

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2239/DOC
2.	Proposed Development:	DISCHARGE OF CONDITION 1 OF PLANNING APPROVAL 4/24/2039/TPO
3.	Location:	ELMSIDE, 14A RHEDA CLOSE, FRIZINGTON
4.	Parish:	Arlecdon and Frizington
5.	Constraints:	ASC;Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See report.
7.	Report: Site and Location This application relates to Elmside, 14a Rheda Close, a detached property situated on an existing housing estate on the outskirts of Frizington. Proposal Consent was granted for the removal of two ash trees protected by a Tree Preservation Order on 1 st March 2024. This application seeks to discharge condition 1 of the consent reference 4/24/2039/TPO. Condition 1 states the following:- <i>The two felled trees are to be replaced during the first planting season following the work. Plant 2x Sycamore (Acer pseudoplatanus) trees, 6-8cm girth and 'lightstandard', within 2m of the felled trees they replace. Alternatively, another size, species, location, or period should be agreed in writing by the Local Planning Authority. If a replacement tree is diseased, dies, or is damaged within 5 years of the date of planting, it must be replaced in the next available</i>	

planting season by another of a similar size and species.

Reason

To ensure the continuity of amenity in accordance with 'Policy DM28 – Protection of Trees' of the Copeland Local Plan 2013-2028.

It is proposed to plant an apple tree within the rear garden of the property. This proposal has been the subject of discussions with Officers and the Councils Arboriculturist.

The following information has been submitted in support of the application:-

- Application Form
- Location plan showing location of felled tree and proposed replacement tree

Consultation Responses

Council Arboriculturist

1st Response - The Council have protected these roadside trees as they provide a visual amenity to local residents, road users and the public. This amenity value is greater as a linear tree group than the value of any one individual tree. Therefore, maintaining the group is important to retain the amenity of this roadside feature. The applicant has not provided sufficient justification to demonstrate that they should not plant replacement trees in this location.

The applicant hasn't suggested they can replant elsewhere on their property. Their garden is fairly compact. They have asked if the tree could be planted elsewhere on Council property.

I think if the applicant cannot plant elsewhere on their property, then we'll have to remove the replanting condition. However, this will set a precedent for the remaining trees along this roadside, which could lead to the loss of all the roadside trees.

2nd Response - Based on your site visit, this seems to be an acceptable solution. An apple species will provide a suitable replacement tree. The particular variety can be left to the applicant to decide.

Development Plan Policies:

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

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



Cumberland Council

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.

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

ENV 3 - Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM28 – Protection of Trees

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. 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 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 application are:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Policy DS6PU: Design and Development Standards

Strategic Policy N6PU: Landscape Protection

	<p>Strategic Policy N9PU – Green Infrastructure</p> <p>Policy N13PU: Woodlands, Trees and Hedgerows</p> <p>Other Material Planning Considerations</p> <p>National Planning Policy Framework (NPPF)</p> <p>Assessment</p> <p>Following discussions with both the applicant and The Council’s Arboriculturalist, it has been established that replacement planting cannot take place within the roadside verge. The applicant’s domestic curtilage is limited in size and this also reduces the scope for replanting. Following discussions with the applicant and the Councils Arboriculturalist it is considered to be suitable to agree the planting of an apple tree within the rear garden as a suitable replacement tree. This is considered to be an acceptable solution in this instance in order to discharge condition number 1.</p>	
8.	<p>Recommendation:</p> <p>Approve Discharge of Condition</p>	
Case Officer: Demi Crawford		Date : 25/09/2024
Authorising Officer: N.J. Hayhurst		Date : 27/09/2024
Dedicated responses to:- N/A		