

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2388/0B1
2.	Proposed Development:	VARIATION OF CONDITION 2 (ACCESS GATES) AND CONDITION 3 (ACCESS DRIVE) OF PLANNING APPLICATION 4/20/2278/0B1 - VARIATION OF CONDITION 2 (SITE ACCESS & LAYOUT) OF PLANNING APPROVAL 4/19/2395/0F1 ERECTION OF DETACHED DWELLING & GARAGE
3.	Location:	SWALLOWS REST, CROSSFIELD ROAD, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	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.	Publicity Representations & Policy	Neighbour Notification Letter: NO Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: Site and Location:	<p>This application relates to the detached dwelling known as Swallow's Rest. It is situated on Crossfield Road with other residential dwellings to the north and east and open fields to the south and west.</p>

Relevant Site History:

Erection of detached dwelling house and garage and amended and improved access to the public highway, approved in May 2017 (application reference 4/17/2075/0F1 relates);

Erection of detached dwelling and garage (resubmission), approved in December 2019 (application reference 4/19/2395/0F1 relates);

Variation of condition 2 (site access & layout) of planning approval 4/19/2395/0F1 (erection of detached dwelling, garage & amended access) variation of condition 2 (site access & layout) of planning approval 4/19/2395/0F1 (erection of detached dwelling, garage & amended access), approved in September 2020 (application reference 4/20/2278/0B1 relates).

Proposal:

Planning conditions imposed on application ref. 4/20/2278/0B1 state the following:

2. Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 4.5m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

Reason

In the interests of highway safety.

3. The access drive shall be surfaced in bituminous or cement bound material, or otherwise bound and shall be constructed and completed before the development is brought into use. The surfacing shall extend for a distance of at least 5.0 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason

In the interests of highway safety.

This application is made under Section 73 of the Planning Act and seeks to vary these conditions as the dwelling has been completed and the details of the driveway surfacing and access gates differ from the details within the condition.

The applicant proposes the following revised wording:-

2. Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 2.4m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

Reason

In the interests of highway safety.



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3. The access drive shall be surfaced in bituminous or cement bound material, or otherwise bound and shall be constructed and completed before the development is brought into use. The surfacing shall extend for a distance of at least 2.4 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason

In the interests of highway safety.

Consultee:	Nature of Response:
Cleator Moor Town Council	No objections.
Highways and Local Lead Flood Authority	The LHA & LLFA has no objection to the variation of conditions 2 & 3 subject to any conditions that have not been discharged being included in any notice of consent you may grant.
Neighbour Responses:	
None received.	

Development plan policies:

Copeland Local Plan 2021-2038

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.

The policies relevant to this application are as follows:

Strategic Policy DS1 - Presumption in favour of Sustainable Development

Strategic Policy DS2 - Reducing the impacts of development on Climate Change

Policy DS4 - Design and Development Standards

Policy DS5 – Hard and Soft Landscaping

Strategic Policy DS6 - Reducing Flood Risk Policy

Strategic Policy DS7 - Sustainable Drainage

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 conditions 2 and 3 of application reference 4/20/2278/0B1 to change the requirements of the access drive and positioning of the access gates to reflect the current situation on site.

The gates and surfacing have been positioned closer to Crossfield Road than originally conditioned, however the Highways Officer has assessed the development and he is satisfied that there will not be any issues from this.

Condition 1 relating to the approved documents will remain unchanged except for the amended site plans.



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	It is considered that the amendments are modest and acceptable to the statutory consultees. Permission should therefore be granted.
8.	Recommendation: Approve amendment of condition
9.	Conditions: 1. 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: - Location Plan, scale 1:1250, received 19 th November 2024; Proposed Site Plan, scale 1:250, drawing number 156 04003 06, received 19 th November 2024; Surface Water Drainage Layout, scale 1:200, drawing number 156 04006 02, received 19 th December 2019; Ground Floor Plan, scale 1:100, drawing number 156 04001 06, received 5 th November 2019; Proposed Elevations, scale 1:100, drawing number 156 05001 08, received 5 th November 2019; Coal Mining Assessment, written by Geo Environmental Engineering, received 5 th November 2019; Design and Access Statement, received 19 th November 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. 2. Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 2.4m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side. Reason In the interests of highway safety.

3. The access drive shall be surfaced in bituminous or cement bound material, or otherwise bound and shall remain as such for the lifetime of the development. The surfacing shall extend for a distance of at least 2.4 metres inside the site, as measured from the carriageway edge of the adjacent highway.

Reason

In the interests of highway safety.

Informative Notes

1. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<[https://www.gov.uk/government/publications/building-on-or-within-the-influencing distance-of-mine-entries](https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)>



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Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com <<http://www.groundstability.com>> or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

2. The Applicant will require a permit from Cumbria County Council Highways Department for the creation of a vehicular access onto the public highway. The applicant should contact Ian Hall to obtain this on email address ian.hall@cumbria.gov.uk

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 an amendment 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 : 14/01/2025

Authorising Officer: N.J. Hayhurst

Date : 17/01/2025

Dedicated responses to:- N/A