

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2206/0F1
2.	Proposed Development:	ERECTION OF A WALL WITH A FENCE ON TOP TO THE REAR AND SIDE OF PROPERTY
3.	Location:	VALDENE, 1 PROSPECT VIEW, 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: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report:	<p>SITE AND LOCATION</p> <p>This application relates to Valdene, an end detached property situated on Prospect View within Distington.</p> <p>The site benefits from a modest size front garden with driveway and offroad parking and garage. The site slopes downhill with the rear garden adjacent to the junction where Main Street meets the B5306.</p> <p>PROPOSAL</p> <p>Planning Permission is sought for the rebuilding of a 1-metre-high boundary wall with the addition of a 1-metre-high timber fence on top to the rear and side of the property.</p>

PLANNING APPLICATION HISTORY

There have been no previous applications at this site.

CONSULTATION RESPONSES

Distington Parish Council

No objections.

Highways and LLFA

1st response

We have concern with the proposed fence height and its position adjacent to the highway. As the proposed the fence will block any pedestrian/vehicle inter-visibility at the junction adjacent to the property just off the slip road into Distington, although no overall boundary height has been confirmed, we know that the fence is to be constructed on top of the existing wall so will be circa 1.6m if not higher.

What the applicant will need to do is set the fence back within the garden to keep the inter-visibility for the crossing point at the junction. The fence will need to be constructed to allow for inter-visibility from the road over the garden to the tactile crossing points on the highway, if we allow the fence to follow its boundary at its intended height circa 1.6m, drivers and pedestrians will not be able to see each other and could come into conflict as vehicle turn into the junction.

Furthermore, the applicant will need to demonstrate on a plan that the fence/wall does not obstruct the visibility splay from the junction, this being measure 2.4m back from the give-way markings down the centre of the carriageway and then measured down the footway to the nearside channel. (I don't think this will be an issue, but the applicant needs to confirm this).

We will need the following:

- A plan and confirmation that they will set the fence back as per the red line in the picture above.
- Confirm the final boundary height measured from the carriageway.
- A scaled plan that the fence will not disrupt the vehicle visibility splay from the junction.

2nd response

Cumberland Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) can confirm as follows:

The LHA considered it necessary to require the proposed fence to be stepped back into the garden to allow for pedestrian/vehicle inter visibility at the junction, this has been agreed with the applicant following a site meeting. As presented on plans - proposed_elevations_59 and site_layout_0 we are content with the layout, stepping back of the fence, measurements and



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elevation submitted. The layout details shown on the submitted plan are considered satisfactory from a highway perspective.

I can therefore confirm that the Local Highway Authority has no objection to the proposed development subject to the following condition being included in any notice of consent you may grant.

Condition: The Boundary fence shall be stepped back to allow pedestrian/vehicle inter-visibility at the junction, furthermore the boundary wall height shall not exceeding 1.00m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved and shall not be raised to a height exceeding 1.00m thereafter. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, or object of any kind shall be erected or placed, and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which would obstruct the visibility splays.

Reason: In the interests of highway safety.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 2 no. properties. No objections have been received as a result of this consultation.

PLANNING POLICIES

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

Development Plan

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

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland. The inherited the local development plan documents continue to apply to the geographic area of their sovereign Councils only.

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

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

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM22 – Accessible Developments

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 28th March 2024. As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF. Given the advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Once the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.

The following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy H14PU – Domestic Extensions and Alterations

Other Material Planning Considerations

National Planning Policy Framework (NPPF)



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ASSESSMENT

The key issues raised by this proposal are the principle of development, its scale and design, the potential impacts on visual and residential amenity and highway safety.

Principle of Development

The proposed application relates to a residential dwelling within Distington, and it seeks permission for the rebuilding of a 1-metre-high boundary wall with the addition of a 1-metre-high timber fence on top to the rear and side of the property.

Policy DM18 of the Adopted Local Plan and Policy H14PU of the Emerging Local Plan support extension and alterations to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable, and the extension satisfies Policies ST2, DM18, H14PU and the NPPF guidance.

Scale and Design

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

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

The proposed fence is to be located along the rear and side boundaries adjacent to the road junction. It has been designed to include a 1-metre-high wall with a 1-metre-high fence on top.

The new wall is to be block construction and fence is to be constructed from timber.

The choice of materials proposed are considered acceptable for their use and will respect the character and appearance of the existing property, street scene and the wider residential area.

On this basis, the proposal is considered to meet Policy DM18, H14PU and NPPF guidance.

Residential Amenity and Highway Safety

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

The proposed fence is located to the side/rear of the parent property which slopes downhill towards the road and is relatively modest in scale.

Following a site visit, it was noted that there were similar walls/fences of varying heights along the rear boundary of the immediate neighbouring dwellings and therefore the proposal

	<p>is not considered to appear overbearing for the neighbouring properties.</p> <p>Policy DM22 requires development proposals to be accessible to all users in ensuring that good design is necessary to ensure accessible and permeable developments particularly for pedestrians, cyclists and disabled people.</p> <p>Following the receipt of a consultation response with the Highway Authority, concerns were raised with the proposed fence height and its position adjacent to the highway as the proposed the fence would block any pedestrian/vehicle inter-visibility at the junction adjacent to the property just off the slip road into Distington.</p> <p>A site visit with the Highway Authority and the applicant was carried out to discuss potential design changes to protect residential amenity and Highway Safety. Following this meeting, amended plans were submitted which reflect a more appropriate scheme which now proposes a fence that is slightly stepped back from rear garden boundary adjacent to the road junction for a length of 10.3 metres to ensure appropriate visibility splays are achieved.</p> <p>Following re consultation with the Highway Authority on these amendments, they offered no objection to the proposed development subject to an appropriate condition being included in any notice of consent which ensures that the fence is stepped back from the visibility splay for the lifetime of the development and that the Permitted Development Rights are removed to ensure that nothing is constructed within the rear garden that obstructs the visibility splay without consent from the LPA.</p> <p>On balance, taking into account the site levels and siting of the proposed fence, the amended proposal is acceptable, and it will not adversely harm the neighbouring amenity or cause harm for Highway and Pedestrian Safety subject to the use of an appropriately worded planning condition.</p> <p>It is therefore considered that the proposal satisfies Policies DM18, DM22, H14PU and the NPPF guidance.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This application seeks to erect a wall with close boarded fence within the rear garden.</p> <p>The proposed fence, as amended, is considered to be of an appropriate scale and design within the street-scene and will not have any detrimental impact on the amenities of the neighbouring properties or Highway Safety subject to an appropriate planning condition.</p> <p>On balance, the proposed fence represents an acceptable form of development which accords with the policies set out within both the adopted Local Plan, the Emerging Local Plan and the guidance in the NPPF.</p>
8.	<p>Recommendation:</p> <p>Approve (commence within 3 years)</p>



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9. **Conditions:**

1. The development hereby permitted shall be commenced 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. 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 22nd May 2024;
- Site Location Plan, scale 1:1250, received 22nd May 2024;
- Proposed Elevations (amended), scale 1:10, received 28th June 2024;
- Site Layout Plan (amended), scale 1:200, received 28th June 2024;
- Supporting photographs, received 22nd May 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 Boundary fence shall be stepped back to allow pedestrian/vehicle inter-visibility at the junction, furthermore the boundary wall height shall not exceeding 1.00m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved and shall not be raised to a height exceeding 1.00m thereafter. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, or object of any kind shall be erected or placed, and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which would obstruct the visibility splays.

Reason

In the interests of highway safety.

Informative Note

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

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: Demi Crawford**Date : 15/07/2024****Authorising Officer: N.J. Hayhurst****Date : 17/07/2024****Dedicated responses to:- N/A**