

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2231/0F1	
2.	Proposed Development:	ERECTION OF TWO AGRICULTURAL BUILDINGS (PART RETROSPECTIVE)	
3.	Location:	TAMARISK, DRIGG, HOLMROOK	
4.	Parish:	Drigg and Carleton	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads, DEPZ Zone - DEPZ Zone, Outer Consultation Zone - Drigg 3KM, Outer Consultation Zone - Sellafield 10KM	
6.	Publicity Representations &Policy	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report:  Site and Location		
		This application relates to a detached property, known as Tamarisk. The property is accessed along an unclassified track, which is also a public right of way, from the B5344	

within the centre of Drigg. The site benefits from a large residential garden area, with additional land to the rear of the established garden. The land currently benefits from an existing outbuilding and hen coop and run which will be demolished as part of these works.

### **Relevant Planning History**

4/19/2268/0E1 – Lawful development certificate for the existing use of the application site as part of the garden/ancillary land to the detached dwelling Tamarisk, including existing garden shed and greenhouse – Approval of Certificate of Lawfulness.

4/23/2204/0F1 – Proposed lean-to carport with ensuite above – Approved.

### **Proposal**

This application seeks part retrospective planning permission for the erection of two agricultural buildings at this site to house and support the welfare and husbandry of a flock of 16 pedigree sheep and 35 hens.

#### **Building A:**

Building A will be used to provide housing feed and bedding storage for the applicant's flock of pedigree sheep. The building will be located upon the footprint of the existing outbuilding and hen coop/run. The proposed building is a single span building, comprising of three bays, and enclosed on three sides. The building will measure 14m x 7.62m, with an eaves height of 2.74m and an overall height of 3.8m.

Externally, the building will be finished with a 'Edwardian natural buff' Furness brick to the lower walls, natural wooden boards to the upper walls, and slate blue box profile sheets interspersed with clear sheeting over each of the three bays.

#### **Building B:**

Building B has already been erected on site. This building is a single span building with a mono pitches roof with over sail and is enclosed on three sides. It measures 5.5m x 4m, with an eaves height of 1.9m and an overall height of 2.6m.

Externally the building is finished with wooden board cladding to the walls, and slate blue box profile sheeting interspersed with 2 clear box profile sheeting to the roof. This building will be utilised to house the applicants flock of hens and provides the ability to secure them to meet necessary environmental protection standards.

### **Consultation Responses**

Drigg & Carleton Parish Council



## Cumberland Council

12th July 2024

- (1) The Parish Council is neutral with requests for clarification on:
- (a) whether the visual aspect could be screened from the road via a hedge?
  - (b) how many animals will be housed there?
  - (c) whether this number will increase?
  - (d) what arrangements are in place for the removal of animal waste?

Summary of response: Neutral

23<sup>rd</sup> July 2023

The Parish Council is happy with these clarifications and has no material planning objection to this proposal.

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

### United Utilities

United Utilities has no further comment on this application.

### Cumberland Council – Countryside Access Officer

We have no objection to the proposed development. However, it should be noted that Public Right of Way - Public Bridleway 405020 passes along the access track leading to the development site. see below plan.

The applicant must be advised that:

- The granting of planning permission would not give the applicant the right to block or 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.

### Cumberland Council – Ecologist

9<sup>th</sup> July 2024

The county ecologist has reviewed the application and accepts the information submitted to support the BNG application. The following conditions are suggested.

Conditions:

*Wildlife Friendly Habitat*

As mentioned in the Design and Access Statement, bird boxes should be fitted around building A and 'bee bricks' to be occasionally inserted in lieu of solid bricks to attract solitary bee species to nest. Confirmation that this is planned should be submitted to the council for acceptance.

*Biodiversity Net Gain*

The county ecologist confirms that Biodiversity Net Gain (BNG) is in scope for this development and approves the BNG documents submitted with the application.

Please note that if planning permission is granted this is a planning permission only, and the development will be subject to the biodiversity gain condition as set out below.

Subject to exemptions and transitional arrangements, the effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that every planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- a) A Biodiversity Gain Plan has been submitted to the planning authority,
- b) the planning authority has approved the plan,
- c) the native hedgerow, and other neutral grassland will have an associated Habitat Management and Monitoring Plan in place for 30 years as the gains here constitute 'Significant On-site Gains', and
- d) results of the monitoring of these habitats must be programmed for submission to the council.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan would be Cumberland Council.



## Cumberland Council

Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in your development becoming subject to enforcement action.

*14<sup>th</sup> July 2024*

The county ecologist has reviewed the application and accepts the information submitted to support the BNG application. The development may proceed as all of the information required to demonstrate BNG has been submitted with this application and therefore a biodiversity gain condition is not necessary.

The applicant advises that they may wish for surplus biodiversity units to be put towards a potential future development of a summer house in a future development which would be in the same site as this current application.

The following condition is suggested.

Conditions:

Wildlife Friendly Habitat

As mentioned in the Design and Access Statement, bird boxes (in the form of a sparrow terrace) should be fitted around building A and 'bee bricks' to be occasionally inserted in lieu of solid bricks to attract solitary bee species to nest. Confirmation that this is planned should be submitted to the council for acceptance.

Natural England

No comments received.

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.

Public Reconsultation

Following the receipt of amended/additional information for the application and an amendment to the application description a reconsultation was undertaken for all neighbouring properties. No comments have been received in relation to this notification procedure.

**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 – Strategic Development Principles

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 DM10 – Achieving Quality of Place

Policy DM24 – Development Proposal and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM30 – Rural Buildings

Policy DM26 – Landscaping

#### 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



## Cumberland Council

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. As the consultation on the main modifications to the ELP is now complete significant weight can also be afforded to the policies of the ELP where modifications are proposed

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy RE1PU – Agricultural Buildings

Policy N1PU – Conserving and Enhancing Biodiversity and Geodiversity

### **Other Material Planning Considerations**

National Planning Policy Framework (2023)

National Planning Practice Guidance (NPPG)

Cumbria Development Design Guide

Cumbria Landscape Character Guidance and Toolkit (CLCGT)

The Conservation of Habitats and Species Regulations 2017 (CHSR)

### **Assessment**

This application raises issues of the principle of the development; siting, scale and design; impact on landscape character; access and highway safety; flood risk and drainage; and impact on ecology.

#### Principle of Development

Policy ST2 of the Local Plan supports development outside of settlement, which have a proven requirement for such location, including agriculture. Policy DM30 and section 6 of the NPPF supports proposals for small holdings and equine related developments as long as

they are well related to existing settlement or farm complexes, and do not adversely impact on local landscapes or the amenity of nearby residential properties. Policy RE1PU of the Emerging Local Plan states that new agricultural buildings requiring planning permission will be supported where there is a demonstrated need for the building in relation to the functional operation of the agricultural building, the building is located within or adjacent to the existing farm complex unless justified, the building is of appropriate scale, form and design, and the building will not adversely impact on residential amenity or landscape character.

The proposal seeks permission for two agricultural buildings to the rear of an existing small holding. The proposed works are considered to be an appropriate form of development in the countryside in accordance with Policy ST2 and DM30 of the Local Plan, Policy RE1PU of the Emerging Local Plan, and provisions of the NPPF.

#### Siting, Scale and Design

The proposal seeks to erect two small agricultural buildings on land to the rear of the existing residential dwelling, Tamarisk. The neighbouring dwelling is located approximately 50m from the adjacent residential property. The largest building will replace existing structures, therefore the development will not be closer to residential properties. The existing boundary treatment will provide separation and screening for the development. The buildings reflect agricultural buildings, in terms of design and materials, found in rural areas.

On this basis, the scale and design of the proposal is considered to be appropriate with regard to the existing site and is unlikely to cause any demonstrable harm, in accordance with Policy DM30 of the Copeland Local Plan and Policy RE1PU of the Emerging Local Plan.

#### Impact on Landscape Character

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 5b: Lowland - Low Farmland. The Key Characteristics of the land comprise: undulating and rolling topography, intensely farmed agricultural pasture dominates, patchy areas of woodland provide contrast to the pasture, woodland is uncommon west towards the coast, fields are large and rectangular, and hedges, hedgerow trees and fences bound fields and criss cross up and over the rolling landscape.

The Guidelines for development include: when new development takes place consider opportunities to enhance and strengthen green infrastructure to provide a link between urban areas and the wider countryside, reinforcing woodland belts, enhancing water and soil quality and the provision of green corridors from and between settlements could all help reinforce landscape and biodiversity features, and ensure new development respects the historic form and scale of villages creating new focal spaces and using materials that are sympathetic to local vernacular styles. Further ribbon development or fragmented development should be supported where it is compatible with the wider landscape character.

The proposed buildings are located on land to the rear of the existing residential property. The largest building will replace existing structures on the site. The buildings are relatively small in scale and are well screened by existing well-established hedgerow, mitigating the impacts of the development. Based on this, the proposal is not considered to result in intrusion into open countryside or impact on the surrounding area.

The proposal is therefore considered to comply with policies ST1, ENV5 and DM26 of the Copeland Local Plan, Policy N6PU of the Emerging Local Plan, and provision of the NPPF.

#### Access & 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 proposal does not alter the access to the residential property or associated land. The Highway Authority have therefore confirmed that the proposal will not have a material effect on existing highway conditions.

On this basis, the development is not considered to have a detrimental impact on highway safety in accordance 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 & Drainage

Policy ST1B(ii) and paragraph 163 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. Policy ENV1 and DM24 of the Copeland Local Plan reinforces the focus of protecting development against flood risk.

The application site is located within Flood Zone 1. The surface water for this site would be drained via sustainable drainage systems. The LLFA have confirmed that the development will not increase the flood risk on the site or elsewhere. UU have offered no comments on the application.

On this basis the proposal is considered to achieve the requirement of Policies ST1, ENV3 and DM25 of the Copeland Local Plan, Policy DS8PU of the Emerging Local Plan, and the NPPF.

#### Ecology

Policy ENV3 of the CS and Policy N1PU of the ELP seek to ensure that new development will protect and enhance biodiversity and geodiversity. Policy N1PU of the ELP defines a mitigation hierarchy.

Policy N3PU of the ELP 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.

In England, BNG is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Applications must now deliver a Biodiversity Net Gain of 10%, resulting in more or better-quality natural habitat than

there was before the development.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the local planning authority, and
- (b) the local planning authority has approved the plan.

The planning authority, for the purposes of the Biodiversity Gain Plan is Cumberland Council.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

Following extensive discussions with the Council’s Ecologist the application is now supported by amended BNG information, including a Biodiversity Metric Condition Assessment, a Biodiversity Metric Calculation, a BNG Habitat Baseline Plan, a Post Development Habitat Plan, and Biodiversity Net Gain Plan (signed). Based on a review of this amended information the Council’s Ecologist has confirmed acceptance of the details submitted. A condition will therefore be included upon this decision notice to ensure the development is carried out in accordance with these approved details.

Before commencing development, a Biodiversity Gain Plan needs to be submitted and approved by the Local Planning Authority. An appropriately worded planning condition will therefore be included to secure this information. The application is not supported by the required Management and Monitoring Plan, however this is not required for the development as building B is a retrospective development and building A is located within a private garden and is therefore exempt from this requirement.

A condition will also be included upon this decision notice to ensure that the proposed Wildlife Friendly Habitat features, identified within the submitted Design and Access Statement, are secured as part of this planning permission.

Based on the inclusion of the above conditions, it is considered that the development complies with the requirements of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 and Policies ST1, ENV3 and DM25 of the Copeland Local Plan, Policy N1PU of the Emerging Local Plan and the provisions of the NPPF.

Planning Balance and Conclusion

	<p>This application seeks part retrospective planning permission to erect two agricultural buildings on land associated with the main residential dwelling.</p> <p>The buildings are considered appropriate in terms of use and scale in this location, and its siting and existing boundary treatment minimises its potential impacts on the nearby residential properties. No objections have been received from statutory consultees in terms of highway safety and drainage.</p> <p>The information submitted as part of this application is considered acceptable in terms of BNG as confirmed by the Council's Ecologist, with relevant conditions included to secure the approved details and the additional information required. The proposal is therefore considered to be an acceptable form of sustainable development which is compliant with policies of the Copeland Local Plan and the provisions of the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:</b></p> <p><u>Standard Conditions</u></p> <ol style="list-style-type: none"> <li>1. Permission must relate to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: <ul style="list-style-type: none"> <li>- Application Form (Amended), received by the Local Planning Authority on the 31<sup>st</sup> July 2024.</li> <li>- Site Location Plan, Scale 1:1250, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.</li> <li>- Site Plan (Amended), Scale 1:500, received by the Local Planning Authority on the 9<sup>th</sup> July 2024.</li> <li>- Building A Plans, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.</li> <li>- Building B Plans, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.</li> <li>- Building A Proposed Site Image, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.</li> <li>- Building B Proposed Site Image, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.</li> <li>- Supporting Photos 1/2, received by the Local Planning Authority on the 26<sup>th</sup> June</li> </ul> </li> </ol>

2024.

- Supporting Photos 2/2, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
- Design and Access Statement, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
- Appendices 1-4, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
- BNG Habitat Baseline Plan, Scale 1:300, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
- Post Development Habitat Plan, Scale 1:300, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
- Biodiversity Net Gain Plan, received by the Local Planning Authority on the 7<sup>th</sup> August 2024.
- Biodiversity Net Gain Plan Signed, received by the Local Planning Authority on the 8<sup>th</sup> August 2024.
- Statutory Biodiversity Metric Condition Assessment, received by the Local Planning Authority on the 2<sup>nd</sup> August 2024.
- Statutory Biodiversity Metric Calculation, received by the Local Planning Authority on the 31<sup>st</sup> July 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.

**BNG Conditions:**

2. The development hereby approved must be carried out in accordance with and implement all the mitigation measures set out in the following approved documents:
  - BNG Habitat Baseline Plan, Scale 1:300, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
  - Post Development Habitat Plan, Scale 1:300, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
  - Statutory Biodiversity Metric Condition Assessment, received by the Local

Planning Authority on the 2<sup>nd</sup> August 2024.

- Statutory Biodiversity Metric Calculation, received by the Local Planning Authority on the 31<sup>st</sup> July 2024.

The development must be carried out in accordance with the approved document at all times thereafter.

Reason

In the interests of ensuring measurable net gains to biodiversity and in accordance with the provision of the National Planning Policy Framework and The Environment Act 2021.

3. Prior to the first use of both buildings hereby approved a Biodiversity Net Gain Plan must be submitted to and approved in writing by the Local Planning Authority. The development must be carried out in accordance with the approved document at all times thereafter.

Reason

In the interests of ensuring measurable net gains to biodiversity and in accordance with the provision of the National Planning Policy Framework and The Environment Act 2021.

Other Conditions:

4. The development must be carried out in accordance with and implement all of the Wildlife Friendly Habitats set out in the following approved documents:
  - Design and Access Statement, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.
  - Appendices 1-4, received by the Local Planning Authority on the 26<sup>th</sup> June 2024.

The development must be carried out in accordance with the approved document at all times thereafter.

Reasons

To protect the ecological interests evident on the site in accordance with Policies ENV3, and DM25 of the Copeland Local Plan 2013-2028.



## Cumberland Council

### Informatives:

1. The granting of planning permission would not give the applicant the right to block or obstruct the Public Right of Way 405020.
2. The Public Right of Way 405020 as shown on the definitive map and statement must be kept open and unaltered for public use until an order made to divert, extinguish or to temporarily close them has been confirmed.
3. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:  
(a) a Biodiversity Gain Plan has been submitted to the local planning authority, and  
(b) the local planning authority has approved the plan.  
The planning authority, for the purposes of the Biodiversity Gain Plan is Cumberland Council.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

Before commencing development, a Biodiversity Gain Plan needs to be submitted and approved by the local planning authority.

Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

### 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. Burns

**Date :** 17.09.2024

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

**Date :** 19.09.2024

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

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