

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2296/0F1	
2.	Proposed Development:	CREATION OF NEW ACCESS ONTO CLASSIFIED ROAD AND REINSTATEMENT/UPGRADE OF TRACK TO SERVE EXISTING FARMHOUSE WITH ASSOCIATED ON SITE BNG	
3.	Location:	LAND AT OXENRIGGS FARM, EGREMONT	
4.	Parish:	Haile	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, DEPZ Zone - DEPZ Zone, 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 land at Oxenrigg Farm, located to the east of Egremont. The application site forms two small areas of land to the south east of the existing Farmhouse.	

Relevant Planning History

4/12/2229/0F1 – Stable, storage & garage (re-submission) – Approved.

4/13/2410/0F1 – Extensions and alterations including a change of use to create ground floor bed and breakfast accommodation and first floor living accommodation – Approved.

4/24/2232/0F1 – Change of use from bed and breakfast to ancillary domestic accommodation used in association with Oxenrigg Farmhouse (Retrospective) – Approved.

Proposal

Oxenrigg Farm is currently accessed from an unmetalled farm track, located to the west of the property, from the Egremont to Haile Road. This access track serves Oxenrigg Farm, and the adjoining residential dwelling and farm. The existing lane is in a poor state of repair in part due to the farm and haulage vehicles that pass over it. The application is supported by a Planning Statement which states that the existing access track doesn't conform to the standards that would currently be required of an access onto public highway, with standard visibility splays not achieved.

This application seeks to reinstate and upgrade an existing track to the south east of the residential property and to create a new access onto the existing classified road to create a separate access to serve Oxenrigg Farm, with associated on site BNG. The existing hardcore track is raised relative to the field level with fencing and hedging on both sides. As part of the development to reinstate the access track the existing hardcore will be supplemented with more permeable surfacing (quarry waste and hardcore) to upgrade the track for vehicle use, with finished levels approximately 150mm higher than the existing track. The proposed track will have a slight fall (1:100) towards the drainage ditch to the east of the track. Post and wire fencing to 1m in height to match the existing will be replaced on both sides of the track.

The new access to the existing track will be located approximately 140m east of the existing access. The access will be 5m in width and will provide visibility splays of 144m to the west and 215m to the east, supported by a speed survey. Adjacent to the highway the access will have a maximum width of 10m. The first five metres of the access track from the highway will be finished with tarmac with a backwards gradient away from the highway leading to a drainage channel. The existing hedgerow along the main highway will be retained on either side of the proposed access, with additional hedging along provided 7.5m into the site.

Consultation Responses

Haile & Wilton Parish Council

7th October 2024

The parish council strongly object. The current access road is more than adequate for the



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properties. This would potentially turn a T junction into a crossroads which we don't feel is necessary. Cars regularly speed along this stretch of road and by adding another access route it's just an accident waiting to happen. This section of road is liable to subsidence and during heavy downpours we know of several instances where cars have aquaplaned. We don't support this application and strongly suggest a site visit before any decisions are made.

9th December 2024

I've circulated this to our councillors and they still wish to reject this application.

It can be a bad section of road in the winter, as it gets no sun, there have been accidents on that section in winters past. When there's no ice it can be a fast stretch of road, especially in the summer months.

The proposed new entrance would turn what is now a T junction to The Windscale houses into a slightly off centre cross road.

There is already a road provision for the current houses, they all just need to club together, fill in the potholes and tidy it up. If planning is given will the new road have to be tarmacked or will it just be shilled and in a few years it too will be full of potholes, which is one of the issues they raise in their application, hence why they want a new road.

There is nothing wrong, that I can see, with the visibility splay they have for the current entrance point, people travelling the road have to naturally slow down at that point for the corner, max speed ~30MPH. The proposed new entrance you can easily be going 60MPH, and some of the younger residents of the parish maybe in excess of that if how they drive through the parish is anything to go by.

We really don't see the need for a new entrance, and as previously stated, we wish to object strongly to this application.

Cumberland Council – Highway Authority & Lead Local Flood Authority

17th September 2024

Cumberland Council as the Local Highway Authority (LHA) has reviewed the above planning reference and our findings are detailed below.

The Planning Statement makes a comparison between the existing and proposed access, concluding that the proposed has better visibility splays, albeit not necessarily compliant with the derestricted 60mph requirement of 215m with only 144m available in a westerly direction.

However this approach is unfortunately not necessarily valid and it makes too many assumptions or has not considered all the constraints as follows:

1. When assessing the acceptability / compliancy of a new access / driveway with the adopted highway, the LHA does not take into account the shortcomings or layout of an historic existing access and does not compare the new with old. Any new access should be compliant in terms of visibility / layout / gradient etc and assessed on its own

merits in isolation, not as a comparison.

2. The visibility splays show what may be achieved on a plan in a horizontal plane and does not take into account the vertical envelope. There appears to be some dips in the road that may affect visibility in the vertical plane.
3. The Visibility splay lines would appear to cross over into the hedge (which is not shown on the visibility splay diagram) and there is no indication that the hedge is being removed or relocated. It is worth noting that the LHA will accept an 'x' value of 2.0m for a single dwelling access and this may help. Incidentally, the existing access on the outside of a corner is ideally placed to avoid this problem of emerging from a hedgerow on a straight road.
4. There is no evidence of the actual 85th %ile speeds so the SSD for 60mph has correctly been assumed (215m). If the actual 85th %ile speeds are lower than this then a lower splay may be appropriate. Please also note that the visibility splays must be shown to the nearside kerb as well as the offside kerb in both directions (i.e. it is not shown to the nearside kerb in a westerly direction).

On a more positive note, I do note that the access has the necessary bound surface (for 5m), a cut-off channel drain and the gate opens away from the highway as required.

Conclusion:

The Local Planning Authority considers that clear visibility of 215 metres cannot be achieved along the public highway in both direction(s) from a point 2.4 metres from the carriageway edge measured down the centre line of the access road and consequently the proposal would be likely to create conditions prejudicial to highway safety.

To overcome this objection, the applicant needs to show that the full 215m is achievable in both directions or that a lesser proposed visibility splay is appropriate for the actual 85th %ile speeds, that the splay (with an 'x' value of 2.0m if necessary) can be achieved with the hedge on its current alignment and width and that the vertical dips in the road do not compromise the vertical envelope. A speed survey may be helpful in addressing some of these concerns.

9th October 2024

Cumberland Council as the Local Highway Authority (LHA) has reviewed the above planning reference and our findings are detailed below.

From the PDF evidence dated 23/9/24, I am satisfied that 145m can be achieved in both directions in a horizontal and vertical plane (from viewing height 1.05 to target height of 1.05m) from the proposed access with an 'x' value of 2.0m and I can see now that the hedge does not restrict visibility as long as it is maintained / cut back, which can be secured by condition. This correlates to a DMRB desirable 85th %ile speed of 50mph.

The approach from the west will be governed by the corner and it is likely that the 85th %ile here will be less at this point, so the critical approach is from the east where speeds will be



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higher due to the straight approach, though it is possible that drivers are starting to slow by the time they reach the proposed access location due to the proximity to the corner.

If the 85th %ile speed is <50mph (to be proven) then the achievable splays will suffice.

Conclusion

Therefore, the applicant needs to prove the actual 85th %ile speed at the proposed access location to demonstrate to the LHA that the available splays are sufficient. I suggest a speed survey is carried out.

2nd December 2024

Cumberland Council as the Local Highway Authority (LHA) has reviewed the above planning reference and our findings are detailed below.

From the PDF evidence (Response to Highway Comments dated 23/9/24) I am satisfied that 145m can be achieved in both directions (from 1.05 to 1.05m) from the proposed access with an 'x' value of 2.0m and I can see now that the hedge does not restrict visibility as long as it is maintained / cut back, which can be secured by condition. This correlates to a DMRB desirable 85th %ile speed of 50mph. The approach from the west will be governed by the corner and it is likely that the 85th %ile here will be less at this point, so the critical approach is from the east where speeds will be higher due to the straight approach, though it is possible that drivers are starting to slow by the time they reach the proposed access location due to the proximity to the corner.

I note from the speed survey results that the 85th %ile speeds are 40.5mph eastbound and 43.3m westbound. This correlates to 'y' distances of 105m and 116m respectively.

Therefore the achievable splays from the proposed access are sufficient.

I also note from the Proposed New Entrance drawing (24.08.01d) that the gates are designed to open away from the highway, the design ensures surface water runoff will not drain to the highway and that the first 5m is to be constructed in a bound surface as required.

I can confirm that the LHA has no objection to the proposals but recommend that the following conditions are included in any consent: visibility splays, and access constructed to approved drawings.

Natural England

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

Cumberland Council – Ecologist

3rd September 2024

The suggested biodiversity condition wording below may be amended by Development Management where appropriate.

Suggested Planning Condition(s):

Breeding Birds, Small Mammals and Reptiles:

De-vegetation works should occur outside of the breeding bird season, which runs from March to August inclusive. Vegetation removal should be undertaken in a top-down phased approach allowing reptiles and small mammals to move to a place of safety.

Biodiversity Net Gain:

No development hereby permitted shall commence until:

- a) a Biodiversity Gain Plan has been submitted to the planning authority demonstrating a 10% net gain,
- b) the planning authority has approved the plan in writing,
- c) the provision of a replacement hedgerow and the uplift in distinctiveness from ruderal/ephemeral habitat to lowland acid grassland is accompanied by a Habitat Management and Monitoring Plan in place for 30 years as the gains here constitute 'Significant On-site Gains', this monitoring plan is to be accepted by the council and,
- d) Monitoring results are to be programmed to be submitted to the council. These should include evidence demonstrating how BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed. The development shall be carried out in accordance with the approved plans.

12th December 2024

I've looked through this and I don't think you need any ecology comments as no amended ecology documents have been submitted.

Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to two properties.

This application has been advertised by way of a site notice, and neighbour notification letters issued to eight properties. One letter of objection has been received raising the following concerns:

- Due to wet ground, the neighbour's stables were increased in height and the access road to the field was angled down towards our land. This caused massive water ingress from their stables and road. After multiple pleas for them to address this issue, I was forced to build a hedge/ dyke around the perimeter of my land to stop this water ingress. This worked perfectly but it created a fooding issue on their land from their



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water of their stables and installed road. To try to help, I installed a 100mm drainage pipe for the 115 meters to the field drainage outlet point. Unfortunately, the neighbours did not think this was adequate and formed a French drain/ trench drain along the side of my hedge. In severe rain, the water is funnelled from their land into this trench then the water is forced up and over my hedge into my land. This has rendered my land in this area like a boggy marsh and full of sives.

- Our properties are currently accessed from the existing lane of the highway. In severe rain, the significant amount of water comes of the highway, down our lane and into a farmers drain. If this new access road goes ahead this water just like the neighbour's current excess rainwater will be forced onto my land. It is impossible for this not to happen.
- Creating a throughfare. We have an existing lane. Any traffic enters and exits all of our properties in the same way. My concern is that with an additional lane to our properties, a throughfare will be created. I have children and every other week I have my brother-in-laws young children. I feel this additional lane will create a rat run for delivery drivers.
- The new access road being built against and buting up to the hedge I created on my own land removes my water barrier to their excess rainwater and creates a greater risk of damage to my land. I also have not been asked if I allow the proposed access road to be built against my hedge. The current hedge running up Southwest toward the road only goes halfway up the field meaning that any water from the new proposed road AND the additional water from the highway will absolutely find its way onto my land. It is not fair and can't be right that I have to constantly deal with excess water from the neighbours property.

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 and those who previously commented on the application.

One letter of objection has been received from a solicitor on behalf of a concerned resident raising the following concerns:

- The existing access is both safe and adequate for the current uses. The track will not replace the existing access which the other owners including the farming operations at Oxenrigg Farm will be obligated to continue using.
- There is no existing track to reinstate or upgrade. The photos in the Planning Statement show material which have been tipped on the site of the proposed track and does not in itself suggest that the track already existing. The fact that the existing track does not lead anywhere suggests it is not a track.
- The description of the application is therefore misleading and should be amended

accordingly. The application should be treated as an entirely new development and no weight should be given to the fact that any element of the proposed development is a reinstatement.

- The Local Planning Authority should give appropriate consideration to landscape impact. The Planning Statement gives no consideration to the landscape impact which is a material planning consideration. A proper assessment should be undertaken with reference to landscape character and harm of constructing a new track in this location.
- Our client's primary concern relates to surface water drainage. The land adjoining the track currently experiences issues in relation to poor surface water drainage. The construction of the track although described as permeable will be rolled in quarry waste and hardcore creating a surface which will not be entirely permeable and will create surface water run-off. This will be greater than the greenfield run-off rate. This will exacerbate surface water flood on the adjoining land. The scheme does not incorporate any appropriate means for surface water drainage and it does not appear that any meaningful consideration has been given the subject in the planning application.
- The Highway Authority will not permit surface water to discharge onto the highway. Consequently the water will run away from the highway off the track and onto the adjoining land. This can only be controlled by a suitable surface water scheme.
- The track if constructed should be designed with an appropriate surface water system to drain and dispose of water entirely within land within the applicant's control without further exacerbating the surface water issues elsewhere.

The agent has provided a formal response to these concerns raised.

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



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Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

Copeland Local Plan 2021 - 2039 (LP):

Cumberland Council continued the preparation of the LP as commenced by Copeland Borough Council.

The LP was adopted by Cumberland Council on the 5th of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2021-2016.

The policies relevant to this application are as follows:-

Strategic Policy DS1: Settlement Hierarchy

Strategic Policy DS2: Settlement Boundaries

Policy DS4: Design and Development Standards

Policy DS5: Hard and Soft Landscaping

Strategic Policy DS6: Reducing Flood Risk

Policy DS7: Sustainable Drainage

Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity Strategic

Policy N2: Local Nature Recovery Networks

Strategic Policy N3: Biodiversity Net Gain

Strategic Policy N6: Landscape Protection

Strategic Policy CO4: Sustainable Travel

Policy CO5: Transport Hierarchy Strategic

Other Material Planning Considerations

National Planning Policy Framework (2024)

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; landscape and visual impact; highway safety; and impact on biodiversity and ecology.

Principle of the Development

Under Strategic Policy DS1 of the Copeland Local Plan the application site is located outside of any designated settlement boundary for the Borough and is therefore located within the open countryside.

Strategic Policy DS2 of the Copeland Local Plan states that development within the designated settlement boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise. The policy however also states that to ensure the delivery of allocated sites is not prejudiced, development outside the settlement boundaries will only be accepted in the following cases: the proposal is for one of the following types of development and a proven need for an open countryside location has been demonstrated to the satisfaction of the Council; nuclear related developments, renewable energy proposals, including wind farms, essential infrastructure to support energy developments and other infrastructure, appropriate rural developments such as agricultural, forestry, farm diversification or tourism proposals which are dependent on such a location.

The application seeks to create a separate access for an existing rural residential property, Oxenrigg Farm. The residential property is current accessed by a unmetalled farm track, which serves the adjoining residential dwelling and farm. The existing lane is in a poor state of repair and does not conform to current standards for an access onto the highway in terms of visibility. The proposal will create a separate access for Oxenrigg Farm with improved visibility splays and will also take some of the load off the existing track which will continue to be used by the adjoining dwelling and farm.

On this basis the works are considered to be an appropriate form of development in the open countryside in accordance with Policies DS1, and DS2 of the Copeland Local Plan and the provisions of the NPPF.

Landscape and Visual Impact

Policy N6 of the Copeland Local Plan states that the Borough's landscapes will be protected and enhance by: supporting proposals which enhance the value of Copeland'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; ensuring development proposals demonstrate that their location, scale, design and materials will conserve and where possible enhance the natural beauty, wildlife and cultural heritage of the Lake District National Park and Heritage; and Requiring a Landscape Appraisal, and where appropriate a Landscape and Visual Impact Assessment, to be submitted where development has the potential to impact upon landscape character or a protected landscape. Where harm is identified the development will only be permitted where the benefits of the development outweigh any potential harm and mitigation and compensation measures must be provided. This policy further states that development proposals must be informed by the Council's Landscape Character Assessment, Settlement Landscape Character Assessment the Cumbria Landscape Character Guidance and Toolkit and where appropriate, the Lake District National



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Park Landscape Character Assessment 108 from 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 application site is located to the south east of the existing group of residential properties on agricultural land. The application seeks to reinstate and upgrade an existing track to the south east of the residential property and to create a new access onto the existing classified road to create a separate access to Oxenrigg Farm.

Concerns have been raised that the application is incorrect as it is stated that the track is not in existence and therefore cannot be considered a reinstatement or upgrade. The agent for this application has however provided additional photographic and GIS mapping evidence of the existence of the former track in a dedicated response to these concerns. The evidence shows that this area has been enclosed with fencing and hedging, and whilst overgrown has previously been surfaced with hardcore. The evidence of the existence of the track is accepted.

Objections have also been raised that the application does not fully consider the landscape impacts of the proposed works. A dedicated response to these concerns has also been provided by the agent. Given the application seeks to reinstate and upgrade the existing track at this site this part of the development is not considered to have a significant detrimental effect on the existing landscape character, particularly as the existing track is already raised above existing land levels and will be screened by existing planting. The creation of a new access point will have some localised landscape impacts, given a small part of the existing hedgerow will be removed and the first 5m of the driveway surfaced with tarmac. This part of the development is however, considered to reflect the nature of most rural access points. The surrounding highway hedgerow will be retained and an additional 7.5m of hedgerow planted along the east of the access track to help screen the development.

The proposal is therefore considered to comply with policy Policy N6 of the Copeland Local Plan, and provision of the NPPF.

Impact in Residential Amenity

Policy DS4 of the Copeland Local Plan states that all new development should maintain high levels of amenity.

The new access and upgraded access track are located to the south east of the existing group of residential properties. The nearest point of the upgraded track is approximately 64m from the nearest residential property, therefore its development is not considered to have a detrimental impact on residential amenity. The proposal will remove traffic movements from Oxenrigg Farm from the shared access track, reducing the number of movements going past the adjoining residential dwelling which is considered to be a benefit.

The proposal is therefore considered to comply with Policies DS4 of the Copeland Local Plan.

Highway Safety

Strategic Policy CO4 requires that proposals must include safe and direct connections to routes that promote active travel, such as cycling and walking routes where appropriate. Support in principle is outlined for developments which encourage the use of sustainable modes of transport, in particular: proposals that have safe and direct connections to cycling and walking routes where appropriate and those that provide access to regular public transport services; proposals that make provision for electric vehicles; and proposals for the integration of electric vehicle charging infrastructure into new developments. It is required that developments that are likely to generate a large amount of movement secure an appropriate Travel Plan and be supported by a Transport Assessment.

The proposal will create a new access to the existing residential property Oxenrigg Farm. Concerns have been raised by the Parish Council with regard to the need for the proposal and the safety of the new access. However, the need for a development is not a material planning consideration with applications determined on their own merit. In this instance the Highway Authority have offered no objections to the proposal, therefore the access is considered safe and should be determined on this basis.

The agent for this application has provided a dedicated response to the concerns from the Parish Council. This response makes reference to the speed survey undertaken, the lack of objection from the Highway Authority, and the maintenance of the access and track.

Following their initial review of the application, the Highway Authority concluded that the proposal could not meet the required visibility splays for a 60mph road, and therefore recommended that the applicant shows the full visibility splays of 215m or carry out a speed survey in order to justify the reduced visibility splays. Following submission of the required speed survey, the Highway Authority confirmed that the achievable splays are sufficient. The Highway Authority also noted that the proposed gates are designed to open away from the highway, the design ensures surface water runoff will not drain to the highway and that the first 5m is to be constructed in a bound surface as required. The Highway Authority therefore



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confirmed that they have no objections to the development subject to the inclusion of conditions in any consent relating to visibility splays, and access constructed to approved drawings.

Based on the inclusion of the required conditions the proposal is considered to be compliant with the Policy CO4 of the Copeland Local Plan, and provisions of the NPPF.

Flood Risk and Drainage

Policy DS6 seeks that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.

Policy DS7 requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.

The application site is located within Flood Zone 1.

Concerns have been raised regarding the impact of the development upon surface water drainage and the potential for creating further flood risk on the adjacent land. The agent for this application has provided a dedicated response to the concerns raised and has outlined the drainage proposed within this development and the impact this will have on the neighbouring land in question.

The proposed track will be finished with a permeable surface which will fall towards an open drainage ditch on the applicant's field side away from the boundary with the neighbouring land. Whilst the first five metres of the access track from the highway will be finished with tarmac it will benefit from a backwards gradient away from the highway leading to a drainage channel which will also discharge into the same drainage ditch. The proposed will therefore not increase flood risk on the neighbouring land.

No objections have been received from the LLFA for this application.

On this basis, the development is considered to benefit from a satisfactory drainage scheme therefore the proposal is considered to achieve the requirement of Policies DS6 and DS7 of the Copeland Local Plan, and the NPPF.

Impact on Biodiversity and Ecology

Policy N1 of the ELP seeks to ensure that new development will protect and enhance biodiversity and geodiversity and defines a mitigation hierarchy.

Policy N3 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 N1. This is in addition to any compensatory habitat provided under Policy N1. 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.

The application is supported by a Biodiversity Net Gain Small Site Metric Plan and calculation tool. This document indicates that the required 10% Biodiversity Net Gain could be accommodated within the red line for the application. 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. 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.

Whilst the application is also supported by a Biodiversity Management Plan, the document does not provide details of the management of the site for the required 30 year period. A condition will therefore also be included within any decision notice for this application to secure this detail.

The Council's Ecologist has also requested a condition to ensure that de-vegetation works should occur outside the breeding bird survey and undertaken in a top down phased approach allowing reptiles and small mammals to move to a place of safety.

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 N1 and N3 of the Copeland Local Plan and the provisions of the NPPF.

Planning Balance and Conclusion

The application seeks to create a separate access for an existing rural residential property, Oxenrigg Farm, with improved visibility splays and will take some of the load from the existing



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	<p>track which is in a poor condition.</p> <p>Given that the application seeks to reinstate and upgrade an existing track at this site this part of the development is not considered to have a significant detrimental effect on the existing landscape character. The creation of a new access point will however, have some localised landscape impacts, given a small part of the existing hedgerow will be removed and the first 5m of the driveway surfaced with tarmac. Notwithstanding this the access is considered to reflect those seen in rural areas and additional planting is proposed to screen the development.</p> <p>The proposed works are not considered to have a detrimental effect on residential amenity given the separation distance to the site. The proposal will also reduce the number of movements going past the adjoining residential dwelling which is a positive impact.</p> <p>Following the submission of a speed survey, the Highway Authority have offered no objections to the development subject to conditions.</p> <p>No objections have been received from the LLFA. An adequate drainage solution has been proposed to direct surface water away from the highway and will not increase flood risk on the neighbouring land.</p> <p>BNG requirements will be secured by appropriately worded planning conditions.</p> <p>On balance the positive benefits that would result from this proposal in providing the residential property with a separate access, outweigh any potential harm on the landscape character and the proposal represents a sustainable form of development which complies with the Policies set out in the Copeland Local Plan and the guidance within the NPPF.</p>
8.	<p>Recommendation: Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none">1. The development hereby permitted must be commenced before the expiration of three years from the date of this permission. <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 must relate to the following plans and documents as received on the respective dates and development must be carried out in accordance with them:

- Application Form, received by the Local Planning Authority on the 27th August 2024.
- Existing Farm Entrance Limits of Current Visibility (Amended), Scale 1:1250, Drawing No: 24.08.02a, received by the Local Planning Authority on the 23rd September 2024.
- Proposed New Entrance and Domestic Access Track (Amended), Scale 1:200 and 1:1250, Drawing No: 24.08.01d, received by the Local Planning Authority on the 23rd September 2024.
- Planning Statement (Amended), Prepared by WK Design Architects, Rev: A, Ref: 2024-08-08, received by the Local Planning Authority on the 8th September 2024.
- Proposed New Access Track – Agent Response to Highway Authority, Prepared by WK Design Architects September 2024, Ref: WKDA001.LH, received by the Local Planning Authority on the 23th September 2024.
- Speed Survey – Class Summary, Prepared by Matrix Traffic and Transport Data, received by the Local Planning Authority on the 28th November 2024.
- Speed Survey – Data, Prepared by Matrix Traffic and Transport Data, received by the Local Planning Authority on the 28th November 2024.
- Speed Survey – Speed Summary, Prepared by Matrix Traffic and Transport Data, received by the Local Planning Authority on the 28th November 2024.
- Speed Survey – Summary of Automatic Traffic Count Data, Prepared by Matrix Traffic and Transport Data, received by the Local Planning Authority on the 28th November 2024.
- Speed Survey – Volume Graph, Prepared by Matrix Traffic and Transport Data, received by the Local Planning Authority on the 28th November 2024.
- Speed Survey – Volume Summary, Prepared by Matrix Traffic and Transport Data, received by the Local Planning Authority on the 28th November 2024.
- Proposed New Access - Agent Response to Parish Concerns, Prepared by WK Design Architects January 2024, Ref: WKDA001.LH, received by the Local Planning Authority on the 2nd January 2024.
- Proposed New Access - Agent Response to Neighbour Concerns, Prepared by WK Design Architects January 2024, Ref: WKDA001.LH, received by the Local Planning Authority on the 2nd January 2024.
- Biodiversity Net Gain (BNG) Small Sites Metric Plan, Prepared by Mitchells Farm & Environmental Services July 2024, received by the Local Planning Authority on the 27th August 2024.
- Oxenrigg Small Sites Metric Calculation Tool, received by the Local Planning Authority on the 27th August 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:

3. The development hereby approved must be carried out in accordance with and implement all the mitigation measures set out in the following approved documents:
 - Biodiversity Net Gain (BNG) Small Sites Metric Plan, Prepared by Mitchells Farm & Environmental Services July 2024, received by the Local Planning Authority on the 27th August 2024.
 - Oxenrigg Small Sites Metric Calculation Tool, received by the Local Planning Authority on the 27th August 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.

4. Prior to the commencement of the works 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.

5. Prior to the commencement of development a Habitat Management and Monitoring Plan has been submitted to and approved in writing by the local planning authority.

The Habitat Management and Monitoring Plan must include the following:

i. A detailed scheme of habitat creation and habitat enhancement works that demonstrate the delivery of a minimum 10% net gain in biodiversity value post development over a minimum period of 30 years.

ii. Planned management activities including details of site-wide aims and objectives.

iii. Details of the persons and organisation(s) responsible for delivery of the habitat creation and habitat enhancement works.

iv. The habitat condition targets that form the basis of what the Habitat Management and Monitoring Plan is setting out to achieve.

v. Details of monitoring methods and a monitoring reporting schedule.

vi. Details of adaptive management approaches.

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.

6. The development hereby approved must not become operational until the habitat creation and habitat enhancement works detailed in the Habitat Management and Monitoring Plan secured by planning condition 4 have been completed in accordance with the approved details.

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.

7. Within 3 months of the completion of the habitat creation and habitat enhancement works detailed in Habitat Management and Monitoring Plan secured by planning condition 4, a completion report, evidencing the completed habitat creation and habitat enhancements must be submitted to and approved in writing by the local planning authority.

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.



**Cumberland
Council**

8. The habitat creation and habitat enhancement works detailed in the Habitat Management and Monitoring Plan secured by planning condition 4 must be managed and maintained in accordance with the provisions of approved Habitat Management and Monitoring Plan secured by planning condition 4 for a minimum period of 30 years post completion of the habitat creation and habitat enhancement works.

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.

9. Monitoring reports demonstrating how the habitat creation and habitat enhancement works detailed in Habitat Management and Monitoring Plan secured by planning condition 4 is delivering on its site-wide aims and objectives and habitat condition targets

Monitoring reports must be submitted to the Council during years 2, 5, 7, 10, 20 and 25 posts completion of the habitat creation and habitat enhancement works detailed in the Habitat Management and Monitoring Plan secured by planning condition 4 unless otherwise stated in the Habitat Management and Monitoring Plan secured by planning condition

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.

Pre Commencement Conditions:

10. The development must not commence until visibility splays providing clear visibility of 105m to the west and 116m to the east measured 2.0m down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. 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, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays must be constructed before general development of the site commences so that

construction traffic is safeguarded and must be retained for the lifetime of the development.

Reason

In the interests of highway safety in accordance with Policy CO4 of the Copeland Local Plan.

Prior to First Use Condition:

11. Prior to the first use of the access and access track hereby approved the drainage details must be installed in accordance with the approved plan 'Proposed New Entrance and Domestic Access Track (Amended), Scale 1:200 and 1:1250, Drawing No: 24.08.01d, received by the Local Planning Authority on the 23rd September 2024'. The approved drainage details must be retained at all times thereafter.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provision of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013 – 2028.

12. Prior to the first use of the access and access track hereby approved the first 5m of the access from the highway must be installed in accordance with the approved plan 'Proposed New Entrance and Domestic Access Track (Amended), Scale 1:200 and 1:1250, Drawing No: 24.08.01d, received by the Local Planning Authority on the 23rd September 2024'. The access must be retained as approved at all times thereafter.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the provision of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013 – 2028.

Other Conditions:

13. Access gates, if provided, must be hung to open inwards only away from the highway.

Reason



Cumberland Council

In the interests of highway safety in accordance with Policy CO4 of the Copeland Local Plan.

14. De-vegetation works should occur outside of the breeding bird season, which runs from March to August inclusive. Vegetation removal should be undertaken in a top-down phased approach allowing reptiles and small mammals to move to a place of safety.

Reason

To protect the ecological interests evident on the site, in accordance with Policies N1 and N3 of the Copeland Local Plan.

Informatives:

1. 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.

2. Any works within or near the Highway must be authorised by the Council and no works shall be permitted or carried out on any part of the Highway including Verges, until you are in receipt of an appropriate permit from the LHA Streetworks team.

<https://www.cumberland.gov.uk/parking-roads-and-transport/streets-roads-and-pavements/street-licences-and-permits/street-permit-and-licence-fees-and-charges>

Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

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 : 27.01.2025

Authorising Officer: N.J. Hayhurst

Date : 29.01.2025

Dedicated responses to:-