

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2122/0B1
2.	<b>Proposed Development:</b>	APPLICATION TO VARY CONDITION 2 (OCCUPANCY CONDITION) OF APPLICATION 4/08/2469/0 CONVERSION OF DISUSED BARN TO 2 NO. DISABLED HOLIDAY ACCOMMODATION UNITS (AMENDED SCHEME)
3.	<b>Location:</b>	HIGH BROAD LEYS FARM, CALDERBRIDGE, SEASCALE
4.	<b>Parish:</b>	Haile
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, DEPZ Zone - DEPZ Zone, Outer Consultation Zone - Sellafield 10KM, PROWs - Public Right of Way
6.	<b>Publicity Representations &amp;Policy</b>	See Report
7.	<b>Report:</b> <b>SITE AND LOCATION</b> <p>The property is a traditional stone building located within the open countryside on a working farm and compromises a two storey detached property currently used as two holiday lets. The property is set back off the main highway by a long single track private drive shared with the farming unit. The site is to the rear of the existing farmhouse facing into a yard and is adjacent to agricultural buildings with agricultural land beyond.</p> <b>PROPOSAL</b> <p>The property was converted in 2009 under planning reference 4/08/2469/0. This permission was subject to a planning condition which restricts the occupancy of the two units to holiday</p>	

let accommodation only.

The current application seeks permission to remove this occupancy condition

### **RELEVANT PLANNING APPLICATION HISTORY**

4/08/2469/0 - CONVERSION OF DISUSED BARN TO 2 No DISABLED HOLIDAY ACCOMMODATION UNITS (AMENDED SCHEME) – Approve

4/05/2547/0 - CONVERSION OF DISUSED BARN TO DISABLED HOLIDAY ACCOMMODATION – Approve

### **CONSULTATION RESPONSES**

#### Parish Council

No objections

#### Highways Authority and Lead Local Flood Authority

No comments

#### Public Representations

The application has been advertised by way of neighbour notification letters - No objections have been received as a result of this consultation process.

### **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 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:**



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The council has agreed to adopt the Local Plan on 5 November and full weight is given to the policies contained within.

The following policies are relevant to this proposal:

Strategic Policy DS1 - Settlement Hierarchy

Strategic Policy DS2 - Settlement Boundaries

Policy DS4 – Design and Development Standards

Strategic Policy H1 - Improving the Housing Offer

Strategic Policy H2 - Housing Requirement

Strategic Policy H3 - Housing Delivery

Strategic Policy H4 - Distribution of Housing

Policy H6 - New Housing Development

Policy H7 - Housing Density and Mix

Policy H13 - Conversion and sub-division of buildings to residential uses including large HMOs

Policy H17 - Conversion of Rural Buildings to Residential Use

Policy H20 - Removal of occupancy conditions

Policy CO7 – Parking Standards

### **Other Material Planning Considerations**

National Planning Policy Framework 2024 (NPPF)

Cumbria Development Design Guide

### **ASSESSMENT**

Section 73(2) of the Town and Country Planning Act 1990 states that “the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted.”

The options open to this Authority are:-

A. If it is decided that permission should be granted subject to different conditions to those previously imposed or it should be granted unconditionally, then permission should be granted accordingly.

B. If it is decided that permission should be granted subject to the same conditions as previously imposed, then the s73 application should be refused.

The principle of the development itself is not in question.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. Given that a new permission is being considered, then the determination must be made in the context of current development plan policies and material considerations.

The NPPG outlines that to assist with clarity, 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.

In terms of the conditions attached to the previous decision notice, development has commenced on site therefore it is not necessary to repeat the condition relating to timescales nor relating to the submission of details relating to the site investigations as these will have been completed prior to the commencement of development. Conditions 3 and 4 will be repeated to ensure that the works are as per the approved details.

#### Removal of Condition

Condition 2 reads:

“The residential accommodation hereby approved shall be occupied solely as holiday lettings and shall not be sold or let as permanent dwellings.

Reason: The site is not considered appropriate for permanent residential use.”

The restriction therefore would not allow unrestricted open market use of the property including longer term rental of the properties.

Although Policy H20 of the Copeland Local Plan outlines that occupancy “will only be permitted where it can be demonstrated that the long term need for the dwelling has ceased and there is no evidence of a continuing need for housing for the particular group to which the occupancy condition relates. Where the removal of such conditions is accepted, a local occupancy condition will be attached to ensure the dwelling is made available for those with a local connection.” Policy H20 also highlights that conditions would only be removed following an attempt to market the property for a 12 month period.

Although the development strategy for the area seeks to ensure development is directed to Principle, Key and Local Service Centres and some limited growth within rural villages being in the most sustainable locations. Other locations may be appropriate when considered to be in line with policies for alternative provisions such as local occupancy dwellings or conversions of rural buildings.

The property is considered to be located in the open countryside; however, in this instance it has to be borne in mind that conversions of traditional rural barns to residential accommodation can be supported under Policy H17 of the adopted local plan.

The barn is constructed of sandstone and render under a slate roof and was deemed as



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	<p>structurally sound under the previous approval, no external alterations would be required for a residential use. Small areas of outside space were included with the holiday lets plus the provision of parking which would remain unchanged. Impacts on amenity were considered under the assessment in 2008, in particular, policies DM9 and DM15A of the Copeland Local Plan 2013 – 2028 were taken into account in this regard where it was considered that a C3 use was acceptable albeit restricted to holiday use only.</p> <p>Although there may be a slight increase in use of the access by a permanent residential use it is not considered to be excessive and the existing access is considered acceptable to serve an unrestricted dwelling.</p> <p>The applicant proposes to rent the property on the open market with any new tenant being aware of the proximity of the working farm buildings and single track nature of the access.</p> <p>Given there are no restrictions on seasonal occupancy of the property it effectively allows all year use of the buildings and there would be little material difference in whether the buildings were used as a holiday let or as a sole residence.</p> <p>The current guidance within the NPPF is supportive of the reuse of rural buildings under paragraph 84 and the continued use of a heritage asset in the form of a traditional rural building would be in line with policies set out within the NPPF.</p> <p>The proposal would not conflict with local plan policies and would be considered to be in line with the parameters of Policy H17 and the criteria of Policy H13. It is considered that there would be no requirement to restrict the occupation of the property under Policy H20 to local occupancy; given an open market property could be considered acceptable in this instance.</p> <p>A public footpath terminates near to the site. The enjoyment of its use would remain unchanged from the existing holiday use and no negative effects or alterations to the route would arise from an unrestricted use of the building.</p> <p><u>Biodiversity Net Gain</u></p> <p>In terms of considering the proposal in relation to Biodiversity Net Gain, the development relates to a s73 application granted prior to 12 February 2024 which falls under an exempted category; therefore, does not trigger the requirement of a 10% Biodiversity Net Gain.</p> <p><u>Planning Balance and Conclusion</u></p> <p>On balance it is considered that the removal of the occupancy restriction is acceptable and would form a sustainable continued use of this traditional rural building.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>

9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. Development shall be carried out strictly in accordance with the recommendations of the structural engineer's report and bat/barn owl survey report which accompanied planning application 4/05/2547/0.</li> </ol> <p>Reason</p> <p>In the interests of structural integrity and nature conservation.</p> <ol style="list-style-type: none"> <li>2. The roof covering shall be natural slate.</li> </ol> <p>Reason</p> <p>To ensure a satisfactory external appearance.</p> <p><b>Informative Note</b></p> <p><b>Biodiversity Net Gain Exemption</b></p> <p>The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:</p> <ol style="list-style-type: none"> <li>(a) a Biodiversity Gain Plan has been submitted to the planning authority, and</li> <li>(b) the planning authority has approved the plan.</li> </ol> <p>The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Cumberland Council.</p> <p>There are statutory exemptions which mean that the biodiversity gain condition does not always apply.</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 of the statutory exemptions is considered to apply.</p> <p>Applicable exemption: Section 73 application.</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</p>
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Council**

	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.	
<b>Case Officer: S. Smith</b>		<b>Date : 20/05/2025</b>
<b>Authorising Officer: N.J. Hayhurst</b>		<b>Date : 22/05/2025</b>
<b>Dedicated responses to:- N/A</b>		