

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/24/2303/0B1
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 2 (PLANS) FOR GABLE WINDOW ON FRONT ELEVATION, INSTALLATION OF ADDITIONAL WINDOWS TO LOUNGE & FRONT BEDROOM & RECONFIGURATION OF FRONT ACCESS STEPS OF PLANNING APPROVAL 4/24/2227/0F1
3.	<b>Location:</b>	SQUARE GARDEN, POOLSIDE, HAVERIGG
4.	<b>Parish:</b>	Millom
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts Flood Area - Flood Zone 2 Flood Area - Flood Zone 3 Coal - Off Coalfield - Data Subject To Change Key Species - Potential areas for Natterjack Toads
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: YES Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	<b>Report:</b> <b>Site and Location</b> This application relates to Square Garden, a detached property situated within the Poolside Area of Haverigg. The site benefits from a modest front garden with offroad parking, and a detached garage and large garden to the rear.	

The site also falls within flood zones 2 and 3.

### **Relevant Planning Application History**

4/24/2227/0F1 - Removal of existing conservatory and detached garage and the construction of a single storey front and rear extension to an existing dwelling with internal and external alterations

### **PROPOSAL**

Planning Permission was granted for the removal of an existing conservatory and detached garage and the construction of a single storey rear extension, and the construction of a small front extension in August 2024 under reference 4/24/2227/0F1.

This current application seeks to vary condition 2 of the planning permission to allow the installation of additional window openings and minor amendments to the front access steps.

This wording of condition on the planning permission states the following:-

2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

- Application Form, received 25th June 2024;
- Site Location Plan, scale 1:1250, drawing 24-20-P-L, received 25th June 2024;
- Site Block Plan, scale 1:500, drawing 24-20-P-L, received 25th June 2024;
- Proposed Site Plan, scale 1:250, drawing 24-20-P-01, received 25th June 2024;
- Existing Plans, scale 1:100, drawing 24-20-P-02, received 25th June 2024;
- Proposed Plans, scale 1:100, drawing 24-20-P-05, received 25th June 2024;
- Existing Elevations, scale 1:100, drawing 24-20-P-03, received 25th June 2024;
- Proposed Elevations, scale 1:100, drawing 24-20-P-06, received 25th June 2024;
- Existing 3D Sketches, drawing 24-20-P-04, received 25th June 2024;
- Proposed 3D Sketches, drawing 24-20-P-07, received 25th June 2024;
- Householder & Other Minor Extensions in FZ 2&3 Form, received 25th June 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.



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### **Consultation Responses**

#### Millom Town Council

No comments received.

#### Environment Agency

We have no objections to the development as proposed, and we maintain our comments made in our previous response to planning application 4/24/2227/0F1, referenced NO/2024/116167/01-L01 and dated 8 July 2024.

#### Highway Authority

The local highway authority has no objections to the proposed development.

#### Lead Local Flood Authority

We have noted that the site is in flood zone 2 and 3. The existing floor levels are approximately 700mm above external ground level and the new development/extension floor levels will be 700mm above external ground level to match. 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. Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

#### Public Representations

The application has been advertised by way of neighbour notification letters issued to 4 no. properties. No objections have been received as a result of this consultation.

### **Planning Policies**

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

### **Development Plan**

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

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

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

## **Copeland Local Plan 2013 – 2028 (Adopted December 2013)**

### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ENV3 – Biodiversity and Geodiversity

### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

### **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.

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.

The Report on the Examination of the ELP was received on the 23<sup>rd</sup> September 2024. Given the advanced stage of preparation and with adoption pending, full weight can be attached to the policies of the ELP.

The following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards



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Policy DS8PU – Reducing Flood Risk

Policy H14PU – Domestic Extensions and Alterations

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

**Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

Wildlife and Countryside Act 1981

**Assessment**

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that 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.

In terms of the conditions attached to the previous decision notice (4/24/2227/0F1), it is necessary to repeat condition 3 so that works are carried out as per the approved details. The time condition (condition 1) cannot be varied under a Section 73 application and so will remain blank.

The current application seeks to vary condition 2 of permission 4/24/2227/0F1. The issues relating to this element of the scheme are considered below:-

Principle of Development

The proposed amendment to this scheme proposes alterations to the external appearance of the dwelling including the installation of a gable window on the front elevation, installation of 1 window on the side elevation to the lounge, 1 small window to the front bedroom, and reconfiguration of the front access steps.

Policy DM18 and Policy H14PU support extensions and alterations to residential properties subject to detailed criteria, which are considered below.

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

Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design which

is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

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

The proposed gable window on the front elevation and the installation of 1 window on the side elevation to the lounge, 1 small window to the front bedroom and reconfiguration of the front access steps are considered relatively modest in scale and are minor changes to the overall application.

The proposal is not considered to significantly harm the appearance of the parent property, or the immediate neighbouring properties, and the materials proposed are considered to be appropriate, and this will ensure the appearance of the dwelling is maintained.

Overall, the proposal is considered to meet Policy DM18(A) Policy H14PU and the NPPF guidance.

#### Residential Amenity

Policy ST1, Policy DM18 and H14PU and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings. Whilst overlooking issues between the proposed amendments and the neighbouring properties were considered, the amendments are considered to have little impact on residential amenity.

The amendments propose 1 single new window to the side elevation lounge window. Whilst this elevation is adjacent to the neighbouring property (High Waters), there are already 2 windows proposed on this ground floor elevation, and there is an existing boundary wall which provides adequate screening for an additional window.

In addition, the amendments propose to alter the porch design by altering the orientation of the access steps to now project out to the front as opposed to the side, and replace the glazing to the front elevation to a floor to ceiling half apex window.

Despite the slight increase in glazing on this elevation, the property is set back from the roadside and the nearest dwelling on this elevation (number 20 Poolside) by an acceptable distance, and therefore additional overlooking concerns are not considered to be significant to warrant refusal in this case.

The access reconfiguration is considered to be a minor amendment to this application and will not cause any residential amenity issues.

On balance, the proposal will not have a detrimental impact on the neighbouring amenity and it is considered that the proposal will meet Policy DM18, Policy H14PU and the NPPF guidance.

#### Flood Risk



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The NPPF and Policy DM24 requires proposed developments in Flood Zones 2 and 3 to be accompanied by a Flood Risk Assessment (FRA). Policy DM24 seeks to protect developments against risks of flooding.

The site lies within Flood Zones 2 and 3.

Whilst this variation of condition application is not accompanied by a Householder and Other Minor Extensions in Flood Zones 2 and 3 form, the original approval was, and the flood resilience and mitigation measures outlined on the form were secured by the use of a planning condition. It is therefore appropriate to repeat condition number 3 of the original approval to secure these details.

Overall, the proposal complies with Policy ENV1, Policy DM24, and Policy DS8PU.

### Ecology

Policy ST1, ENV3 and DM25 and section 15 of the NPPF outline how the Council will protect and enhance the biodiversity and geodiversity within the Borough. These policies set out the approach towards managing development proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

The application site is identified as a potential area for natterjack toads. Despite the site being located within 200m of a watercourse (as indicated within the ALGE trigger list), the application is not supported by any ecology details as these were considered during the original application and it was considered that this is not a habitat that is likely to contain natterjack toads. On this basis, it would not be necessary to seek an ecological survey for this minor variation of condition application.

It is therefore considered that the development complies with Policies ST1, EV3 and DM25 of the Copeland Local Plan and Strategic Policy N1PU of the Emerging Local Plan and the NPPF guidance.

### Planning Balance and Conclusion

This application seeks to vary condition number 2 of application reference 4/24/2227/0F1.

The proposed amendments comprise alterations to the external appearance of the dwelling including the installation of a gable window on the front elevation, installation of 1 window on the side elevation to the lounge, 1 small window to the front bedroom, and reconfiguration of the front access steps.

The amendments are considered to be acceptable in terms of scale and design and are not considered to have any detrimental impact on the amenities of the adjoining properties, flood risk or ecology.

On balance, the application is considered to be acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.

8.	<p><b>Recommendation:</b></p> <p>Approve amendment of condition</p>
9.	<p><b>Conditions:</b></p> <p>1. -</p> <p>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: -</p> <ul style="list-style-type: none"> <li>- Application Form, received 4<sup>th</sup> September 2024;</li> <li>- Proposed Site Plan, scale 1:250, dwg no 24-20-P-01 Rev A, received 4<sup>th</sup> September 2024;</li> <li>- Proposed Plans, scale 1:100, dwg no 24-20-P-05 Rev A, received 4<sup>th</sup> September 2024;</li> <li>- Proposed Elevations, scale 1:100, dwg no 24-20-P-06 Rev A, received 4<sup>th</sup> September 2024;</li> <li>- Proposed 3D Sketches, dwg no 24-20-P-07 Rev A, received 4<sup>th</sup> September 2024;</li> </ul> <p>Reason</p> <p>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.</p> <p>3. Before the extension is occupied, the flood resilience and mitigation measures must be carried out in accordance with the Householder and Other Minor Extensions in Flood Zones 2 and 3 Form received by the Local Planning Authority on 22nd February 2024. The flood resilience and mitigation measures must be maintained thereafter.</p> <p>Reason</p> <p>To protect the property against flood damage in accordance with Policy DM24 of the Copeland Local Plan.</p> <p><b>Statement</b></p> <p>The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning</p>





## Cumberland Council

	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	
<b>Case Officer: Demi Crawford</b>		<b>Date : 25/10/2024</b>
<b>Authorising Officer: N.J. Hayhurst</b>		<b>Date : 28/10/2024</b>
<b>Dedicated responses to:- N/A</b>		