

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2159/0F1
2.	<b>Proposed Development:</b>	CHANGE OF USE OF UPPER FLOORS TO HOUSE IN MULTIPLE OCCUPATION (HMO)
3.	<b>Location:</b>	71 LOWTHER STREET, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Listed Building - Listed Building, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp; Policy</b>	See Report
<p><b>Report:</b></p> <p><b>SITE AND LOCATION</b></p> <p>This application relates to an existing large vacant building which was formerly in use as a bank and offices. The building fronts directly onto Lowther Street in Whitehaven.</p> <p>The building forms part of a terrace of significant buildings and dates from the early 20<sup>th</sup> century. It is situated within the Whitehaven Conservation Area.</p> <p><b>PROPOSAL</b></p> <p>This application seeks full planning permission for the conversion of the first and second floors of the building to form a House in Multiple Occupation comprising 8 bedrooms</p> <p>It is proposed to limit the proposed alterations to the interior of the building. The proposed conversion involves the reconfiguration of the existing layout to allow the creation of four</p>		

bedrooms on each floor as well as associated bathrooms. A communal kitchen/living area is also to be created on each floor.

Access to each floor is to be provided using an existing staircase which is accessed at ground floor level off Lowther Street.

There is no off street parking specified for the application.

### **RELEVANT PLANNING APPLICATION HISTORY**

4/22/2421/0F1 - Works in relation to closure of retail bank - external: removal of existing signage, external ATMs, night safe bezel and making good – Approved on 31/03/2023

4/24/2426/0F1 - Change of use of part ground floor from bank to cafe/wine bar – Approved 12<sup>th</sup> May 2025

4/25/2243/0F1 - Change of use third floor to residential apartment - Pending

### **CONSULTATION RESPONSES**

#### Town Council

No response received.

#### 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.

#### Environmental Health

There are no objections to this development from Environmental Health.

If the application is approved, Planners may wish to condition the hours of construction works to mitigate any noise disturbance to other neighbours –

- 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.



## Cumberland Council

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

- Informative: - This site is within a 1 km grid square of elevated radon potential. The maximum radon potential is 10 – 30% and full radon protection may be required.

### Conservation and Design Officer

#### Description:

71 Lowther Street is an early 20th -century building built originally for the Bank of Whitehaven. It was one of several banks on Lowther Street, although most have since changed use. It is unlisted, but makes a positive impression on this important part of the conservation area.

Conclusion: No objection (Further information requested)

#### Assessment:

- I'm supportive of the principle of the proposal, which aims to give the building a viable new use at upper floor levels.
- I have a question relating to heritage impact. This is not a listed building, but in accordance with NPPF 209, impact on significance of a non-designated heritage asset should be taken into consideration.

o The statement refers to the currently Perspex-infilled light-well in the circulation space as requiring the Perspex to be replaced with a fire rated structure. What sort of structure does this mean? Is it proposed to replace the Perspex with a solid or a glazed structure?

### Public Representation

The application has been advertised by way of a site and neighbour notification letters issued to the adjoining properties.

18 separate objections have been received which raise the following issues:-

- There is a lack of car parking to serve the use and this proposal will add to congestion within the town centre
- There is a lack of public facilities to service the proposed residential use
- The use is likely to have a potential impact on crime and disorder within the town centre
- Concerns raised about the potential inhabitants of a HMO
- There is not a need for HMO accommodation within the town centre
- The proposal would not provide any benefits to Whitehaven town centre
- The proposed conversion would have an adverse impact on the historical character of this building and Historic England has been asked to consider listing it for its historical value.

## **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 application are as follows:

- Strategic Policy DS1: Settlement Hierarchy
- Strategic Policy DS2: Settlement Boundaries
- Policy DS4 - Design and Development Standards
- Strategic Policy R4: The Key Service Centres
- Strategic Policy H1 - Improving the Housing Offer
- Strategic Policy H2 - Housing Requirement
- Strategic Policy H3 - Housing delivery
- Strategic Policy H4 - Distribution of Housing
- Strategic Policy H5 - Housing Allocations
- Policy H6 - New Housing Development
- Policy H7 - Housing Density and Mix Strategic

- Policy H13: Conversion and sub-division of buildings to residential uses including large HMO's
- Strategic Policy BE1 – Heritage Assts
- Policy BE2 – Designated Heritage Assets
- Policy CO7 – Parking Standards and Electric Vehicle Charging Infrastructure

### **Other Material Planning Considerations**

National Planning Policy (NPPF)

Planning Practice Guidance (PPG)

Conservation Design Guide SPD

Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)

### **ASSESSMENT**

#### Principle of Development

The existing building is located within the development boundary for Whitehaven as defined in Policy DS2 of the Local Plan. Whitehaven is classed under Policy DS1 as Copeland's Principal Town where the conversion of existing buildings to houses of multiple occupation (HMO) residential use is acceptable within the confines of the settlement boundary.

The principle of new housing is supported in the Copeland Local Plan though policies H1 and H13. This policy seeks to promote sustainable development to meet the needs and aspirations of the boroughs housing market, as well as having consideration for the requirements of smaller settlements within the borough which respect their scale and function.

The building is surrounded by a mix of uses including other residential units and lies within walking distance of services required for day to day living and therefore is considered to be an appropriate use in this location.

#### Design

Policy DS4 of the LP promotes good design and the aspiration that new dwellings will respond positively to their surroundings.

The proposed alterations deemed necessary to convert the building to accommodate 8 bedrooms is limited to internal works only. The proposed units are of a suitable size and some communal facilities are provided.

#### Housing Need

The principle of new housing is supported in the Copeland Local Plan through policy H1. This policy seeks to promote sustainable development to meet the needs and aspirations of the boroughs housing market, as well as having consideration for the requirements of smaller settlements within the borough which respect their scale and function.

Policy H13 of the LP relates specifically to the conversion of buildings to HMO's.

The following criteria are required to be met for the development to be considered to be acceptable:

- a) The development does not result in unacceptable levels of harm to residential amenity (noise and disturbance) for occupiers of the converted property and/or those occupying neighbouring properties;
- b) Future residents have adequate levels of natural lighting and privacy;
- c) The development does not have an adverse impact upon the privacy of neighbouring residents through direct overlooking;
- d) Off street parking is provided or sufficient parking is available within close proximity of the site;
- e) Adequate external amenity space is provided, including for waste and recycling bin storage without harming the visual amenity of the area where possible;
- f) Cycle space is provided, where possible;
- g) Safe access is available from both the front and rear of the property, where possible; and

The Housing Manager has confirmed that there is a demonstrable need for affordable flats within Whitehaven.

Overall, the repurposing of the building to provide one bedroomed accommodation is considered to be acceptable in this location.

#### Residential Amenity

The property is located within the central area of Whitehaven where higher levels of general noise and activity exist. A number of other residential properties exist within the locality.

Planning permission was recently granted for the use of the ground floor as a cafe/bar.

Initially the Environmental Health Officer raised concerns regarding the potential noise nuisance from any café/bar at ground floor level upon the occupants of the proposed HMO.

In response to these comments the applicant's agent submitted a Noise Impact Assessment (NIA). The NIA recommends the installation of double glazing to the windows on the front elevation. It concludes that everyday noise from the café/bar should not cause disturbance

The Environmental Health Officer has confirmed that the recommendations set out in the NIA are acceptable. It has also been confirmed that the Environmental Health team has

requested that a sound limiter is fitted within the ground floor to prevent excessive noise from recorded and live music.

Subject to appropriate management, adverse impacts upon the residential amenity of occupants should not occur.

#### Effect on the Conservation Area and Heritage Assets

Strategic Policy BE1 and Policy BE2 seek to protect, conserve and where possible enhance designated and non-designated heritage assets and their settings

Policy DS4 of the LP requires good design.

The Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) requires that in respect of listed buildings local planning authorities have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest and that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Paragraphs 212 to 220 of the NPPF relates to heritage impacts.

It is required that in assessing the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

It is stated that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

It is stated that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

It is confirmed that not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 214 or less than substantial harm under paragraph 215, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole

In response to a recent request to have the building listed Historic England have confirmed that the building does not merit listing for the following principle reasons:-

Degree of Architectural interest:

\* the quality of the building's known surviving features is typical for the period, and they are of standard rather than special interest in a national context.

Degree of Historic interest:

\* the connection with the Bank of Whitehaven is of local rather than national significance.

The building is typical of a former bank building in Whitehaven, and it makes a positive contribution to the Conservation Area. The Conservation Officer has confirmed that he is supportive of the principle of the proposal which aims to give the building a viable use at upper floor levels.

The Conservation Officer has requested clarity on the proposed works to the existing Perspex light well in the circulation space which it is proposed to infill with a fire rated structure. The applicant's agent has confirmed that the elliptical through floor aperture (first to second) cannot be retained as this links the floors fire compartments and therefore would not be compliant with Building Regulations. Currently the aperture has a 6mm perspex sheet across the aperture which is for thermal retention between floors. This does not provide fire protection and therefore requires removal. He has also confirmed that the lightwell to main stair is to be retained as this doesn't link between the fire compartment and upper floors. Although the loss of this aperture in its current form is unfortunate the building is a non designated heritage asset. This internal alteration needs to be balanced against the benefits that will arise from the proposal in terms of refurbishment and providing a viable use of the building.

The NIA recommends the installation of double glazing. The applicant's agent has confirmed that it is likely that either secondary glazing or the replacement of the glass units within the existing window frames will be undertaken to limit noise nuisance. He has also confirmed that the existing windows are in good condition and so will be retained.

Overall, It is considered, that the proposal would secure a viable use for the building which help to secure its future and provide some benefits to the appearance of the building and this part of the Conservation Area.

#### Highways Impacts

No off-highway parking spaces are proposed to serve the development; however, given the location of the property within close proximity to the facilities and amenities within Whitehaven Town Centre, the availability of the sustainable transport modes within walking distance and the availability of public parking spaces within walking distance, on balance, the development is considered acceptable.

#### Drainage

It is proposed to dispose of foul and surface water to the public main as per the existing situation.

Given the existing drainage discharge and as additional surface water flows will not result, this arrangement is acceptable.

#### Biodiversity Net Gain



	<p>Biodiversity Net Gain is mandatory from 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). The statutory framework for biodiversity net gain involves discharge of the biodiversity net gain condition following the grant of planning permission to ensure the objective of at least 10% net gain will be met for a development.</p> <p>The development will not impact a priority habitat and impacts less than 25 square metres (5m by 5m) of on-site habitat and 5 metres of on-site linear habitats; therefore, the development falls below the biodiversity net gain threshold and a ten percent biodiversity net gain is not required to be delivered.</p> <p><u>Planning Balance and Conclusion</u></p> <p>The building is located within the centre of Whitehaven, which is designated as the Principal Town within the Borough where residential development is encouraged. The provision of an HMO within a sustainable location would provide a positive benefit in terms of housing provision and would secure a viable use for the building.</p> <p>Although no dedicated car parking provision is available to serve the building there are alternative car parking options nearby and the town centre location offers other sustainable transport options. This is considered to be neutral within the planning balance.</p> <p>The re-use and refurbishment of the building is a positive benefit of the development.</p> <p>In applying the statutory duties of the LBCA and the relevant provisions of the NPPF and the Development Plan, it is considered that the development proposed will result in a minor positive impact upon the special interest of Whitehaven Conservation Area.</p> <p>Subject to appropriate management, adverse impacts upon the residential amenity of occupants should not occur.</p> <p>On overall balance this is considered to be an acceptable form of development which will be consistent with the details set out in national and local policy with the benefits of the proposal outweighing any adverse impacts.</p>
7.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
8.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>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>

	<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 07<sup>th</sup> May 2025  Site Location Plan, scale 1:1250, received 07<sup>th</sup> May 2025  Existing and Proposed Floor Plans, scale 1:100, drawing number 1463/1 - 01, received 07<sup>th</sup> May 2025  Design and Access and Heritage Statement, received on 08<sup>th</sup> May 2025  Noise Impact Assessment, reference 1383, prepared by NCSL, dated 14<sup>th</sup> July 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. Following approval of the development, construction activities that are audible at the site boundary shall be carried out only between the following hours:</p> <p>Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holidays  unless otherwise agreed in writing with the Local Planning Authority. In particular, no work should be carried out on Sundays or officially recognised public holidays without the prior agreement in writing of the Local Planning Authority.</p> <p>Reason</p> <p>To safeguard the amenity of neighbouring occupiers in accordance with the provisions of the National Planning Policy Framework.</p> <p>4. The development shall be carried out in accordance with the recommendations set out in the Noise Impact Assessment compiled by NCSL, reference 1383, dated 14<sup>th</sup> July 2025. Any noise mitigation measures implemented shall be retained at all times thereafter unless otherwise agreed in writing with the Local Planning Authority.</p> <p>Reason</p> <p>To safeguard the amenity of neighbouring occupiers in accordance with the provisions of the National Planning Policy Framework.</p>
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## **Informative Notes**

### **HMO Licensing**

HMO Licensing All HMO properties with shared facilities housing 5 persons or over would require a House of Multiple Occupation licence from Cumberland Council.

### **Replacement of Windows**

The applicant should note that any replacement of the existing timber windows within the building would require planning permission.

### **Radon**

This site is within a 1 km grid square of elevated radon potential. The maximum radon potential is 10 – 30% and full radon protection may be required.

### **Biodiversity Net Gain – Exemption Applicable**

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:

- a) A Biodiversity Gain Plan has been submitted to the planning authority, and
- b) The planning authority has approved the plan.

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.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

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 statutory exemption listed below is considered apply:

Exemption – De Minimis

### **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.

<b>Case Officer:</b> S. Papleo	<b>Date :</b> 13/08/2025
<b>Authorising Officer:</b> N.J. Hayhurst	<b>Date :</b> 14/08/2025
<b>Dedicated responses to:-</b> N/A	