/0063/0 relates);

Installation of a window, approved in January 1999 (application reference 4/98/0874/1 relates);

Change of use from car showroom to offices and training workshops, approved in March 1997 (application reference 4/97/0101/0 relates);

Replace full height window with window and rendered stall riser, approved in January 2000 (application reference 4/99/0782/0 relates);

Change of use from Class F1 (office, education, workshop) approved under 4/97/0101/0 to Class E(d) (office, education, gym); replace sections of glazing in some existing windows with extract louvres, approved in July 2022 (application reference 4/22/2285/0F1);

Prior Approval application for demolition of office section in Unit 2, approved in December 2023 (application reference 4/23/2335/0F1 relates);

Change of use of building from Class F1 (office, education, workshop) to Class E (D) (indoor sport, recreation, fitness), approved in February 2024 (application reference 4/23/2331/0F1 relates).

Proposal

This application seeks to amend the previously approved scheme to allow for extended opening hours as follows.

Current opening hours:

16.00 – 21.00 Monday to Friday

09.00 – 19.00 Saturday and;

09.00 – 19.00 Sunday and Bank Holidays.

Proposed opening hours:

09:00 – 21:00 Monday to Friday

09.00 – 19.00 Saturday and;

09.00 – 19.00 Sunday and Bank Holidays.

Consultation Responses

Distington Parish Council



Cumberland Council

No objections.

Highways and 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 variation of condition 5 for the above 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.

Environmental Health

There are no objections from Environmental Health to the proposed variation of operating hours, allowing use of the facility through the daytime during the week (Monday to Friday 09.00 – 21.00).

There is no request to vary Condition 6 (control of amplified music) so the approved hours on the playing of amplified music shall remain unchanged.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 7 no. properties.

One letter of support has been received.

Planning Policies

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

Development Plan

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

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

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

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

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Strategic Development Principles

Policy SS4 – Community and Cultural Facilities and Services

Development Management Policies (DMP)

Policy DM21 – Protecting Community Facilities

Emerging Copeland Local Plan (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 28th March 2024.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Once the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.

The policies relevant to this proposal are as follows:

Strategic Policy DS1PU – Presumption in favour of Sustainable Development

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

Strategic Policy SC1PU: Health and Wellbeing

Policy SC2PU: Sporting, Leisure and cultural Facilities (excluding playing pitches)

Policy SC5PU: Community and Cultural Facilities



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Other Material Planning Considerations

National Planning Policy 2023 (NPPF)

The Planning Practice Guidance (NPPG)

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

ASSESSMENT

Principle of the development

The principle of the use of the building was established with the approval of the original 2024 application. The opening hours were requested by the Applicant and set with a planning condition. This application seeks to extend these opening hours in order that the facility can be used during the school holidays.

The issues for consideration are the effects of the extension of the hours of operation on the residential amenities of the occupiers of the neighbouring properties.

Planning Policy Context

Planning policy ST1 of the CS and DS1PU of the ELP seeks to ensure that businesses are able to continue and expand whilst protecting the amenity of any surrounding properties. Policies SS4 and DM21 of the CS and Policy SC5PU of the ELP encourage the retention and expansion of local businesses with Policies SC1PU and SC2PU of the ELP particularly emphasizing the importance of physical and mental health wellbeing for Copeland residents.

Assessment of variation of condition 5

The main issue raised by the application is that of noise and the effect of this noise on the occupiers of the neighbouring dwellings. The closest residential properties are located approximately 32m to the north and 45m to the south. These properties are located next to a commercial estate and therefore are likely to experience certain volumes of noise and traffic

	<p>movements. No objections were received to the application with one letter of support from a neighbouring property.</p> <p>The Environmental Health Officer also raised no objections to the extension of the operating hours.</p> <p>Planning Balance and Conclusion</p> <p>On balance, the overall benefits to the wider community with the provision of this facility providing physical and mental health improvements outweighs any harm created by the increase in opening hours. This is considered to carry significant weight within the planning balance.</p> <p>No objections have been raised by the statutory consultees to the variation of condition.</p> <p>As works have yet to commence on site and none of the conditions have been discharged it is necessary to repeat all of the conditions that were applied to the original consent reference 4/23/2331/0F1. The standard 3 year time period cannot be varied as part of this condition in accordance with the guidance set out in the PPG.</p> <p>Overall this is considered to be an acceptable form of development which accords with the guidance set out in the NPPG and the policies within the adopted Local Plan.</p>
8.	<p>Recommendation:</p> <p>Approve amendment of condition</p>
9.	<p>Conditions:</p> <p><u>Standard Conditions</u></p> <ol style="list-style-type: none"> 1. The development hereby permitted must be commenced before the 22nd February 2027. <p>Reason</p> <p>To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.-</p> <ol style="list-style-type: none"> 2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: - Application form, received 4th April 2024;

Site Location Plan, scale 1:1250, received 14th November 2023;

Proposed Floor Plans and Elevations, scale 1:100, drawing number 2023/100.02A, received 18th December 2023;

Construction Traffic Management Plan, received 23rd January 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.

Prior To Use Conditions

3. The use must not be commenced until the parking requirements have been constructed in accordance with the approved plan. Any such parking provision must be retained and be capable of use when the development is completed and must not be removed or altered without the prior consent of the Local Planning Authority.

Reason

To ensure a minimum standard of access provision when the development is brought into use and in accordance with Policy DM22 of the Copeland Local Plan.

Other Conditions

4. All works and ancillary operations that are audible at the site boundary, must be carried out only between the following hours: 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 Saturday, and at no time on Sunday or Bank Holidays.

Reason

In the interests of the amenities of the surrounding occupiers during the construction of the development and in accordance with Policy ST1 of the Copeland Local Plan.

5. No customers will remain on the premises outside of the hours of 09.00 – 21.00 Monday to Friday, 09.00 – 19.00 Saturday, and 09.00 – 19.00 Sunday and Bank Holidays.

Reason

To safeguard the residential amenity of nearby occupiers in accordance with Policy ST1 of the Copeland Local Plan.

6. There must be no amplified music played outside of the following hours:
- Monday to Friday 18.00 – 20.00
 - Saturday, Sunday & Bank Holidays 10.00 – 11.00 and 13.00 – 17.00

Reason

To ensure the amenity of the neighbouring dwellings in accordance with Policy ST1 of the Copeland Local Plan.

7. Development must be undertaken in accordance with the details within the Construction Traffic Management Plan at all times.

Reason

To ensure that the levels of amenity and highway safety are maintained for the surrounding area in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

8. 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 to the Local Planning Authority. An investigation and risk assessment must be undertaken, and a remediation report provided where necessary, to be submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors. In accordance with Policy ST1 of the Copeland Local Plan.

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



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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

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 a variation of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: Sarah Papaleo

Date : 24/05/2024

Authorising Officer: N.J. Hayhurst

Date : 28/05/2024

Dedicated responses to:- N/A