

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2009/0F1
2.	<b>Proposed Development:</b>	THE CREATION OF TWO CYCLING AND WALKING PATHS INCLUDING PROPOSED LANDSCAPING
3.	<b>Location:</b>	NORTH EAST OF THE B5295 HIGH STREET, CLEATOR MOOR
4.	<b>Parish:</b>	Cleator Moor
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
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>  This application relates to two separate routes. The first runs from Aldby Street to the north of Back Wyndham Street and the second from the rear of the health centre on Birks Road heading west. The sites are within Cleator Moor and form part of the Connected Towns Project initialised by Cumberland Council.  <b>PROPOSAL</b>	

Planning Permission is sought for two cycle/foot paths to be created as part of a wider Public Realm scheme for Cleator Moor. They will be 3m wide with 0.5m grass verges. There will be bench seating provided along the routes.

The proposal includes footpath improvement works, new pedestrian crossings and highways junction improvements to be carried out through highways permitted development rights which do not require planning permission. This detail is therefore not included within this planning application.

### **RELEVANT PLANNING APPLICATION HISTORY**

Community activity centre refurbishment and extension, and associated parking and landscaping, approved in November 2024 (application reference 4/24/2089/0F1 relates).

### **CONSULTATION RESPONSES**

#### Cleator Moor Town Council

No response received within consultation period.

#### Highways and Local Lead Flood Authority

The Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) 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.

#### Natural England

No Objection.

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

#### Ecology Officer

No response received within consultation period.

#### Active Travel England

No comments.

#### Arborist

### **DISCUSSION**

Following our site visit, we have the following comment/observation to make on the proposed development.



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The property has a variety of trees surrounding the existing Units 10 and 14.

The applicant has not submitted an Arboricultural Impact Assessment to show the impact of the development on the surrounding trees.

The applicant has submitted a Tree Survey Report, produced by Jacobs (Ref. No:BCU00027-JAC-MLT-ENV-RP-LE-0001 Rev: P01) dated 27/03/2024. This discusses the proposed scheme and includes general tree observations. It also contains a Tree Survey Schedule and a Tree Constraints Plan showing the locations of the trees and groups that may be affected by the scheme.

### RECOMMENDATIONS

We recommend attaching the following condition to any planning permission:

- Prior to commencement of development, submit an Arboricultural Impact Assessment and Method Statement to and approved in writing by the Local Planning Authority. The Arboricultural Impact Assessment and Method Statement must follow the guidance in the British Standard (BS 5837:2012 – *Trees in relation to design, demolition and construction – Recommendations*). and include, but not limited to:

- a) Impact of the scheme on the adjacent trees;
- b) Facilitation tree works;
- c) Installation of temporary ground protection;
- d) Installation of tree protection barriers;
- e) Excavations and level changes;
- f) Preparatory works for new landscaping;
- g) Auditable/audited system of arboricultural site monitoring, including a schedule of specific site events requiring input or supervision, if required.

The approved Arboricultural Method Statement must be implemented in its agreed form unless the Local Planning Authority gives written approval to any variation.

### Public Representations

The application has been advertised by way of a site notice and neighbour notification letters issued to 13 no. properties.

No responses have been received as a result of these advertisements.

### PLANNING POLICY

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 2021-2038 (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

Policy DS4 – Design and Development Standards

Policy DS5: Hard and Soft Landscaping

Strategic Policy R1: Vitality and Viability of Town Centres and Villages within the Hierarchy

Strategic Policy SC1: Health and Wellbeing Policy

SC2: Sports and Leisure Facilities (excluding playing pitches)

Policy SC5: Community and Cultural Facilities

Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N3: Biodiversity Net Gain

Strategic Policy N6: Landscape Protection

Strategic Policy N9: Green Infrastructure

Strategic Policy CO2: Priority for improving transport networks within Copeland

Strategic Policy CO3: Priorities for improving transport links to and from Copeland

Strategic Policy CO4: Sustainable Travel



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### **ASSESSMENT**

#### Principle of Development

The land subject to this application is identified in Strategic Policy DS2 as being within the settlement boundary for Cleator Moor where development is encouraged. Cleator Moor is designated as one of the Key Service Centres under Policy DS1.

Policy SC1 promotes health and well-being by supporting a range of development types including new sports, cultural and community facilities.

Policy SC2 seeks to protect and enhance existing sports and leisure facilities. Proposals resulting in the loss of a sports or leisure facility will only be permitted where there is fully justified and supported by the most up to date evidence.

Policy SC5 seeks to protect existing community and cultural facilities.

Policy DS6 of the LP seeks to achieve a high standard of design whilst Policy CO4 encourages sustainable travel options.

On this basis, the proposal is considered to satisfy the policies within the LP and the NPPF guidance.

#### Scale and Design

Policy DS4 of the LP and section 12 of the NPPF seek to safeguard good levels of quality and attractiveness.

The scale of the two footpaths is minor and they will connect and integrate different areas of Cleator Moor for a more cohesive movement pattern. The design is typical of a shared surface and is considered to be acceptable.

On this basis, the proposal is considered to meet Policies DS4 and C04 of the LP and the NPPF guidance.

#### Residential Amenity

Policy DS4 of the LP and section 12 of the NPPF seek to safeguard good levels of residential amenity of the adjacent dwellings.

Given the separation distances and existing use of the land allowing public access, it is unlikely that formalising the routes as foot/cycle paths will have an effect on the existing amenity of the surrounding dwellings.

On this basis, the proposal will not have an adverse impact on the residential amenity and it is considered to comply with Policy DS4 of the LP and NPPF guidance.

#### Highway Safety

Policy CO4 of the Local Plan seeks to support proposals where there are safe and direct connections for active travel options. The proposals have been fully assessed by the

Highways Department and Active Travel England and no objections have been received.

On this basis, the proposal is considered to satisfy Policy CO4 of the LP and the standards set out in the Cumbria Development Design Guide.

#### Biodiversity Net Gain

Policy N1 of the ELP seeks to ensure that new development will protect and enhance biodiversity and geodiversity and defines a mitigation hierarchy.

Policy N3 requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1. This is in addition to any compensatory habitat provided under Policy N1. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

Biodiversity Net Gain became mandatory for small sites in the UK on 01<sup>st</sup> April 2024.

The report submitted with the application details that *“there is an overall biodiversity net loss of -0.41 (-100%) Habitat Units for the Project. The mitigation hierarchy has been followed and initial plans to create biodiversity units on site was explored. The first iteration of the Project allowed for an area of adjacent habitat to be enhanced to provide enough additional Habitat units to surpass the mandatory 10% gain. This option was not going to be possible due to the area suggested for enhancement falling under a Local Plan, which needs to be ring-fenced for future growth. A subsequent review of land under the ownership of the client did not result in any other options for off-site habitat units and it was decided that the only option to gain biodiversity units would be to purchase in the open market. It is proposed that the biodiversity units required to meet the 10% mandatory net gain will be provided by a third-party supplier, and the client has already engaged with suppliers for purchasing units in the open market. This will be completed during the planning application determination period and concluded prior to commencement of the Project.”*

A suitably worded planning condition is proposed in order to ensure that the BNG is fulfilled.

#### Ecology

The application was supported by a Tree Survey and PEA report. These were assessed by the Council's Arboriculturist and whilst there were no objections, it was requested that an Arboricultural Impact and Method Statement be submitted prior to the commencement of the development. The Agent confirmed that they are happy to accept a condition requiring this detail to be dealt with by way of Planning Condition as opposed to submitting the information during the application process.

#### Planning Balance and Conclusion

The application seeks planning permission for two modest shared foot/cycle paths.

On balance, the proposals are of an appropriate scale and design and would not have any

	<p>significant detrimental impact on the amenities of the adjoining properties or highway safety.</p> <p>Overall, it represents an acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</li> </ol> <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> <ol style="list-style-type: none"> <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: - <ul style="list-style-type: none"> <li>Application form, received 12th February 2025;</li> <li>Site Location Plan, scale 1:1250, drawing number BCU00027-JAC-B5295-HGN-DR-C-0100, received 13th January 2025;</li> <li>Proposed Site Plan, scale 1:1000, drawing number BCU00027-JAC-B5295-HGN-DR-C-0102, received 13th January 2025;</li> <li>Proposed Cross Section, drawing number BCU00027-JAC-B5295-HGN-DR-C-0103, received 13th January 2025;</li> <li>Shared Use Path Landscape Drawing B5295, scale 1:1000, drawing number BCU00027-JAC-B5295-ELS-DR-L-0007, received 13th January 2025;</li> <li>Biodiversity Net Gain Assessment Report for Planning, drawing number BCU00027-JAC-ECO-GEN-RP-YE-0001, received 13th January 2025;</li> <li>BS5837:2012 Tree Survey Report, document number BCU00027-JAC-MLT-ENV-RP-LE-0001, received 13th January 2025;</li> <li>Cleator Moor PEA Report, version P01, received 13th January 2025;</li> <li>Planning Statement, document number BCU00027-JAC-GEN-PL-RP-C-0001, received 13th January 2025.</li> </ul> </li> </ol>

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. Prior to commencement of development, submit an Arboricultural Impact Assessment and Method Statement to and approved in writing by the Local Planning Authority. The Arboricultural Impact Assessment and Method Statement must follow the guidance in the British Standard (BS 5837:2012 – *Trees in relation to design, demolition and construction – Recommendations*). and include, but not limited to:
- a) Impact of the scheme on the adjacent trees;
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  - e) Excavations and level changes;
  - f) Preparatory works for new landscaping;
  - g) Auditable/audited system of arboricultural site monitoring, including a schedule of specific site events requiring input or supervision, if required.

The approved Arboricultural Method Statement must be implemented in its agreed form unless the Local Planning Authority gives written approval to any variation.

Reason

In order to ensure that the existing trees are protected and in accordance with Policies DS5 and N3 of the Copeland Local Plan.

**Informative Notes**

**Biodiversity Net Gain – Applicable**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the local planning authority, and





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(b) the local planning authority has approved the plan.

The planning authority, for the purposes of the Biodiversity Gain Plan is Cumberland Council.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

Before commencing development, a Biodiversity Gain Plan needs to be submitted and approved by the local planning authority.

Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

The template for the preparation of a Biodiversity Gain Plan can be accessed via this link:  
<https://www.gov.uk/government/publications/biodiversity-gain-plan>

### Coal Mining

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)

### 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: Sarah Papaleo**

**Date : 05/03/2025**

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

**Date : 20/03/2025**

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

