

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

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| 1. | <b>Reference No:</b>  | 4/24/2258/0G1  |
| 2. | <b>Proposed Development:</b>  | REMOVAL OF CONDITION 3 (TO RETAIN SHIPPING CONTAINER) OF PLANNING APPLICATION 4/23/2283/0F1 APPLICATION FOR NEW AGRICULTURAL SHED & RETROSPECTIVE APPLICATION FOR ALTERATION TO EXISTING GROUND LEVELS |
| 3. | <b>Location:</b>  | HIGHVIEW, MILL LONNING, LOWCA  |
| 4. | <b>Parish:</b>  | Lowca  |
| 5. | <b>Constraints:</b>   | ASC;Adverts - ASC;Adverts,<br>Coal - Standing Advice - Data Subject To Change,<br>PROWs - Public Right of Way  |
| 6. | <b>Publicity Representations &amp; Policy</b>   | Neighbour Notification Letter: YES<br><br>Site Notice: NO<br><br>Press Notice: NO<br><br>Consultation Responses: See report<br><br>Relevant Planning Policies: See report                              |
| 7. | <b>Report:</b><br><br><b>SITE AND LOCATION</b><br><br><p>The application relates to an agricultural field, named High View, located on Mill Lonning, approximately 0.8 miles north-west of Lowca. The site is bound by a hedge and currently contains a gravel hard standing area, with a shipping container and touring caravan, and a close boarded fence on the north side elevation having been erected since the submission of this application.</p> <p>Access to the site is located in the top North corner of the site, off the unclassified road</p> |  |

known as Mill Lonning.

Planning Permission was approved in January 2024 for the erection of a new agricultural shed and change in the ground levels (application reference 4/23/2283/0F1 relates).

### **PROPOSAL**

This application seeks to remove condition 3 from Planning Application reference 4/23/2283/0F1 which reads:

3. Before development commences, the shipping container and touring caravan shall be permanently removed from the site. Development shall be carried out in accordance with the approved details and so maintained at all times thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity.

### **RELEVANT PLANNING APPLICATION HISTORY**

Application for new agricultural shed and retrospective application for alteration to existing ground levels, approved in January 2024 (application reference 4/23/2283/0F1 relates).

### **CONSULTATION RESPONSES**

Lowca Parish Council

No objections.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 5 no. properties.

No consultation responses have been received as a result of this advertisement.

### **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



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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

Policy ENV5 - Protecting and Enhancing the Borough's Landscape

Policy ENV6 – Access to the Countryside

#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM26 - Landscaping

Policy DM30 – Rural Buildings

### **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 relating to this application are:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy RE1PU – Agricultural Buildings

### **Other Material Planning Considerations**

National Planning Policy Framework (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 remove or 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 which sits 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**

The proposal is to remove the condition on the original permission which required the storage container to be removed from site.

The Applicant has stated that the container has an ongoing use for storage – providing a more secure facility than the approved agricultural building.

The storage container has been on site since 2008 but has recently been repainted and repositioned next to the new agricultural building. When viewed in context with the agricultural building, it is considered to be of low visual impact utilising the same materials and colour which makes it appear to be part of the same building. Furthermore, there are established boundary treatments, meaning that the site cannot be seen from any public viewpoints.

Whilst a storage container is not usually supported for permanent siting, in this case, it is



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|    | <p>considered to have a minimal impact and is necessary for functional reasons to provide secure storage within the site.</p> <p>The Agent has suggested a robust planning condition to ensure that the container remains in its current location and painted green to match the building (condition 3). This is considered to be acceptable and can be added to the decision notice under this Section 73 application. Condition 2 is amended to reflect the details submitted with this application and Condition 5 is also to be amended to reflect that the development has commenced.</p> <p>Condition 4 remains unaltered.</p> <p><b>CONCLUSION</b></p> <p>In my opinion, the retention of the storage container is acceptable in this location. It has been on site for a number of years, blends into the existing unit and provides a functional and secure facility for the Applicant. A suitably worded planning condition will ensure that the siting and colour of the container are retained.</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><b>Recommendation:</b></p> <p>Approve removal of condition</p>  |
| 9. | <p><b>Conditions:</b></p> <ol style="list-style-type: none"><li>1. -</li><li>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: -<ul style="list-style-type: none"><li>- Application Form, received 4th October 2023;</li><li>- Existing Location Plan, scale 1:1250, drawing no. DWG01, received 4th October 2023;</li><li>- Existing Location Plan, scale 1:5000, drawing no. DWG01, received 4th October 2023;</li><li>- Proposed Floor Plan, scale 1:50, drawing no. DWG01, received 4th October 2023;</li><li>- Proposed Elevations, scale 1:100, drawing no. DWG01, received 4th October 2023;</li><li>- Surveyed Existing &amp; Estimated Original Levels, drawing no. DWG01, received 4th October 2023;</li><li>- Preliminary Ecological Appraisal, received 4th October 2023;</li><li>- Proposed Site Cross Section, scale 1:200, drawing no. DWG02, received 4th October 2023;</li><li>- Proposed Block Plan, scale 1:500, drawing no. DWG02, received 4th October 2023;</li><li>- Soakaway Design (Amended), received 20th December 2023;</li><li>- Storage Container Location Plan, Block Plan and specifications, scale 1:1250 and</li></ul></li></ol> |

1:500, drawing number DWG01 Rev C, received 30<sup>th</sup> July 2024.

- Planning Statement dated May 2024 prepared by Planning Branch, received 30<sup>th</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.

3. The container hereby approved must remain sited in the position identified on drawing DWG01 Rev C and finished to match the existing building approved under reference 4/23/2283/0F1 and cannot be moved within the site or colour changed unless otherwise agreed with the Local Planning Authority.

**Reason**

For avoidance of doubt and to ensure a minimal landscape impact in accordance with Policy DM10 of the Copeland Local Plan.

4. The proposed agricultural building shall be used for the purposes detailed in Section 3 of the approved Planning Statement received by the Local Planning Authority on 4th October 2023 only, and for no other purpose whatsoever.

**Reason**

To ensure that non-conforming uses are not introduced into the area.

5. The surface water drainage scheme must be carried out in accordance with the Percolation Test and Soakaway Design document received by the Local Planning Authority on 20th December 2023. The approved scheme must remain operational and be maintained as such at all times thereafter.

**Reason**

To ensure the provision of a satisfactory surface water drainage scheme in accordance with Policy DM24 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](http://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: Sarah Papaleo**

**Date : 23/09/2024**

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

**Date : 26/09/2024**

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