

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2069/0F1
2.	<b>Proposed Development:</b>	CHANGE OF USE OF AN EXISTING GROUND FLOOR PREMISES TO CREATE A CLASS E MASSAGE PARLOUR
3.	<b>Location:</b>	17 KING STREET, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - 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 17 King Street Street which is located in the central shopping area of Whitehaven.  The building is within a terrace of commercial properties. King Street runs east to west to the north of the building.  The building was previously in use as a hot food takeaway (Sui Generis Use).	

The site is located within the Whitehaven Conservation area.

## **PROPOSAL**

Planning Permission is sought for the change of use of the ground floor unit from a hot food takeaway (Sui Generis) to a massage parlour (Use Class E).

The proposed use will employ two people full-time and two people part-time and will be open during the following opening hours:

Monday to Friday – 09:30 to 17:30

Saturday 09:30 – 17:30

Sunday/Bank Holidays – Closed

Internally, the ground floor will be reconfigured to include a reception area, treatment rooms, a kitchen, WC and waste storage area.

The following external alterations are proposed:

- Existing windows replaced with double glazed windows to match the existing;
- Existing render removed and new rendered finish applied;
- Lead flashings made good;
- Existing timber fascia retained, made good and repainted. To include new timber profiled surrounds and central banding;
- New shop signage;
- Repair of downpipe;
- Timber boarding to pilasters removed and new painted timber installed;
- Existing aluminium shopfront cleaned, made good and retained.

## **RELEVANT PLANNING APPLICATION HISTORY**

Change of use from A1 (retail) to A3 (restaurants and cafes) and external ducting, approved in September 2013 (application reference 4/13/2315/0F1 relates);



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Change of use from retail to takeaway, approved in January 2015 (application reference 4/14/2486/0F1 relates).

### CONSULTATION RESPONSES

#### Whitehaven Town Council

No objections.

#### Conservation Officer

#### 1<sup>st</sup> response

**Description:** 17 King Street is an unlisted terraced building within Whitehaven conservation area. It's date is uncertain, though King Street was in existence since the 1640s, and this plot was likely originally developed by no later than about 1690. Originally named Custom House Street, as the town's custom house was there prior to its relocation to the harbourside in 1693-5 (the "Old Custom House"), it was renamed King Street in honour of James II in 1687, a year before he was deposed.

#### **Conclusion: Request further information**

#### **Assessment:**

- I have no objection of the proposed use, as this appears compatible with the building, and am supportive of the aim of giving it a viable use. The building is currently vacant and in a poor state.
- The current shop front is of poor quality, and will be improved by cleaning and repair, and improvement to the appearance of the fascia and pilasters.
- I request more information on the existing windows (photos; description in the D&A statement heritage section) in order to advise on the likely impact of their replacement in heritage terms.
- Similarly, I would also like to know whether the existing rain water goods are cast iron or plastic.
  - If they are cast iron, new should be sourced in iron to match. If they are plastic, could the opportunity be taken to replace them in cast iron at this time?
- Information should be included on the specification of the existing render (at least, whether it is cement or lime based, and whether the building is experiencing any internal damp problems). A specification for its replacement should be included, as this

is a solid-walled building and the render is likely to have an effect on its behaviour.

## 2<sup>nd</sup> response

**Description:** 17 King Street is an unlisted terraced building within Whitehaven conservation area. It's date is uncertain, though King Street was in existence since the 1640s, and this plot was likely originally developed by no later than about 1690. Originally named Custom House Street, as the town's custom house was there prior to its relocation to the harbourside in 1693-5 (the "Old Custom House"), it was renamed King Street in honour of James II in 1687, a year before he was deposed.

**Conclusion: No objection**

### **Assessment:**

- I previously requested more information on the existing windows (photos; description in the D&A statement heritage section) in order to advise on the likely impact of their replacement in heritage terms.
  - Information has been included. The windows appear to be single glazed timber sliding sashes. They are of attractive appearance and are clearly quite old. Their replacement with double glazed timber sliding sashes should not pose undue harm to the character and appearance of the conservation area, while ensuring better thermal performance for the building.
- Similarly, I would also like to know whether the existing rain water goods are cast iron or plastic.
  - Existing rain water pipes are in plastic, and will be retained and made good.
- Information should be included on the specification of the existing render (at least, whether it is cement or lime based, and whether the building is experiencing any internal damp problems). A specification for its replacement should be included, as this is a solid-walled building and the render is likely to have an effect on its behaviour.
  - Existing render is lime with cement patch repairs. Replacement render will be in lime to suit the masonry of the walls.

## Environmental Health

Some beauty treatments may require licensing with the Councils Environmental Health team.

There is little likelihood of disturbance from noise from the premises, though any background amplified music provided should be at low volume in order that noise breakout is avoided.



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Any construction works required for the development should be carried out during standard construction hours subject to safety requirements.

The proposed hours of opening are not extensive and are acceptable to Environmental Health.

Any external lighting should be suitable for the town centre locality and conform to guidance.

As such, Environmental Health do not object to this development and suggest the following conditions:

- Noise from Construction Works

Following approval of the development, construction activities that are audible at the site boundary shall be carried out only between the following hours. Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holiday.

Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning Authority.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

- Artificial Lighting (external)

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for environmental zone E3 contained within The Institute of Light Engineers Guidance Note GN01/21 (dated 2021) for The Reduction of Obtrusive Light.

Reason: In order to safeguard the amenities of nearby residential occupiers.

- Hours of Opening

The hours of opening shall be restricted to Monday to Friday 09.30 – 17.30 and Saturday 09.30 – 17.30.

Reason: In the interests of neighbouring amenity.

Informative:

The applicant should contact the Environmental Health team to confirm which treatments are proposed and if they may be subject to licensing.

### Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 12 no. properties.

One letter of objection has been received raising concerns about the use of the yard for

access and bin storage.

## **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 2021-2039 (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 proposal are:

- Strategic Policy DS1: Settlement Hierarchy
- Strategic Policy DS2: Settlement Boundaries
- Policy DS4: Design and Development Standards
- Strategic Policy R3: Whitehaven Town Centre
- Strategic Policy N3: Biodiversity Net Gain
- Strategic Policy BE1 – Heritage Assts
- Policy BE2 – Designated Heritage Assets

### Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning (Listed Building and Conservation Areas) Act 1990



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### Conservation Area Design Guide SPD (Adopted December 2017)

#### **ASSESSMENT**

##### Principle of the Development

Policy DS1 of the LP supports the mixed use of buildings and the retention of services within the town centres, especially Whitehaven which is designated as Copeland's Principal Town where most of the Borough's development should be focussed. Policy R3 supports development within Whitehaven Town Centre where it reflects the Primary Shopping Area and encourages the vibrancy and vitality of the centre.

This proposal will reintroduce a Class E use to the ground floor unit which is considered to be in keeping with the commercial nature of the area. Furthermore, a currently vacant building will be brought back into use as a result of this proposal which is welcome.

There are many beauty salons within Whitehaven and this is considered to be an acceptable town centre use. The opening hours are suitable for the use of this nature and there is unlikely to be any significant effect on any surrounding residential properties.

The principle of the development is therefore supported.

##### The Effect on the Conservation Area

Policies BE1 and BE2 of the LP relate to the protection and enhancement of the Conservation Area and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DS4 of the LP requires good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.

Section 72 requires that: *'special attention shall be paid to the desirability of preserving or enhancing the character or appearance'* of a conservation area.

The initial application was submitted without any details of the proposed alterations to the shop front and external areas of the building. In order to maintain and preserve the character of the Whitehaven Conservation Area, these details were requested. A plan submitted shows modest alterations, primarily refurbishing the existing features and making them good. The proposed windows are considered to be a like for like replacement and will retain the

character and appearance of the façade of the building. The Council's Conservation and Design Officer raised no objections to the proposed alterations and considers that the character and appearance of the Conservation Area will be upheld, whilst increasing the overall sustainability of the building.

Overall, the proposed alterations will comply with policies BE1 and BE2 of the LP, maintaining the character of the Whitehaven Conservation Area.

#### Public Concerns

One letter of objection was received raising concerns regarding the use of the alley and yard for the storage of bins and access to the rear of the building. This access space is private and utilized by flats to the rear. This was confirmed by an ownership certificate which was submitted by the applicants agent. As a result, these features were removed and a shared access was proposed instead. This was considered to be acceptable and resolved the issue raised by the objector.

#### Biodiversity Net Gain

Policy N3 of the LP 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 above. 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. 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 the application falls within the definition of a self-build property, therefore the proposal falls within the list of developments exempt from providing Biodiversity Net Gain.

As the change of use does not include the addition of any floorspace, this application is exempt from the provisions of Policy N3 of the Copeland Local Plan.

#### Planning Balance and Conclusion

The principle of the development within the town centre of the Borough's Principal Town is supported and will bring an empty unit back into use. This is considered to carry significant weight within the planning balance.

The external alterations will improve the appearance of the building, upholding the character and appearance of the Conservation Area. The impact is considered to be positive and will





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	<p>result in a viable use being introduced into the ground floor which will help to sustain the building. .</p> <p>On balance, this is considered to be an acceptable form of development which accords with the guidance set out in the NPPF and the adopted Local Plan.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p>1. The development hereby permitted shall 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> <p>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> <p>Application form, received 3rd March 2025; Site Location Plan, scale 1:1250, received 3rd March 2025; Proposed Floor Plans, scale 1:50, drawing number C405(S2)02B, received 9th April 2025; Biodiversity Net Gain Statement, received 3rd March 2025; Design, Access and Heritage Statement, received 2nd April 2025; Existing and Proposed Shopfront, scale 1:50, received 20th March 2025.</p> <p>Reason</p> <p>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.</p> <p>3. The hours of opening are restricted to Monday to Friday 09.30 – 17.30 and Saturday 09.30 – 17.30.</p> <p>Reason</p> <p>In the interests of neighbouring amenity and in accordance with Policy DS4 of the</p>

Copeland Local Plan.

4. Following approval of the development, construction activities that are audible at the site boundary shall be carried out only between the following hours. Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holiday.

Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning Authority.

**Reason**

In the interests of the amenities of surrounding occupiers during the construction of the development and in accordance with Policy R3 of the Copeland Local Plan.

5. Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for environmental zone E3 contained within The Institute of Light Engineers Guidance Note GN01/21 (dated 2021) for The Reduction of Obtrusive Light.

**Reason**

In order to safeguard the amenities of nearby residential occupiers and in accordance with Policy DS4 of the Copeland Local Plan.

**Informative Notes**

**Licensing**

The applicant should contact the Environmental Health team to confirm which treatments are proposed and if they may be subject to licensing.

**Biodiversity Net Gain – Exemption**

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

<p>condition”) that development may not begin unless:</p> <p>(a) a Biodiversity Gain Plan has been submitted to the local planning authority, and</p> <p>(b) the local planning authority has approved the plan.</p> <p>The planning authority, for the purposes of the Biodiversity Gain Plan is Cumberland Council.</p> <p>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> <p>Applicable exemption:</p> <p>De minimis.</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>	<p><b>Case Officer: Sarah Papaleo</b></p> <p><b>Date : 23/04/2025</b></p>
<p><b>Authorising Officer: N.J. Hayhurst</b></p>	<p><b>Date : 28/04/2025</b></p>
<p><b>Dedicated responses to:- N/A</b></p>	