

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/24/2315/0F1
2.	<b>Proposed Development:</b>	PARTIAL REFURBISHMENT OF BUILDING TO PROVIDE NEW PROPOSED ROOF AND REPLACEMENT WINDOWS
3.	<b>Location:</b>	THE FLAXWORKS MILL (BUILDING 1), CLEATOR MILLS, CLEATOR
4.	<b>Parish:</b>	Cleator Moor
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Standing Advice - Data Subject To Change, Outer Consultation Zone - Sellafield 10KM
6.	<b>Publicity Representations &amp; Policy</b>	See report.
7.	<b>Report:</b>  <b>Site and Location:</b>  <p>The Application Site comprises part of the former Cleator Mills site in Cleator which comprises the location of a number of former mill buildings.</p> <p>The Application Site comprises the only remaining mill building, with the remainder having previously been demolished.</p> <p>A new warehouse is currently being erected on the footprint of a demolished mill building.</p> <p>The Application Site is located within Flood Zone 2/3.</p> <p>The Application Site is located adjacent to the River Ehen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).</p>	

**Directly Relevant Planning History:**

4/14/2192/0F1 - Conversion of former mill to provide office accommodation (Use Class B1) and cafe/restaurant; closure of existing vehicular access to main street – Approved.

4/22/2364/0F1 - Construction of new warehouse unit with ancillary offices – Approved.

**Proposal:**

This application seeks Full Planning Permission for the partial refurbishment of the remaining former mill building.

The proposed works comprise the following:

- Removal of the existing uncovered dual pitched roof structure and the installation of an insulated flat roof structure and associated gutters connecting to external aluminium rainwater goods via a lead lined chute through the existing wall.
- Installation of black coloured powder coated aluminium windows and repairs to existing stone window surrounds and mullions as necessary.

The surface water from the roof structure will drain to the existing surface water drainage system serving the mill building, which discharges to the River Ehen.

The Applicant is seeking an exemption from biodiversity net gain on the basis that the proposed development is below the threshold.

<b>Consultee:</b>	<b>Nature of Response:</b>
Town Council	None received.
Cumberland Council – Highways and LLFA	Falls below threshold of Service Level Agreement (SLA).  The highway and drainage implications of this application are to be decided by the Local Planning Authority.
Environment Agency	We have no objections to the proposed development, however we do wish to make the following comments:-  <b>Flood risk standing advice - advice to LPA</b>  The proposed development falls within Flood Zones 2 & 3 which is land defined in the planning practice guidance as being at risk of flooding.  We have produced a series of standard comments for local planning authorities and planning applicants to refer to on 'lower risk' development proposals. These comments replace direct case-by-case consultation

		<p>with us. This proposal falls within this category.</p> <p>These standard comments are known as Flood Risk Standing Advice (FRSA). They can be viewed at <a href="https://www.gov.uk/guidance/flood-risk-assessment-for-planningapplications#when-to-follow-standing-advice">https://www.gov.uk/guidance/flood-risk-assessment-for-planningapplications#when-to-follow-standing-advice</a>.</p> <p>We recommend that you view our standing advice in full before making a decision on this application. We do not need to be consulted.</p> <p><b>Environmental permit - advice to applicant</b></p> <p>The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:</p> <ul style="list-style-type: none"> <li>• on or within 8 metres of a main river (16 metres if tidal)</li> <li>• on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)</li> <li>• on or within 16 metres of a sea defence</li> <li>• involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert</li> <li>• in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission</li> </ul> <p>For further guidance please visit <a href="https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits">https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits</a> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.</p>
	Historic Environment Officer	I support any measures that will sensitively retain and provide a future use for this important historical mill building.
	Conservation Officer	<p><b>Conclusion: Supportive of principle; design revision suggested</b></p> <p><b>Assessment:</b></p> <ul style="list-style-type: none"> <li>• This building is in a vulnerable state, but is locally significant, and work to stabilise it is to be welcomed.</li> <li>• I am supportive of the proposed new roof, which will significantly protect the existing structure. I note that the building is located quite close to trees, and that leaves and other debris can accumulate in the rainwater outfalls of parapet roofs, blocking them and causing water to build up. Consideration should be given to the dimensions of the outfalls where</li> </ul>

		<p>there is latitude in this detailing, or to providing them with guards that will prevent them getting blocked.</p> <ul style="list-style-type: none"> <li>• I am similarly supportive of the proposal to refenestrate the building, as this will improve its appearance, provide additional support to the openings, and reduce leaks. o Regarding the detailing, I interpret the proposed elevation as showing a pair of fixed upper lights on either side of the mullion, with a pair of opening lights below, which are top-hinged and open outwards. Is this correct? o Has a similar but alternative arrangement been considered whereby the opening lights would be bottom-hinged and open inwards at the top? This might give an appearance that suits the industrial mill architecture slightly better, although I appreciate might make the handles hard to reach.</li> </ul>
	Natural England	<p><b>29<sup>th</sup> October 2024</b></p> <p>The development is in close proximity to the River Ehen Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC).</p> <p>A Habitat Regulations Assessment should be produced by your authority in order to properly assess the potential impacts to the River Ehen SAC. As these works are described as a partial refurbishment only, Natural England is satisfied that the methods listed below will be appropriate mitigation for the construction impacts of this development.</p> <p>Natural England requires a Construction Environmental Management Plan to be produced for this application. Appropriate pollution prevention guideline measures should be incorporated to include materials and machinery storage, biosecurity, and the control and management of noise, fugitive dust, surface water runoff and waste to protect any surface water drains and the SAC from sediment, and pollutants such as fuel and cement.</p> <p>There must be a 10m buffer strip to the river, and a bund crossing any drainage paths that lead down to the river to prevent any sediment and pollution in surface water run-off from reaching the SAC. All materials and equipment must be stored outside the buffer strip, and there should be a designated concrete mixing / refuelling site outside the buffer strip, with spill kits on site and drip trays used for refuelling.</p> <p>The issues likely to be relevant during construction and operational phases for development proposals adjacent to watercourses include:</p> <ul style="list-style-type: none"> <li>• Potential for direct damage, modification, displacement of and / or disturbance to protected species and riverine / riparian habitat;</li> <li>• Potential for sediment or other polluting run-off to enter the river, both</li> </ul>



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during the construction period (including earthworks, storage and use of machinery, materials and fuels) and any potential siltation, run-off or other pollution arising from the development in its construction / operational phase. Any discharge (including foul drainage) and / or run-off / drainage from the site from the site must not lead to a deterioration in water quality in the watercourse;

- Potential for impacts derived from use and / or disturbance of contaminated land;
- Potential for introduction and / or spread of invasive non-native species.

The developer should produce a management plan on how they propose to manage surface water run-off in conditions of heavy rainfall to prevent the pollution of the SAC. If attenuation basins are to be used during the construction phase for the purpose of settling out sediment, the basins and catch pits need to be monitored and maintained following rainfall events to prevent trapped silt from being remobilised. Consideration should also be given to using other emergency mechanisms such as a silt buster. EA discharge consent will be required for discharge to the watercourse during both construction and operational phases.

#### **17<sup>th</sup> December 2024**

Natural England is not able to provide specific advice on this application and therefore has no comment to make on its details. Although we have not been able to assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes, we offer the further advice and references to Standing Advice.

Natural England advises Local Planning Authorities to use the following tools to assess the impacts of the proposal on the natural environment:

#### Impact Risk Zones:

Natural England has provided Local Planning Authorities (LPAs) with Impact Risk Zones (IRZs) which can be used to determine whether the proposal impacts statutory nature conservation sites. Natural England recommends that the LPA uses these IRZs to assess potential impacts. If proposals do not trigger an Impact Risk Zone then Natural England will provide an auto-response email.

#### Standing Advice:

Natural England has published Standing Advice. Links to standing advice are in Annex A.

If after using these tools, you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set

		out the specific areas on which you require Natural England's advice.
	<b>Neighbour Responses:</b>	
	The application has been advertised by way of a planning application neighbour notification letter and site notice.	
	No representations have been received.	
	<p><b>Development Plan:</b></p> <p>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.</p> <p>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.</p> <p>The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.</p> <p>The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.</p> <p>Cumberland Council continued the preparation of the LP as commenced by Copeland Borough Council.</p> <p>The LP was adopted by Cumberland Council on the 5<sup>th</sup> of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2021-2016.</p> <p><u>Copeland Local Plan 2021 - 2039 (LP):</u></p> <p>Strategic Policy DS1: Settlement Hierarchy  Strategic Policy DS2: Settlement Boundaries  Policy DS4: Design and Development Standards  Strategic Policy DS6: Reducing Flood Risk  Policy DS7: Sustainable Drainage  Strategic Policy E1: Economic Growth  Strategic Policy E2: Location of Employment  Strategic Policy E6: Opportunity Sites  Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity  Strategic Policy N3: Biodiversity Net Gain  Policy N5: Protection of Water Resources  Strategic Policy N6: Landscape Protection</p>	



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Policy N14: Woodlands, Trees and Hedgerows  
Strategic Policy BE1: Heritage Assets  
Policy BE4: Non-Designated Heritage Assets

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF).  
Planning Practice Guidance (PPG).  
National Design Guide (NDG).  
The Conservation of Habitats and Species Regulations 2017 (CHSR).

### **Assessment:**

#### Principle

The Application Site comprises a former factory site.

It is understood that the Kangol factory closed in 2009 and since then the main of the buildings on the site have been reduced to only a shell and/or have been demolished.

In *The Trustees of Castell-y-Mynach Estate v Taff-Ely BC* [1985], the court established four criteria for assessing whether a use had been abandoned. These are: (1) the physical condition of the buildings; (2) the period of non-use; (3) whether there has been any other use; and (4) the owner's intentions. In *Hughes v SSETR & South Holland DC* [2000] the Court of Appeal held, on the authority of Hartley, that the test of the owner's intentions should be objective and not subjective. In this regard the test was the view to be taken by "a reasonable man with knowledge of all the relevant circumstances".

Given the condition of the site including the period of non-use and site clearance and in applying the above criteria, there is an argument for abandonment of the previous use across the main of the wider site.

The proposed development is sought to safeguard the existing building against future/further decay. The development is sought to enable the fabric of the building to dry out in preparation for future reuse which is supported by the provisions of Strategic Policy DS1, Strategic Policy DS2, Strategic Policy E1, Strategic Policy E2 and Strategic Policy E6. The merits of any scheme of reuse would fall for consideration in any future planning application(s).

#### Flood Risk and Drainage

It is proposed that the surface water from the roof structure will drain to the existing surface water drainage system serving the mill building, which ultimately discharges to the River Ehen. The existing drainage system is established. The proposed development will not result in an increase in the level surface water that could discharge from the Application Site; therefore, the scheme of drainage is considered acceptable.

The Application Site is in Flood Zone 2/3.

The Environment Agency have confirmed no objections.

The proposed development comprises works to the structure of the existing building and does not seek to establish a use for the building.

The development will not increase flood risk on or off the Application Site.

The Exception Test and Sequential Test are not applicable.

### Ecology

The Bat Survey prepared in support of the planning application includes some general assessment of the ecological impacts and identifies the potential requirement for a Habitats Regulations Assessment (HRA)

Natural England has confirmed that a HRA to assess the potential impacts of the development on the River Ehen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) is required.

The submitted Bat Survey was completed in August 2022. The Survey identifies that the Application Site has low potential for roosting. The conditions on the Application Site have not changed substantially since 2022, with the roof structure having been removed. Given the scale, nature and location of the proposed works, the potential for impacts upon bat is considered negligible and further survey effort is not deemed necessary.

A HRA has been prepared. Potential adverse effects have been identified and mitigation measures identified to make the development acceptable.

Given the nature and character of the Application Site and development, the proposals will not impact a priority habitat and impacts less than 25 square metres of on-site habitat and 5 metres of on-site linear habitats; therefore, a biodiversity net gain is not required.

### Heritage

The Application Site comprises a non-designated heritage asset.

The building is in a vulnerable state but is locally significant.

The proposed roof structure will significantly protect the existing structure from further water ingress and the associated decay.

The proposed re-fenestration of the building, will improve its appearance, provide additional



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	<p>support to the openings and reduce leaks. Whilst the opening arrangement of the windows could be better related to the building if the opening lights would be bottom-hinged and open inwards at the top, the rationale for the proposed arrangement is understood and thus the arrangement deemed acceptable.</p> <p><u>Residential Amenity</u></p> <p>Given the scale, form and layout of the development no adverse impacts upon existing or approved dwellings would result through loss of light, overshadowing or overbearing.</p> <p>A planning condition is proposed in relation to construction working hours and operational hours to prevent unacceptable impacts upon nearby occupied dwellings during the construction and operational periods.</p> <p><b>Planning Balance:</b></p> <p>The principle of the development is acceptable.</p> <p>The proposed roof structure will significantly protect the existing structure from further water ingress and the associated decay.</p> <p>The proposed re-fenestration of the building, will improve its appearance, provide additional support to the openings and reduce leaks</p> <p>No unacceptable impacts will result from the development in relation to amenity, highway, ecology, flood risk and drainage subject to the planning conditions imposed.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p>1. The development hereby permitted shall begin not later than three years from the date of this decision.</p> <p>Reason</p> <p>To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <p>2. The development hereby permitted shall be carried out in accordance with the following approved plans:</p>

Planning Application Form

Location Plan – Drawing No. 2413-PL-100

Ground & First Floor Plans as Existing – Drawing No. 2413-PL-301

Typical Window Elevation – Drawing No. 2413-PL-500

Proposed Structural Arrangements Roof Plan – Drawing No. 24-275-DWG003 Rev. D

Proposed Structural Arrangements Roof Sections and Details – Drawing No. 24-275-DWG004 Rev. D

Drainage Report – Ref. 24-275r001B

Bat Risk Assessment And Bat Survey Report - Cleator Mills, Cleator – Report: MEP-22-01  
Version R1

Construction Environmental Management Plan – The Flax Works, Cleator Mills Site, Cumbria  
– Ref. EES-CEMP 2024

Reason

For the avoidance of doubt and in the interests of proper planning.

3. No construction work associated with the development hereby approved shall be carried out outside of the hours of 07.30 hours -18.00 hours Monday-Saturday, nor at any time on Sundays and bank holidays.

Reason

In the interests of neighbouring residential amenity in accordance with the provisions of the National Planning Policy Framework

4. The development shall not proceed except in accordance with the provisions of the Construction Environmental Management Plan – The Flax Works, Cleator Mills Site, Cumbria – Ref. EES-CEMP 2024

Reason

For the avoidance of doubt and to prevent harm to protected species in accordance with the provisions of Policy N1 of the Copeland Local Plan 2021-2039.



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### Informative

#### Environmental permit - advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and negotiating with the applicants acceptable amendments to address them. As a result the Local Planning Authority has been able to grant planning permission for an acceptable proposal in accordance with Copeland Local Plan policies and the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

**Case Officer:** C.Harrison

**Date :** 29.01.2025

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

**Date :** 31.01.2025

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