

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2175/0B1
2.	<b>Proposed Development:</b>	VARIATION OF CONDITION 3 TO VARY WINDOW DESIGN OF PLANNING APPROVAL 4/24/2290/0F1 - REFURBISH & REPAIR OF EXISTING OFFICE BUILDING
3.	<b>Location:</b>	PHOENIX COURT, EARL STREET, CLEATOR MOOR
4.	<b>Parish:</b>	Cleator Moor
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	<b>Publicity Representations &amp; Policy</b>	See Report
7.	<b>Report:</b> <b>Site And Location</b> <p>This application relates to Phoenix Court, a large 3 storey commercial property located on Earl Street within the centre of Cleator Moor.</p> <p>The application relates to the building on the north west side of the court. There are 4 other buildings within the square with other commercial and residential properties within the surrounding area.</p> <p>The building is flanked by Earl Street to the west and Cragg Road to the north.</p> <p>The property is situated within the Cleator Moor Conservation Area.</p> <b>Relevant Planning Application History</b>	

Change of use to offices, approved in February 1993 (application reference 4/92/0994/0 relates);

Conversion of second floor to offices and canteen, approved in November 1992 (application reference 4/92/0752/0 relates);

Change of use from office to client based therapy unit, approved in July 1998 (application reference 4/98/0462/0 relates);

Change of use to B1 – offices, approved in April 2001 (application reference 4/01/0784/0 relates).

Refurbishment and repair of existing office building including solar panels (set in panels) to part of the courtyard side slope roof; thermal upgrade & recovering of the existing roof; replacement of all windows; new vents in association with internal alterations; replacement cast iron effect upvc guttering & downpipes, approved on 05<sup>th</sup> November 2024 (application 4/24/2290/0F1 relates)

### **Proposal**

This application seeks to vary condition 3 of the previous planning permission reference 4/24/2290/0F1 to allow a revised window design to be used within the building as part of its refurbishment.

The following details have been provided in support of the application:-

- Application Form
- Revised Window Specification

### **Consultation Responses**

#### Cleator Moor Town Council

No objections

#### Highway 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.

#### The Coal Authority

I can confirm that part of the site falls within the defined Development High Risk Area and that a Coal Mining Risk Assessment is required to be submitted to support this application. The Coal Authority records indicate that the site lies in an area of probable unrecorded

underground coal mine workings at shallow depth. If shallow workings are present then those may pose a potential risk to surface stability and public safety.

We note that the applicant has now applied to vary Condition 3 of the issued consent in order to enable vary window design of planning approval 4/24/2290/0F1. It would appear that we were correctly not previously consulted on application reference 4/24/2290/0F1.

As you will be aware, the Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application.

However, when considering the nature of this particular development proposal, we note that this would fall on our published exemptions list. On this basis we do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the nature of the development proposed in this particular case and do not object to this planning application. However, the Coal Authority does recommend that, should planning permission be granted for this proposal, an Informative Note should be placed on any planning permission granted:

Conservation and Design Officer

Description:

Phoenix Court is an unlisted former flour mill building dating from the early 1890s. It is located within Cleator Moor Conservation Area.

Conclusion: No objection

Assessment:

- Revision to window detailing were previously discussed in the context of 4/24/2290/0F1, and I view those revisions as justified, however a variation of condition application is required as Cond. 3 on that application specifically referred to conformity with an earlier version of the window detailing.
- I have no objection to the condition being updated to reflect the different details.

Public Representations

The application has been advertised by way of a site notice, a press notice and individual notification letters issued to the adjoining properties.

No objections have been received as a result of this consultation process.

**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 BE1 – Heritage Assts
- Policy BE2 – Designated Heritage Assets

### **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**

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that to assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission

	<p>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.</p> <p>The revision to window detailing were previously discussed in the context of 4/24/2290/0F1, and the replacement windows were deemed to be justified. A variation of condition 3 is required as the wording of the condition specifically referred to conformity with an earlier version of the window detailing.</p> <p>The Conservation Officer has confirmed that the revised window detailing is acceptable.</p> <p><u>Revision to Original Planning Conditions</u></p> <p>As works have commenced on site it is not relevant to include the time condition under condition 1.</p> <p>The wording of condition 2 is revised to relate to the amended window details.</p> <p>Condition 3 is amended to reflect the amended window details as requested.</p> <p>Condition 4 is repeated as it relates to an ongoing requirement.</p> <p><u>Conclusion</u></p> <p>The revision of conditions 2 and 3 are deemed to be acceptable in this instance to reflect the revised window detailing. .</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. -</li> <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 15<sup>th</sup> May 2025</li> <li>Location and Site Plan, drawing number 6028-04, scales 1:1250 and 1:500, received 21st August 2024</li> <li>Proposed Layout Plans, scale 1:100, drawing number 6028-02A, received 21st August</li> </ul> </li> </ol>

2024;

Existing and Proposed Elevations, scale 1:100, drawing number 6028 03, received 21st August 2024;

Biodiversity Statement, received 21st August 2024;

Design, Access and Heritage Statement, received 21st August 2024;

Window Details, received 15th 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.

3. The windows must be installed in accordance with the information submitted to the Local Authority on 15<sup>th</sup> May 2025 and retained as such at all times thereafter.

#### Reason

In order to ensure that the windows maintain the character of the building and the Cleator Moor Conservation Area and in accordance with Policies DS4, BE1 and BE2 of the Copeland Local Plan.

4. In such circumstances as the renewable energy installation (roof mounted solar panels) becomes non-operational for a period in excess of 6 months, the facility must be removed and the roof fully restored to its original condition within one year of removal.

#### Reason

In order to ensure that there is no unnecessary impact on the character of the building and in accordance with Policy DS4 of the Copeland Local Plan.

#### Informative Note

The proposed development lies within an area that has been defined by the Mining Remediation Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur,

particularly as a result of new development taking place.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Mining Remediation Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Application forms for Mining Remediation Authority permission and further guidance can be obtained from The Mining Remediation Authority's website at:

[www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities. If any future development has the potential to encounter coal seams which require excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal Agreement will be required. Further information regarding Incidental Coal Agreements can be found here –

<https://www.gov.uk/government/publications/incidental-coalagreement/guidance-notes-for-applicants-for-incidental-coal-agreements>

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Mining Remediation Authority on 0800 288 4242. Further information is available on the Mining Remediation Authority website at:

<https://www.gov.uk/government/organisations/mining-remediation-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:** S. Papaleo

**Date :** 28/07/2025

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

**Date :** 28/07/2025

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

