

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/25/2038/0F1	
2.	Proposed Development:	CONVERSION AND CHANGE OF USE OF PART OF THE EXISTING RESTAURANT TO PROVIDE 1 X 1 BEDROOM & 1 X 2 BEDROOM FLATS WITH INTERNAL AND EXTERNAL ALTERATIONS	
3.	Location:	RISTORANTE DA VINCI, MARKET SQUARE, MILLOM	
4.	Parish:	Millom	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads	
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		
		The application site relates to an existing commercial property, Ristorante Da Vinci, located the centre of Millom. The property is located within a prominent position on the perimeter of Market Square on the corner of Lancashire Road and St Georges Road.	
		The site is located within the Millom Conservation Area.	

The existing building forms part of the former West County Hotel, which is currently predominantly residential. The ground floor of the site, accessed from Market Square, is the commercial restaurant with storage located within the basement of the property. The site has no designated off street car parking.

### **Relevant Planning History**

4/92/0476/0 – Change of use ground floor flat to retail premises – Approved.

4/04/2471/0 – Conversion and extension of former hotel into 12 apartments two shops and a restaurant – Approved.

4/05/2283/0 – Revised scheme to comprise 14 apartments and a restaurant and amendments to external design including white UPVC windows – Approved.

4/10/2570/0B1 – Removal of condition 8 of planning approval 4/05/2283/0 – Approved.

### **Proposal**

This application seeks planning permission for the conversion and change of use of part of the existing restaurant to provide two residential flats with associated internal and external alterations.

The proposal seeks to reduce the size of the existing commercial unit to accommodate the proposed residential flats. The proposal will retain the smaller section of the commercial units for future business needs. The commercial element of the building will be accessed via a new external door from Market Square, and will provide an access lobby, restaurant area, two sets of toilets and a kitchen area within the ground floor. Approximately half of the basement will be retained for use by the restaurant.

The remaining area of the building will be utilised to create 1 x 1 bedroom and 1 x 2 bedroom flats. Both proposed flats will be accessed via the existing double doors from Market Square providing an entrance lobby and a communal hallway. Flat 1 will have a floor area of 52m<sup>2</sup>, and will accommodate a double bedroom, bathroom and open plan kitchen/living/dining room within the ground floor. Flat 2 will have a floor area of 124m<sup>2</sup> and will accommodate two double bedrooms at ground floor level, and a living room, snug, bathroom, and kitchen/dining room at basement level.

Externally two new windows will replace the smaller array of windows to the Lancashire Road elevation.

### **Consultation Responses**

Millom Town Council



## Cumberland Council

No objections in principle to the application although they were very disappointed to lose this amenity from the town.

### Cumberland Council – Highway Authority & Lead Local 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.

### Cumberland Council – Environmental Health

No comments received.

### Cumberland Council – Conservation Officer

*24<sup>th</sup> February 2025*

Conclusion: Request further information and design revision

#### Assessment:

- I have no objection to the principle of the development, nor to the alterations on the Lancashire Road elevation, which I'd expect to have a small positive impression on the character and appearance of the conservation area, and of the affected heritage assets.
- I appreciate that many of the windows on the building are of uPVC construction, however our Conservation Area Design Guide urges avoidance of the use of uPVC within conservation areas. This applies more for prominent elevations and buildings that are heritage assets. I note that planning application 4/04/2471/0F1, for the conversion of the building into its current form, approved white gloss painted timber windows. Unless it can be demonstrated that existing plastic windows received planning permission, there is an expectation that timber windows should be used.
- The proposed single door onto Market Square replaces a window that appears originally to have been a door, judging by its proportions and position. I would suggest however that a four-panelled timber door would be more in keeping with the building and the conservation area than the example indicated in the proposed elevation drawing.
- The main double doors onto the Market Square are attractive and characterful, and a design that allows them to be retained should be prioritised. Perhaps some adjustment to the layout of the internal lobby, and addition of a new pair of internal doors could provide a better solution. Summary
- I am supportive of the general principle, and believe that on the Lancashire Road side, the appearance should be improved.
- Timber sliding sashes should be specified for the new window openings.

- The new single door onto Market Square should be of a design more in keeping with the location. I'd suggest a panelled timber design coordinated with the main double doors.
- The Design and Access statement should be updated to include a summary of the elements that contribute to the building's significance, and that of the conservation area. This would accord with policy BE1, which requires a heritage statement where proposals would impact a heritage asset.
- Retaining the existing timber double doors and their chevron-shaped lintel onto Market Place should be made a priority

*18<sup>th</sup> June 2025*

Conclusion: No objection

Assessment:

In my previous consultation response, I expressed support for the proposal, although requested changes to some detailing and supporting information to better preserve the building significance.

The following changes have been made:

- New windows are proposed to be in gloss white painted timber.
- The new single door onto Market Square is now proposed to be of a four-panelled timber design.
- The Design, Access and Heritage statement has been updated to highlight these detail changes and the reasons for them.
- The existing double doors onto Market Square are now to be retained. This has been achieved through a redesign of the internal lobby.

These changes should preserve the character of the building and its contribution to the area, while allowing it to be partly converted to provide a new use.

#### Public Representation

This application has been advertised by way of a press notice, site notice, and neighbour notification letters issued to 17 properties. No responses have been received to this statutory notification period.

#### **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**



## Cumberland Council

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.

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

Strategic Policy R4: The Key Service Centres

Policy SC5: Community and Cultural Facilities

Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Policy N3: Biodiversity Net Gain

Strategic Policy CO4: Sustainable Travel

Policy CO5: Transport Hierarchy

Policy CO7: Parking Standards

### **Other Material Planning Considerations**

National Planning Policy Framework (2024)

Planning (Listed Building and Conservation Areas) Act 1990

Conservation Area Design Guide SPD (Adopted December 2017)

Cumbria Development Design Guide

The Conservation of Habitats and Species Regulations 2017 (CHSR)

### **Assessment**

The key issues raised by this application relate to the principle of the development; impact on community facilities; impact of the development; highway safety; flood risk and drainage, and impact on biodiversity and ecology.

#### Principle of Development

Millom is identified in Strategic Policy DS1 as a Key Service Centre due to it providing a wide range of services, including convenience and comparison stores, employment opportunities, schools and healthcare. It acts as a service hub for nearby villages. It is stated that the focus for development in Key Service Centres will be for town centre developments, employment development and medium scale housing extensions, windfall and infill development.

The settlement boundary for Millom is defined in Strategic Policy DS2. The application site is located within the Millom settlement boundary. It is stated that development within the defined settlement boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise.

Strategic Policy R1 of the Copeland Local Plan seeks to enhance the vitality and viability of town centres and villages identified in the settlement hierarchy by working with partners and applicants to support a network of healthy, vibrant and resilient town centres, comprised of a diverse range of retail, residential, leisure and other main town centre uses, that can effectively respond to change. This policy also seeks to support regeneration projects, refurbishment of buildings and public realm improvements within the retail hierarchy.

The application site is located within the Town Centre boundary for Millom, within a prominent site at the entrance to Market Square. The main use within this area is predominantly commercial, however there is also a mix of residential flats.

The application seeks to change the use of the part of the existing commercial property to provide two residential flats, whilst maintaining a smaller area for commercial use. The principle of this development is therefore considered acceptable in accordance with Policy DS1, DS2, R1, and R4 of the Copeland Local Plan, and the provisions of the NPPF.

#### Impact on Community Facilities

Policy SC5 of the Copeland Local Plan states that proposals for new community facilities will be supported in principle and developments must be located within a settlement boundary identified within the hierarchy unless the proposal is for a specific activity that required a



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location that cannot be accommodated within a settlement, be accessible by sustainable transport modes where possible, be of a scale appropriate to its surroundings, ensure adequate parking is provided, ensure the development does not cause unacceptable harm on residential amenity, and ensure that biodiversity conservation interests would not be harmed as a result. This policy also states that the loss of existing community facilities through change of use or new development requiring planning permission will only be permitted where it can be clearly demonstrated, to the satisfaction of the Council, that its continued use as a community or cultural facility is no longer feasible, having had regard to appropriate marketing, there is sufficient provision of such facilities in the area, and/or sufficient alternative provision has been, or will be made elsewhere which is equally accessible and of the same quality or better than the facility being lost.

The proposal seeks to reduce the size of the existing commercial unit to accommodate the proposed residential flats. The proposal will retain the smaller section of the commercial units for future business needs.

The application is supported by a statement which advises that the commercial property Da Vinci Italian has been on the market for approximately 2 years now with several estate agents however no interest has been shown. The statement further states that this shows there is no interest for a large commercial unit in this area, however there is a need for town centre residential properties with the proposal having the added benefit of achieving a smaller commercial unit which can be used by smaller and start-up businesses

The Town Council have commented that they are disappointed to lose this facility from the town, however the commercial premises will remain just at a reduced scale. The service is therefore retained for the local community. The additional residential offer also allows for the use of a prominent building within the town centre. The development therefore complies with Policy SC5 of the Copeland Local Plan and the provisions of the NPPF.

### Impact of the Development

Policy DS4 of the Copeland Local Plan requires all new development to meet high-quality standards of design. This includes creating and enhancing locally distinctive places, the use of good quality materials that reflect the local character, including high quality and useful open spaces, providing high levels of residential amenity, adopting active travel principles, creating opportunities for social interaction, and effective use of land whilst maintaining amenity and maximising solar gain.

The proposed change of use will be within the existing footprint of the building with minimal external alterations. Within the rear elevation four smaller windows are proposed to be amended to two larger openings, which better reflect the existing openings within the wider site. A single window within the front elevation will be enlarged to create a new access to the commercial unit. The proposal is therefore not considered to have any significant impact on the overall streetscene.

The development is not considered to have an adverse impact on existing amenity as the

building has previously been utilised as a larger commercial restaurant. The reduction in the size of the commercial element will reduce the impact on amenity.

The agent has confirmed that at present it is proposed that operation hours of the commercial unit will be as per the existing restaurant, however this will be dictated by the new tenants/owners of the unit and service they provide. It has been agreed that the existing operation hours will be conditioned, with the agent aware that these will need amended in the future depending on business needs going forward.

No comments have been received from the Council's Environmental Health Team.

Based on the inclusion of conditions outlined above, the proposal is considered to comply with Policies DS4 of the Copeland Local Plan, and the provisions of the NPPF.

#### Impact on Heritage Assets

Strategic Policy BE1 and BE2 of the Copeland Local Plan seek to protect or enhance heritage assets and their setting. Proposals that better reveal the significance of heritage assets will be supported in principle.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, states that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of [a conservation] area."

Paragraph 139 of the National Planning Policy Framework (NPPF) asserts that "Development that is not well designed should be refused".

NPPF para. 203 states that "In determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation..."

NPPF para. 212 states, in the case of designated heritage assets, "great weight should be given to the asset's conservation", irrespective of whether potential harm is substantial, less-than-substantial, or total loss. Where harm to a designated heritage asset is less-than-substantial, it should be weighed against the public benefits of the proposal (para. 208).

Paragraph 216 of the National Planning Policy Framework (NPPF) states the effect on the significance of a non-designated heritage asset should be taken into account when making decisions.

Opportunities should be sought for new development within conservation areas and the settings of heritage assets that enhances or better reveals their significance. (para. 219)

Referring to assets in a conservation area, NPPF para. 220 states that loss of an element that makes a positive contribution to a conservation area should be treated as either substantial (under para. 214) or less-than-substantial harm (under paragraph 215).

The Council's Conservation Officer has reviewed this application and has confirmed no objections to the principle of the development, nor to the alterations on the rear elevation





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which will have a positive impression on the character and appearance of the Conservation Area. The Officer however requested the use of timber sliding sash windows, alterations to the design of the new single door on Market Square, the retention of the existing double doors onto Market Square, and an update to the D&A to include a heritage statement.

The agent has submitted amended information to reflect these comments and the Conservation Officer has now confirmed no objections to the proposal as these changes should preserve the character of the building and its contribution to the area whilst allowing it to be partly converted to provide a new use.

A condition will be placed upon the decision notice for this application to secure full details of the proposed new windows and doors.

The proposal seeks to redevelop a prominent building with a large modern extension situated within the centre of the Millom Conservation Area. The development is considered to preserve the character and appearance of the heritage asset within the Conservation Area and is therefore considered to comply with Policies BE1 and BE2 of the Copeland Local Plan, and provisions of the NPPF.

### Highway Safety

Strategic Policy CO4 requires that proposals must include safe and direct connections to routes that promote active travel, such as cycling and walking routes where appropriate. Support in principle is outlined for developments which encourage the use of sustainable modes of transport, in particular: proposals that have safe and direct connections to cycling and walking routes where appropriate and those that provide access to regular public transport services; proposals that make provision for electric vehicles; and proposals for the integration of electric vehicle charging infrastructure into new developments. It is required that developments that are likely to generate a large amount of movement secure an appropriate Travel Plan and be supported by a Transport Assessment.

Policy CO7 of the Copeland Local Plan states that proposals for new development will be required to provide adequate parking provision, including cycle parking and accessible parking bays, in accordance with the Cumbria Development Design Guide (or any document that replaces it) where appropriate.

The application site currently has no off-street parking, this will not be altered as part of this application. The site is however located within the town centre which benefits from existing on-street parking, nearby car parks, and other sustainable transport links.

The Highway Authority have offered no objections to the proposal as it is considered the development will not have a material effect on existing highway conditions.

Based on the inclusion of this condition, the proposal is considered to be compliant with the Policy CO4 of the Copeland Local Plan, and provisions of the NPPF.

### Flood Risk & Drainage

Policy DS6 seeks that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.

Policy DS7 requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.

The application site is located within Flood Zone 1. As the change of use will be accommodated within the footprint of the existing building, the development is not considered to increase surface water run off or flood risk.

Drainage for the proposal will remain as existing with no alterations proposed.

The LLFA have confirmed no objections to the application as the development will not increase flood risk at the site or elsewhere.

On the basis the proposal is therefore considered to achieve the requirement of Policies DS6 and DS7 of the Copeland Local Plan, and the NPPF.

#### Impact on Biodiversity and Ecology

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.

In England, BNG is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Applications must now deliver a Biodiversity Net Gain of 10%, resulting in more or better-quality natural habitat than there was before the development. Some developments are however exempt from these BNG requirements. In this instance the development is considered exempt from BNG as the development is for a change of use so there will be no or only a de minimis impact on onsite habitat.

The application site is identified as a potential area for natterjack toads. As the application site is not located within 200m of a watercourse (as indicated within the ALGE trigger list) and is within an existing built-up area on a previously developed site, the development is not considered to disturb any habitats. On the basis of the above it is considered that this is not a habitat that is likely to contain natterjack toads.

Overall, it is considered that the development complies with the requirements of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 and Policies N1 and N3 of the Copeland Local Plan and the provisions of the NPPF.



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	<p><u>Planning Balance and Conclusions</u></p> <p>The application site is located within the defined settlement boundary for Millom, which is identified as a Key Service Centre under Policy DS1 of the Local Plan.</p> <p>The application site relates to an existing commercial premises located within the centre of Millom. The proposal seeks to reduce the size of the existing commercial unit due to lack of need in the area to accommodate two residential flats. The proposal will retain the smaller section of the commercial units for future business needs; therefore the facility will be retained for future community use.</p> <p>The development will result in minor alterations to the external appearance of the building, which are considered to be in keeping with the existing building and will therefore not have an impact on the overall streetscene. Following the submission of amended information from the agent the Councils Conservation Officer has confirmed no objections to the proposal as the development is considered to preserve the character and appearance of the heritage asset and give the building a futureproof use. Conditions will be utilised to secure details of the proposed replacement doors and windows, and operation hours.</p> <p>No objections have been received to this proposal in terms of highway safety, drainage, flood risk, or ecology/biodiversity.</p> <p>On balance the positive benefits that would result from this proposal, including the reuse of an existing commercial property, outweigh any potential harm and the proposal represents a sustainable form of development which complies with the Policies set out in the Copeland Local Plan and the guidance within the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p><u>Standard Conditions</u></p> <p>1. The development hereby permitted must be commenced before the expiration of three years from the date of this permission.</p> <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>

2. Permission must relate to the following plans and documents as received on the respective dates and development must be carried out in accordance with them:

- Application Form, received by the Local Planning Authority on the 3<sup>rd</sup> February 2025.
- Location/Block Plan, Scale 1:500 & 1:1250, Drawing Reference: 24-31-P-L, Revision: -, received by the Local Planning Authority on the 3<sup>rd</sup> February 2025.
- Existing Basement & Ground Floor Plans, Scale 1:100, Drawing Reference: 24-31-P-02, Revision: -, received by the Local Planning Authority on the 3<sup>rd</sup> February 2025.
- Proposed Basement & Ground Floor Plans 01 (Amended), Scale 1:100, Drawing Reference: 24-31-P-05, Revision: A, received by the Local Planning Authority on the 16<sup>th</sup> May 2025.
- Existing Elevations 01, Scale 1:100, Drawing Reference: 24-31-P-03, Revision: -, received by the Local Planning Authority on the 3<sup>rd</sup> February 2025.
- Existing Elevations 02, Scale 1:100, Drawing Reference: 24-31-P-04, Revision: -, received by the Local Planning Authority on the 3<sup>rd</sup> February 2025.
- Proposed Elevations 01 (Amended), Scale 1:100, Drawing Reference: 24-31-P-06, Revision: -, received by the Local Planning Authority on the 16<sup>th</sup> May 2025.
- Proposed Elevations 02, Scale 1:100, Drawing Reference: 24-31-P-07, Revision: A, received by the Local Planning Authority on the 16<sup>th</sup> May 2025.
- Flood Map for Planning, received by the Local Planning Authority on the 3<sup>rd</sup> February 2025.
- Design Access & Heritage Statement, Prepared by Fox-AD, Revision: A, received by the Local Planning Authority on the 16<sup>th</sup> May 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.

#### Prior to Installation Conditions:

3. Prior to their first installation within the development hereby approved, details of the proposed windows and doors must be submitted to and approved in writing by the



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Local Planning Authority. The development must be carried out in accordance with the approved details at all times thereafter and must not be altered without the prior consent of the Local Planning Authority.

### Reason

To safeguard the traditional appearance of the Heritage Asset in accordance with Policy BE1 and BE2 of the Copeland Local Plan.

### Other Conditions:

4. The commercial use of the building hereby approved must only be permitted to the public/customers between:

- Monday – Friday 5.30pm - 8.30pm
- Saturday 5.30pm – 9:00pm
- Sunday 5.30pm - 8.30pm

### Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality in accordance with Policy DS4 of the Copeland Local Plan 2021 – 2039.

### **Informatives:**

#### **Biodiversity Net Gain**

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
- (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 not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

	<p>Applicable exemptions: Development subject to the de minimis exemption.</p> <p><b>Statement:</b></p> <p>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.</p>	
<b>Case Officer:</b> C. Burns		<b>Date :</b> 07.07.2025
<b>Authorising Officer:</b> N.J. Hayhurst		<b>Date :</b> 10/07/2025
<b>Dedicated responses to:-</b> N/A		