

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2366/0B1	
2.	Proposed Development:	VARIATION OF PRE COMMENCEMENT CONDITIONS 3 (SUSTAINABLE WATER DRAINAGE SCHEME), CONDITION 4 (MEASURES TO PREVENT SURFACE WATER DISCHARGING ONTO OR OFF THE HIGHWAY) AND CONDITION 6 (LAND FOR PARKING VEHICLES ENGAGED IN CONSTRUCTION OPERATIONS) OF PLANNING APPLICATION 4/24/2096/0F1 - DEMOLITION OF EXISTING DETACHED BUNGALOW & ERECTION OF REPLACEMENT DWELLING INCLUDING ERECTION OF DETACHED GARAGE & ALTERATIONS TO EXISTING ACCESS	
3.	Location:	MELLENDENE, HIGH HOUSE ROAD, ST BEES	
4.	Parish:	St. Bees	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change, Outer Consultation Zone - Sellafield 10KM, PROWs - Public Right of Way	
6.	Publicity Representations & Policy	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	Yes
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report: Site and Location	This application relates to the detached bungalow, known as Mellendene, which fronts onto High House Road, located within the north east of St Bees. The existing bungalow is in a	

dilapidated state and is sited at an elevated level above the adjacent highway. The application site is significantly sloping, is located within the St Bees Conservation area, and is bounded to by residential dwellings with open countryside to the rear of the site.

Relevant Planning History

4/24/2096/0F1 – Demolition of existing detached bungalow and erection of replacement dwelling including erection of detached garage and alterations to existing access – Approved.

4/24/2212/DOC – Discharge of condition 5 of planning application 4/24/2096/0F1 – Approved.

4/24/2354/DOC – Discharge of conditions 7 and 8 of planning application 4/24/2096/0F1 – Approved.

Proposal

In May 2024, planning permission (ref: 4/24/2096/0F1) was granted for the demolition of the existing detached bungalow and the erection of a replacement dwelling including erection of a detached garage and alterations to the existing access.

This current application seeks to vary the pre commencement conditions attached to planning approval 4/24/2096/0F1:

Pre-Commencement Conditions:

3. Prior to the commencement of development, details of a sustainable surface water drainage scheme must be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
 - I. An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation must include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
 - II. A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
 - III. A timetable for its implementation.

The approved schemes must also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes must be completed in accordance with the approved details and retained thereafter for the lifetime of the development.



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Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

4. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway must be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works must be implemented prior to the development being completed and must be maintained operational thereafter.

Reason

In the interests of highway safety and environmental management.

6. Before any development takes place, a plan must be submitted for the prior approval of the Local Planning Authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, must be used for or be kept available for these purposes at all times until completion of the construction works.

Reason

The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users.

Consultation Responses

St Bees Parish Council

St Bees Parish Council considered these applications at its recent meeting. In recent years St Bees has had a number of incidents of flooding etc. Whilst detailed drainage issues are outside our technical expertise, the Parish Council would not wish to see any changes which would affect the effectiveness of arrangements for surface water drainage.

Cumberland Council – Highway Authority & Lead Local Flood Authority

7th November 2024

The LHA & LLFA has no objection to the variation of conditions 3, 4 & 6 subject to any conditions that have not been discharged being included in any notice of consent you may grant.

16th January 2025

Cumberland Council as the Local Highway Authority (LHA) and Lead Local Flood

Authority (LLFA) has reviewed the above planning reference and 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

United Utilities

6th January 2025

United Utilities have no comments to make regarding the variation of conditions.

15th January 2025

United Utilities have no comments to make regarding the variation of conditions.

Cumberland Council – Countyside Access Officer

No comments received.

Cumberland Council – Conservation and Design Officer

No comments to add on this one.

Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to 12 properties.

Four letters of objection have been received raising the following concerns:

- I do not understand all these calculations. Currently a large volume of water comes down to High House Road through Melendene. There was previously a culvert under the property. It is imperative that the runoff does not increase if the current flooding isn't to worsen.
- There has been a large retaining wall constructed already. This could potentially divert field runoff toward the Old Telephone Exchange. Could this please be checked to ensure it will not cause excess water issues
- Existing properties have never flooded this needs to remain.
- It is important that no additional pressure is put on the drains in this road as they current are at capacity on high rainfall periods.
- The Declaration section on the submitted application form has not been completed i.e. the applicant has not stipulated whether they are seeking Removal OR Variation of a condition? The conditions referred to are pre - commencement conditions.
- The applicant seems to be asking to be excused from compliance with the conditions, because they have already started?
- Both the surface water run off and the construction parking are relevant going forwards, it is already evident that the site drainage has been affected and the construction traffic has impacted parking and traffic on High House Rd.



Cumberland Council

- If the application is approved I would like the planning committee to explain why and guarantee that there will be no damage caused by surface water run off.
- The construction works on the site have (this week) progressed to putting in foundations and the first courses of bricks. This the first time I have been able to properly appreciate the proximity of the new build to our boundary wall, it is much closer than I appreciated based on the plan views of the development which did not show much detail in this respect.
- The excavations on the site have been extensive and are quite deep relative to the surrounding ground levels. Understandably this has resulted in a requirement to construct a retaining wall around the deeper parts of the site. The retaining wall adjacent to my boundary, finishes at a point where the excavation is still relatively deep. Does the granted planning consent include the requirement for retaining wall structures and an assessment of the validity of the design? Why does the retaining wall end where it does and what stops the remaining run of the boundary wall collapsing into the excavation? I want sight of the relevant civil documentation /calculations / justification and approval for the curtailment of the retaining wall at this point?
- Can you confirm or otherwise that the boundary wall is a party wall?
- The plan views provided for the proposed development show what appears to be a path running around the completed property. The gap between the rear of the property and my boundary wall does not appear to sufficiently wide to allow this path without further excavation adjacent to the boundary wall. Is this a change? Irrespective of the presence (or not) of a path, the rear of the development is too close to my boundary wall and will result in destabilisation of its foundations unless a separate retaining wall is provided?
- I have evidence that the boundary wall has moved since works began and believe this is a direct result of the excavation works adjacent to it.
- I have already commented on the variation proposal, but would add that the proposal is poorly defined in the documents provided, to the point that I cannot understand what is proposed other than failing to comply with several pre - commencement conditions. I don't understand your position on this i.e. I would have expected you to closely monitor the developer's compliance with the conditions specified in the planning permission, why has the current situation been allowed? What are the consequences for the developer not complying with your conditions?
- The site is subject to a considerable amount of run off from the fields on the hill side above. The surface water management aspect alluded to in the variation proposal doesn't appear to account for the run off from above?

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 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.

Planning approval 4/24/2096/0F1 was determined under the previous Local Plan, however this current variation of conditions application is being considered under the Copeland Local Plan 2021-2016 as this now forms the development plan.

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

Policy DS8: Soils, Contamination and Land Stability

Strategic Policy H1: Improving the Housing Offer

Strategic Policy H2: Housing Requirement

Strategic Policy H3: Housing Delivery

Strategic Policy H4: Distribution of Housing



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Strategic Policy H5: Housing Allocations

Policy H6: New Housing Development

Policy H7: Housing Density and Mix

Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N2: Local Nature Recovery Networks

Strategic Policy N3: Biodiversity Net Gain

Strategic Policy BE1: Heritage Assets

Policy BE2: Designated Heritage Asset

Strategic Policy CO4: Sustainable Travel

Policy CO5: Transport Hierarchy

Policy CO7: Parking Standards

Other Material Planning Considerations

National Planning Policy Framework (2023)

National Design Guide (NDG).

Cumbria Development Design Guide (CDG)

Strategic Housing Market Assessment 2021 (SHMA)

Copeland Borough Council Housing Strategy 2018 – 2023 (CBCHS)

The Cumbria Landscape Character Guidance and Toolkit (CLGC)

Copeland Borough-Wide Housing Needs Survey (2020)

Planning (Listed Building and Conservation Areas) Act 1990

Conservation Area Design Guide SPD (Adopted December 2017)

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 (ref: 4/24/2096/0F1),

	<p>condition 1 will be amended to ensure timescales for commencement are clearly outlined. Condition 2 will be amended to reflect the amended information submitted with this current application.</p> <p>Conditions 5, 7 and 8 will be amended to reflect that these conditions have previously been formally discharged.</p> <p>Conditions 9, 10, 11, and 12 will be repeated to ensure that works are carried out as per the approved details.</p> <p>The current application seeks to vary conditions 3, 4, and 6 of the original planning approval (ref: 4/24/2096/0F1). These conditions are pre commencement conditions. Works have commenced on site without discharging these conditions, therefore this application seeks to vary these conditions to ensure works can be carried out in accordance with approved details.</p> <p>Condition 3 sought to secure full details of the proposed sustainable surface water drainage scheme for the development prior to the commencement of works at this site. This application seeks to amend this condition to ensure works are carried out in accordance with the drainage scheme submitted as part of this application. No objections have been received from statutory consultees in relation to the variation of condition 3.</p> <p>Condition 4 sought to secure full details of the proposed measures to prevent surface water discharging onto or off the highway prior to the commencement of works at this site. This application seeks to amend this condition to ensure works are carried out in accordance with the drainage scheme submitted as part of this application. No objections have been received from statutory consultees in relation to the variation of condition 4.</p> <p>Condition 6 sought to secure full details of the proposed parking area for construction vehicles. This application seeks to amend this condition to ensure works are carried out in accordance with the drainage scheme submitted as part of this application. No objections have been received from statutory consultees in relation to the variation of condition 6.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <p><u>Standard Conditions</u></p> <ol style="list-style-type: none"> 1. The development hereby permitted must be commenced before the 28th May 2027. <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>



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2. This permission relates to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:-
- Location Plan, Scale 1:1250, Drawing No: 23/06/1051-01, received by the Local Planning Authority on the 25th March 2024.
 - Existing Site Plan, Scale 1:500, Drawing No: 23/06/1051-02, received by the Local Planning Authority on the 25th March 2024.
 - Proposed Site Plan (Amended), Scale 1:500, Drawing No: 23/06/1051-03c), received by the Local Planning Authority on the 24th May 2024.
 - Dwelling – Plans and Elevations (Amended), Scale 1:100, Drawing No: 23/06/1051-04a), received by the Local Planning Authority on the 24th May 2024.
 - Detached Garage – Plans and Elevations, Scale 1:100, Drawing No: 23/06/1051-05, received by the Local Planning Authority on the 25th March 2024.
 - Site Sections, Scale 1:200, Drawing No: 23/06/1051-06, received by the Local Planning Authority on the 25th March 2024.
 - Brief Condition Report, Doc Ref: 23/06/1051-CR, received by the Local Planning Authority on the 25th March 2024.
 - External Materials Schedule, 23/06/1051-EMS, received by the Local Planning Authority on the 25th March 2024.
 - Photographic Record of Existing Dwelling, March 2024, received by the Local Planning Authority on the 25th March 2024.
 - Heritage, Design & Assess Statement, Ref: 23/06/1051-HDAS, received by the Local Planning Authority on the 25th March 2024.
 - Proposed Site Plan – Parking/Turning, Scale 1:500, Drawing No: 23/06/1051-03d), received by the Local Planning Authority on the 23rd October 2024.
 - Working Site Plan, Scale 1:100, Drawing No: 23/06/1051-14, received by the Local Planning Authority on the 23rd October 2024.
 - Attenuation Calculations, Prepared by J D P Limited October 2024, received by the Local Planning Authority on the 23rd October 2024.
 - Rainbox 3SR Product Information Sheet, received by the Local Planning Authority on the 23rd October 2024.
 - Surface Water Drainage Strategy, received by the Local Planning Authority on the 13th January 2025.
 - Summary of Classification Test Results, received by the Local Planning Authority on the 13th January 2025.

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.

Pre-Commencement Conditions:

3. The drainage for the development hereby approved, must be carried out in accordance with principles set out in accordance with the following approved plans:
- Working Site Plan, Scale 1:100, Drawing No: 23/06/1051-14, received by the Local Planning Authority on the 23rd October 2024.
 - Attenuation Calculations, Prepared by J D P Limited October 2024, received by the Local Planning Authority on the 23rd October 2024.
 - Rainbox 3SR Product Information Sheet, received by the Local Planning Authority on the 23rd October 2024.
 - Surface Water Drainage Strategy, received by the Local Planning Authority on the 13th January 2025.
 - Summary of Classification Test Results, received by the Local Planning Authority on the 13th January 2025.

Prior to occupation of the proposed development, the drainage schemes must be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

4. The development hereby approved must be carried out in accordance with and implement the measures set out in the approved document 'Working Site Plan, Scale 1:100, Drawing No: 23/06/1051-14, received by the Local Planning Authority on the 23rd October 2024'. The measures to prevent surface water discharging onto or off the highway must be implemented prior to the development being completed and must be maintained operational thereafter.

Reason

In the interests of highway safety and environmental management.

5. The development hereby approved must be carried out in accordance with the Demolition and Construction Traffic Management Plan approved as part of condition 5 of permission 4/24/2096/0F1, as detailed within correspondence dated 19th June 2024 (ref: 4/24/2212/DOC).

Reason

To ensure the undertaking of the demolition and construction of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety.

6. No further works are to commence on site until the parking for construction vehicles has been constructed in accordance with the approved details 'Proposed Site Plan – Parking/Turning, Scale 1:500, Drawing No: 23/06/1051-03d), received by the Local Planning Authority on the 23rd October 2024'. The parking area must be used for and kept available for the parking of construction vehicles at all times until completion of the construction works.

Reason

The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users.

Prior to Erection of External Walling Conditions:

7. The development hereby approved, must be carried out in accordance with the materials approved as part of condition 7 of permission 4/24/2096/0F1, as detailed within correspondence dated 28th November 2024 (ref: 4/24/2354/DOC). Development must be completed in accordance with the approved details of materials and must be retained for the lifetime of the development.

Reason

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

Prior to First Use/Occupation Conditions:

8. The development hereby approved, must be carried out in accordance with the solar panel details approved as part of condition 8 of permission 4/24/2096/0F1, as detailed within correspondence dated 28th November 2024 (ref: 4/24/2354/DOC). Development must be completed in accordance with the approved details and must be retained for the lifetime of the development.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and to safeguard the heritage asset.

9. Prior to the first occupation of the dwelling hereby approved the boundary treatment must be installed in line with the approved plan 'Proposed Site Plan (Amended), Scale 1:500, Drawing No: 23/06/1051-03c), received by the Local Planning Authority on the 24th May 2024'. All boundary treatment must be retained in accordance with this approved plan at all times thereafter.

Reason

In the interest of residential amenity.

10. Prior to the first occupation of the dwelling hereby approved the indicated windows within the south west elevation must be fitted with obscure glazing in line with the approved plan 'Dwelling – Plans and Elevations (Amended), Scale 1:100, Drawing No: 23/06/1051-04a), received by the Local Planning Authority on the 24th May 2024'. The obscure glazing must be permanently retained at all times thereafter.

Reason

In the interest of residential amenity.

Other Conditions:

11. The detached garage hereby approved must not be occupied at any time other than for purposes ancillary to the residential property also approved under this application and must not be independently occupied let or sold as a separate permanent dwelling, or used for any business purposes whatsoever.



Cumberland Council

Reason

The detached garage is not considered appropriate for use as a separate residential unit and to ensure that non-conforming uses are not introduced into the area.

12. Any access gates installed within the property must be of a style which do not open onto the highway and must be retained as such at all times thereafter.

Reason

In the interest of highway safety.

Informatives:

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 : 28.01.2025

Dedicated responses to:-