

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/24/2382/0B1
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 2 (PLANS) TO REFLECT REVISED DWELLING DESIGNS OF PLANNING APPLICATION 4/23/2088/0F1 PROPOSED RESIDENTIAL DEVELOPMENT FOR 23 DWELLINGS INCLUDING ASSOCIATED INFRASTRUCTURE & LANDSCAPING
3.	<b>Location:</b>	LAND AT HARRAS ROAD, HARRAS PARK, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change, PROWs - Public Right of Way
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b> <b>Site and Location:</b>	<p>This application relates to an area of land extending to 1.60 hectares which lies immediately to the north of Harras Road and is adjoined on its western boundary by the dwelling known as “Casa Mia”. It is located on the eastern edge of Whitehaven.</p> <p>This greenfield site is currently used as agricultural land and is located contiguous to the settlement boundary for Whitehaven. The land is bound by an existing stone wall to the</p>

south which fronts onto Harras Road. There are no other physical boundaries which define its northern, eastern or western edges.

A number of modern dwellings lie on the opposite side of Harras Road to the south.

The site varies in levels across its length with a fall of approximately 15m from east to west.

**Relevant Planning History:**

Outline application (with some matters reserved) for residential development consisting of nine serviced self-build plots was approved in March 2019 (application reference 4/18/2347/0O1 relates).

An application for the Approval of Reserved Matters relating to scale, layout and appearance for plot 1 (relating to planning permission 4/18/2347/0O1) was approved in January 2020 (application reference 4/19/2170/0R1 relates).

An application for the Approval of Reserved matters for a detached dwelling on plot 8 was approved in March 2020 (application reference 4/19/2305/0R1 relates).

An application for the Approval of Reserved Matters for detached dwelling on plot 9 was approved in March 2020 (application reference 4/19/2364/0R1 relates).

An application for the Approval of Reserved Matters for a detached house on plot 5 was approved in June 2020 (application reference 4/20/2024/0R1 relates).

An application for the Approval of Reserved Matters for a detached dormer bungalow on plot 6 was approved in March 2020 (application reference 4/20/2025/0R1 relates).

An application for the Approval of Reserved Matters relating to appearance and landscaping for plot 1 only and landscaping for the boundaries of the entire site was approved in August 2021 (application reference 4/21/2268/0R1 relates).

A proposed residential development for 23 dwellings including associated infrastructure and landscaping was refused March 2023 following consideration by the Copeland Planning Panel (application reference 4/22/2135/0F1 relates).

A proposed residential development for 23 dwellings including associated infrastructure and landscaping (Resubmission of 4/22/2135/0F1) was approved in March 2023 following consideration by the Copeland Planning Panel (application reference 4/23/2088/0F1 relates).

**Proposal:**

This application is made under Section 73 of the Planning Act to vary condition 2 of the planning permission for the redevelopment of this site for residential purposes. The changes proposed relate to a variation on the house types for several of the plots to include bungalows only. All the two storey dwellings previously approved have been omitted. Furthermore, the material schedule has been amended to include red clay tiles for the roofs.



## Cumberland Council

The original wording of condition 2 of the planning permission reference 4/23/2088/0F1 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 24th March 2023; Location Plan, scale 1:2500, drawing number 18/03/926-01b) received 24th March 2023;  
Dwelling Type Schedule, reference 20/10/983-DS, received 24th March 2023;  
Dwelling Type A Plans and Elevations, scale 1:100, drawing number 18/03/926-08a), received 24th March 2023;  
Dwelling Type B Plans and Elevations, scale 1:100, drawing number 18/03/926-09a), received 24th March 2023;  
Dwelling Type C Plans and Elevations, scale 1:100, drawing number 18/03/926-10c), received 24th March 2023;  
Dwelling Type D Plans and Elevations, scale 1:100, drawing number 18/03/926-11a), received 24th March 2023;  
Dwelling Type E Plans and Elevations, scale 1:100, drawing number 18/03/926-12, received 24th March 2023;  
Dwelling Types F and G Plans and Elevations, scale 1:100, drawing number 18/03/926-14a), received 24th March 2023;  
External Material Schedule (23 dwellings), reference 18/03/926-EMS, received 24th March 2023;  
Site Section, scale 1:500, drawing number 18/03/926-07a), received 24th March 2023;  
Site Location Plan – Enlarged, scale 1:500, drawing number 18/03/926-17, received 3rd July 2023;  
Landscape Layout, scale 1:500, drawing number M3450-PA-01-V08, received 3rd July 2023;  
Access Appraisal, reference 784-B028221 Revision, received 24th March 2023;  
Ecological Appraisal, dated March 2022, written by Whistling Beetle Ecological Consultants Limited, received 24th March 2023;  
Flood Risk Assessment and Drainage Strategy, reference K39108.FRA/001, received 24th March 2023;  
Operation and Maintenance Plan for Sustainable Drainage Systems, reference K39108.OM/002, received 24th March 2023;  
Design and Access Statement, received 20th April 2023;  
Landscape and Visual Appraisal, reference M3450-LVA-22.06-V3, received 24th

March 2023; Street Scene, scale 1:500, drawing number 18/03/926-15a), received 24th March 2023;

Trip Generation Letter, written by Tetra Tech, reference 784-B028221, received 29th April 2023.

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.

### Consultation Responses

Consultee:	Nature of Response:
Whitehaven Town Council	No objections.
Highways and Local Lead Flood Authority	The change in house types has no material impact on the highway, surface water drainage or flood risk elements of the residential development proposal.  I can confirm that the LHA and LLFA have no objection to this variation of Condition 2.
Strategic Housing Officer	No comments.
United Utilities	No response received.
Environment Agency	No response received.

### Neighbour Responses:

1 objection has been received raising the following:

- The amendments should have been applied for before the houses were built;
- Additional street lighting would make the pavement easier to use;
- Construction lorries are not following the route they were supposed to.

One neutral letter has been received.



## Cumberland Council

### 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 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 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.

The policies relevant to this application are as follows:

Strategic Policy DS1 - Settlement Hierarchy

Strategic Policy DS2 - Settlement Boundaries

Strategic Policy DS3 - Planning Obligations

Policy DS4 - Design and Development Standards

Policy DS5 - Hard and Soft Landscaping

Strategic Policy DS6 - Reducing Flood Risk Policy

Strategic Policy DS7 - Sustainable Drainage

Strategic Policy H1 - Improving the Housing Offer

Strategic Policy H2 - Housing Requirement

Strategic Policy H3 - Housing delivery

Strategic Policy H4 - Distribution of Housing

Strategic Policy H5 - Housing Allocations

Policy H6 - New Housing Development

Policy H7 - Housing Density and Mix Strategic

Policy H8 - Affordable Housing

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

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

The Planning Practice Guidance (NPPG):

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity, it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

### **Assessment:**

This application seeks to vary condition 2 of application reference 4/23/2088/0F1 to change some of the house types from two storey dwellings to bungalows. Furthermore, the material schedule has been updated to include a red tiled roof.

The reduction in height of the dwellings is considered to be betterment. Due to the topography of Harras Road, bungalows will be less dominant and have a lesser effect on the overall landscape and streetscene. The bungalows are of a similar design to those already approved on site and are therefore considered to be acceptable.

The change of materials aligns with those originally approved and therefore are considered to be acceptable.

### **Other Planning Conditions**

In accordance with the guidance set out in the NPPG it is relevant to consider the other conditions that were imposed on the original planning permission. It is necessary to amend the wording of several of the conditions to reflect the details that have already been agreed but which require ongoing compliance. These are summarized below:-

Condition 1 – commencement of development – no longer required as works have begun.

Condition 2 – plans – amended under this application and requires ongoing compliance.

Condition 3 – construction of highways – to be reworded as partly discharged under application reference 4/24/2173/DOC and partly requires compliance.

Condition 4 – visibility splays – requires compliance during construction.

Condition 5 – construction traffic management plan – to be reworded as discharged under application reference 4/24/2183/DOC.

Condition 6 – surface water drainage scheme – to be reworded as discharged under application reference 4/24/2173/DOC.

Condition 7 – construction surface water management plan – to be reworded as discharged under application reference 4/24/2173/DOC.

Condition 8 – construction environmental management plan – to be reworded as discharged under application reference 4/24/2183/DOC.

Condition 9 – traffic calming measure – to be removed as discharged under application reference 4/24/2173/DOC and subsequently constructed.

Condition 10 – construction of traffic calming measures – to be removed as construction is complete.

Condition 11 – materials – to be reworded as discharged under application reference 4/24/2183/DOC and amended under this application.

Condition 12 – contamination – to be retained, requires ongoing compliance.

Condition 13 – hard and soft landscaping – to be retained, requires ongoing compliance.

8.	<p><b>Recommendation:</b></p> <p>Approve amendment of condition</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. -</li>   <li>2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: - <p>Application form, received 24th March 2023;  Location Plan, scale 1:2500, drawing number 18/03/926-01b) received 24th March 2023;  Dwelling Type Schedule, reference 20/10/983-DS, received 24th March 2023;  Dwelling Type A Plans and Elevations, scale 1:100, drawing number 18/03/926 126, received 11<sup>th</sup> November 2024;  Dwelling Type B Plans and Elevations, scale 1:100, drawing number 18/03/926 127, received 11<sup>th</sup> November 2024;  Dwelling Type C Plans and Elevations, scale 1:100, drawing number 18/03/926 128, received 11<sup>th</sup> November 2024;  Dwelling Type D Plans and Elevations, scale 1:100, drawing number 18/03/926 129, received 11<sup>th</sup> November 2024;  Dwelling Type E Plans and Elevations, scale 1:100, drawing number 18/03/926 130, received 11<sup>th</sup> November 2024;  Dwelling Types F and G Plans and Elevations, scale 1:100, drawing number 18/03/926-14a), received 24th March 2023;  External Material Schedule (23 dwellings), reference 18/03/926-EMS1, received 19<sup>th</sup> November 2024;  Site Section, scale 1:500, drawing number 18/03/926-07b), received 11<sup>th</sup> November 2024;  Site Location Plan – Enlarged, scale 1:500, drawing number 18/03/926-17, received 3rd July 2023;  Landscape Layout, scale 1:500, drawing number M3450-PA-07-V05 received 11<sup>th</sup> November 2024;  Access Appraisal, reference 784-B028221 Revision, received 24th March 2023;  Ecological Appraisal, dated March 2022, written by Whistling Beetle Ecological Consultants Limited, received 24th March 2023;  Flood Risk Assessment and Drainage Strategy, reference K39108.FRA/001, received 24th March 2023;  Operation and Maintenance Plan for Sustainable Drainage Systems, reference K39108.OM/002, received 24th March 2023;  Design and Access Statement, received 20th April 2023;  Landscape and Visual Appraisal, reference M3450-LVA-22.06-V3, received 24th March 2023;</p> </li> </ol>





## Cumberland Council

Street Scene, scale 1:500, drawing number 18/03/926-15b), received 11<sup>th</sup> November 2024;  
Trip Generation Letter, written by Tetra Tech, reference 784-B028221, received 29th April 2023;  
Dwelling Type Schedule, document reference 20-10-983-DS/1, received 11<sup>th</sup> November 2024;  
Downstream defender, drawing number 23-026-238, received 16th May 2024;  
Drainage details, sheet 1, drawing number 23-026-230, received 16th May 2024;  
Drainage details, sheet 2, drawing number 23-026-231, received 16th May 2024;  
Highways details, drawing number 23-026-260, received 16th May 2024; Hydrobrake details Manhole S15, drawing number 23-026-237, received 16th May 2024;  
Phase 1 engineering layout, scale 1:500, drawing number 23-026-201, received 16th May 2024;  
Phase 1 roads and sewers sections, scales 1:500 and 1:100, drawing number 23026-243, received 16th May 2024;  
Phase 1 surfaces and kerbs, scale 1:500, drawing number 23-026-211, received 16th May 2024;  
Section 278 agreement plan, scale 1:500, drawing number 23-026-101, received 3rd June 2024;  
Section 278 construction details, drawing number 23-026-103, received 16th May 2024;  
Section 278 general arrangement, drawing number 23-026-102, received 3rd June 2024;  
SuDS Maintenance and Management Schedule, written by Beckwith and Hanlon, received 16th May 2024;  
Surface water model output, written by Beckwith and Hanlon, received 16th May 2024;  
Construction Compound Plan, received 21st May 2024;  
Construction Environmental Management Plan, drawing number CEMP, received 21st May 2024;  
Construction Traffic Management Plan, drawing number CTMP, received 21st May 2024.

### Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The carriageway, footways, footpaths and cycleways must be constructed, drained and lit in accordance with the following documents for the lifetime of the development:
- Highways details, drawing number 23-026-260, received 16th May 2024;
  - Phase 1 engineering layout, scale 1:500, drawing number 23-026-201, received 16th May 2024;
  - Phase 1 roads and sewers sections, scales 1:500 and 1:100, drawing number

23026-243, received 16th May 2024;

- Phase 1 surfaces and kerbs, scale 1:500, drawing number 23-026-211, received 16th May 2024;
- Section 278 agreement plan, scale 1:500, drawing number 23-026-101, received 3rd June 2024;
- Section 278 construction details, drawing number 23-026-103, received 16th May 2024;
- Section 278 general arrangement, drawing number 23-026-102, received 3rd June 2024.

Reason

To ensure a minimum standard of construction in the interests of highway safety and in accordance with Policy CO4 of the Copeland Local Plan.

4. Visibility splays must be retained as shown on Drawing 784-B028221-TTE-00-XX\_DR-O-C001-P0 at the junction of the access roads 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 will be erected, parked or placed and no trees, bushes or other plants will be planted or be permitted to grown within the visibility splay which obstruct the visibility splays.

Reason

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

5. Development must be carried out in accordance with the Construction Traffic Management Plan, drawing number CTMP, received 21st May 2024 at all times.

Reason

To ensure the undertaking 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. In accordance with Policy CO4 of the Copeland Local Plan.

6. The development must be completed, maintained and managed in accordance with



## Cumberland Council

the approved plans below:

- Downstream defender, drawing number 23-026-238, received 16th May 2024;
- Drainage details, sheet 1, drawing number 23-026-230, received 16th May 2024;
- Drainage details, sheet 2, drawing number 23-026-231, received 16th May 2024;
- Hydrobrake details Manhole S15, drawing number 23-026-237, received 16th May 2024;
- SuDS Maintenance and Management Schedule, written by Beckwith and Hanlon, received 16th May 2024;
- Surface water model output, written by Beckwith and Hanlon, received 16th May 2024.

### Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding in accordance with Policies DS6 and DS7 of the Copeland Local Plan.

7. During the construction period, the site must be drained in accordance with the following documents:

- Downstream defender, drawing number 23-026-238, received 16th May 2024;
- Drainage details, sheet 1, drawing number 23-026-230, received 16th May 2024;
- Drainage details, sheet 2, drawing number 23-026-231, received 16th May 2024;
- Hydrobrake details Manhole S15, drawing number 23-026-237, received 16th May 2024;
- SuDS Maintenance and Management Schedule, written by Beckwith and Hanlon, received 16th May 2024;
- Surface water model output, written by Beckwith and Hanlon, received 16th May 2024.

### Reason

To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems and in accordance with Policies DS6 and DS7 of the Copeland Local Plan.

8. Development must be undertaken in accordance with the Construction Environmental Management Plan, drawing number CEMP, received 21st May 2024 at all times.

### Reason

In the interests of the amenities of surrounding occupiers during the construction in accordance with Policy DS4 of the Copeland Local Plan.

	<p>9. -</p> <p>10. -</p> <p>11. The external finishes of the development hereby permitted must be in accordance with the External Material Schedule, reference 18/03/926-EMS-1, received 19<sup>th</sup> November 2024.</p> <p>Reason</p> <p>To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DS4 of the Copeland Local Plan.</p> <p>12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. A suitable investigation and risk assessment will then be agreed upon by the Council and the developer and where remediation is necessary a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason</p> <p>To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors. In accordance with Policy DS8 of the Copeland Local Plan.</p> <p>13. All hard and soft landscape works must be carried out in accordance with the details illustrated on the Landscape Layout Plan, drawing number M3450-PA01-V08, received 3rd July 2023, prepared by Barnes Walker. The works must be carried out in the first planting season following the completion of the development. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting must be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.</p> <p>Reason</p> <p>To safeguard and enhance the character of the area and secure high quality</p>
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## Cumberland Council

landscaping in accordance with the provisions of Policy DS5 of the Copeland Local Plan 2013-2028.

### Informative Notes

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)
2. For the avoidance of doubt, the Traffic calming measures will require suitable lighting and signing and should be detailed in a suitably worded legal agreement with the Local Highway Authority. This agreement will include technical details and a commuted sum.

### 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 a variation of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

**Case Officer: Sarah Papaleo**

**Date : 16/01/2025**

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

**Date : 17/01/2025**

**Dedicated responses to:-**