

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/25/2213/DOC
2.	Proposed Development:	DISCHARGE OF CONDITION 3 OF PLANNING APPLICATION 4/24/2391/0F1
3.	Location:	LAND OFF DALZELL STREET, MOOR ROW, EGREMONT
4.	Parish:	Egremont
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change,
6.	Publicity Representations &Policy	See Report
7.	Report: Site and Location <p>The Application Site comprises two separate parcels of agricultural land located to the northern edge of Moor Row.</p> <p>The northern parcel of land extends to c.2.4ha and is bounded by the River Keekle to the East and further parcels of agricultural land to the West.</p> <p>The southern parcel of land extends to 0.6ha and is surrounded by further parcels of agricultural land to the North, East and West and both agricultural land and the former Moor Row goods yard to the South.</p> <p>The agricultural land and the former Moor Row goods yard to the South benefits from Outline Planning Permission for the erection of up to 65 dwellings approved under application ref. 4/23/2076/0O1.</p> <p>There are no listed buildings on or directly adjacent to the Application Site.</p> <p>The northern parcel of land is located in Flood Zone 2 and Flood Zone 3, which are the</p>	

highest categories of flood risk.

The main part of the southern parcel of land is located in Flood Zone 1, which is the lowest category of flood risk with a small element to the north located in Flood Zone 2.

Part of the southern parcel of land is located in an area defined by the Mining Remediation Authority as high risk.

Directly Relevant Planning Application History:

4/16/2275/0O1 – Outline application for residential development – Approved in Outline.

4/23/2076/0O1 - Outline application for residential development for up to 65 dwellings with details of proposed access & all other matters reserved – Approved subject to planning conditions and Section 106 Agreement.

4/24/2323/0R1 - Application for reserved matters relating to layout, scale, appearance and landscaping pursuant to outline application reference 4/23/2076/0O1 – Valid planning application.

4/24/2335/DOC - Discharge of conditions 5, 6, 8, 19 and 20 of planning application 4/23/2076/0O1 – Approved.

4/24/2336/DOC - Discharge of conditions 9, 10 and 21 of planning application 4/23/2076/0O1 – Approved.

4/24/2337/DOC - Discharge of conditions 11, 12, 13, 14, 15 16, 17, 18 and 22 of planning application 4/23/2076/0O1 – Approved.

4/24/2391/0F1 – Proposed surface water dry retention basin and associated infrastructure including BNG enhancements relating to residential development pursuant to outline application reference 4/23/2076/0O1 – Approved subject to planning conditions and Section 106 Agreement.

Proposal

In June 2025, planning permission (ref: 4/24/2391/0F1) was granted by Members of the Planning Committee for a proposed surface water dry retention basin and associated infrastructure including BNG enhancements relating to residential development pursuant to outline application reference 4/23/2076/0O1.

This current application seeks to discharge condition 3 of planning approval 4/24/2391/0F1. This condition states the following:

3. Prior to the commencement of development, a Habitat Management and Monitoring

Plan has been submitted to and approved in writing by the local planning authority. The Habitat Management and Monitoring Plan shall include the following:

- i. A detailed scheme of habitat creation and habitat enhancement works that demonstrate the delivery of a minimum 10% net gain in biodiversity value post development over a minimum period of 30 years.
- ii. Planned management activities including details of site-wide aims and objectives.
- iii. Details of the persons and organisation(s) responsible for delivery of the habitat creation and habitat enhancement works.
- iv. The habitat condition targets that form the basis of what the Habitat Management and Monitoring Plan is setting out to achieve.
- v. Details of monitoring methods and a monitoring reporting schedule.
- vi. Details of adaptive management approaches.

Reason

In the interests of ensuring measurable net gains to biodiversity and in accordance with the provision of Strategic Policy N3 of the Copeland Local Plan 2021-2039, the National Planning Policy Framework and The Environment Act 2021.

The information submitted in support of the application comprises the following:

- Application Form, received by the Local Planning Authority on the 16th June 2025.
- Habitat Management and Monitoring Plan, Prepared by Environmental Solutions Ltd, Rev01, received by the Local Planning Authority on the 20th August 2025.

Consultation Responses

Ecology Consultant – Tetra Tech

5th August 2025

The project is located at Land off Dalzell Street, Moor Row, Egremont CA24 3LH. The Proposed Development is in relation to a proposed sustainable drainage scheme associated with a nearby residential development.

The application was considered by Cumberland Council on the 11th June 2025 and permission was granted subject to conditions (Application No: 4/24/2391/0F1). Conditions 3-7 pertain to Biodiversity Net Gain (BNG), however only Condition 3 is a pre-commencement

condition. The other conditions, although not dischargeable per se preconstruction, have elements which require consideration within the Habitat Management and Monitoring Plan (HMMP) (which is itself required pre-construction).

Condition 3:

3. Prior to the commencement of development, a Habitat Management and Monitoring Plan has been submitted to and approved in writing by the local planning authority.

The Habitat Management and Monitoring Plan shall include the following:

- i. A detailed scheme of habitat creation and habitat enhancement works that demonstrate the delivery of a minimum 10% net gain in biodiversity value post development over a minimum period of 30 years.
- ii. Planned management activities including details of site-wide aims and objectives.
- iii. Details of the persons and organisation(s) responsible for delivery of the habitat creation and habitat enhancement works.
- iv. The habitat condition targets that form the basis of what the Habitat Management and Monitoring Plan is setting out to achieve.
- v. Details of monitoring methods and a monitoring reporting schedule.
- vi. Details of adaptive management approaches.

Reason

In the interests of ensuring measurable net gains to biodiversity and in accordance with the provision of Strategic Policy N3 of the Copeland Local Plan 2021-2039, the National Planning Policy Framework and The Environment Act 2021.

A HMMP (Environmental Solutions Ltd., April 2025) has been submitted and was reviewed against the above criteria:

- i. A detailed scheme of habitat creation and habitat enhancement works demonstrates the delivery of 37.77 % net gain over a 30-year period, in accordance with the referenced JN00551_D03 Moor Row Drainage Scheme Biodiversity Impact Assessment (BIA) (unverified by Tetra Tech).
- ii. The aims and objectives of the HMMP are detailed in Paragraph 1.4.
- iii. Section 1.5 lists the person(s)/organisation(s) responsible for delivery of the HMMP as the landowner Mr Nigel Kay.
- iv. Habitat creation (and its associated management) is detailed on pages 3 – 4 of the HMMP (Environmental Solutions Ltd., April 2025). These activities involve creation of 1.) moderate condition Sustainable Drainage System (SuDS, 925 m2); and 2.)

good condition modified grassland (0.13 ha), as outlined.

- v. Section 1.19 refers to the drainage routes which will be temporary impacted and have been recorded as retained. As per the HMMP Checklist 2.0 Section 2 (Planned Management Activities) details of habitats to be retained should be included within the HMMP document. This includes showing these areas on a plan, pre-development condition information and details of how these areas will be retained/re-established post-development. The HMMP states that these areas 'would return to their original condition in 2 years'. The risk register and remedial measures Table 1 should be updated to include the risk of these areas not achieving the desired habitat type and condition, with appropriate remedial action. The HMMP should also include information on long term management and monitoring of the retained grasslands.
- vi. Habitat condition targets are not detailed. For the SuDS, four criteria of the BNG condition assessment sheet are mentioned briefly. For the modified grassland, meeting all criteria of the relevant condition assessment is mentioned in passing. Demonstrable targets of achieving these conditions are not discussed in detail.
- vii. Sections 1.20 – 1.23 refer to site monitoring. As per condition 3 v. the monitoring methods are defined in Section 1.21. The monitoring reporting schedule is annually in Years 1-5 and every five years until year 25, comprising nine visits. Section 1.23 should be updated to align with Condition 7 that states that monitoring reports must be submitted to the Council in Years 2, 5, 7, 10, 20, 25 and post completion.
- viii. Details of adaptive approaches are listed in 'Risk Register and Remedial Measures' on page 5. This should be updated to include the risk of created and retained habitats not achieving the desired species-richness (Criteria A).

The information presented in the HMMP is currently considered to contain insufficient information to discharge Condition 3 at this stage.

Conditions 4-7

Conditions 4-7 relate to the implementation of the Habitat Management and Monitoring Plans (HMMP). These conditions cannot be met at this time until habitat management and creation activities have been completed.

Conclusion

The HMMP document pertaining to Condition 3 currently lacks sufficient detail and more detail on retained habitats and monitoring, as detailed above in items v – viii, is required to fully discharge this condition.

A HMMP should be a substantial and robust document detailing the intended land management practices which will be used on site to create and / or maintain the BNG units (to their specified BNG conditions) agreed to by the landowner / applicant to include

remediation and reporting schedules.

The Natural England Habitat Management and Monitoring Plan Template (JP058) guidance documents should be used to guide the content of the HMMP and the level of detail required.

An updated HMMP should be provided by the applicant, in line with standard guidance, before any conditions are discharged.

20th August 2025

The applicant has provided an updated HMMP (Moor Row Drainage Scheme HMMP Rev01), to discharge Condition 3 as presented below:

Condition 3:

3. Prior to the commencement of development, a Habitat Management and Monitoring Plan has been submitted to and approved in writing by the local planning authority.

The Habitat Management and Monitoring Plan shall include the following:

i A detailed scheme of habitat creation and habitat enhancement works that demonstrate the delivery of a minimum 10% net gain in biodiversity value post development over a minimum period of 30 years.

ii Planned management activities including details of site-wide aims and objectives.

iii Details of the persons and organisation(s) responsible for delivery of the habitat creation and habitat enhancement works.

iv The habitat condition targets that form the basis of what the Habitat Management and Monitoring Plan is setting out to achieve.

v Details of monitoring methods and a monitoring reporting schedule.

vi Details of adaptive management approaches.

Reason In the interests of ensuring measurable net gains to biodiversity and in accordance with the provision of Strategic Policy N3 of the Copeland Local Plan 2021-2039, the National Planning Policy Framework and The Environment Act 2021.

An updated HMMP (Moor Row Drainage Scheme HMMP Rev01), was provided on the 11th August 2025 to address comments as detailed in Tetra Tech response dated 5th August 2025:

i. Section 1.19 – 1.21 provides further information on the reinstatement of the modified grasslands and long-term management of these areas. As the proposed condition is poor, this is considered sufficient detail to show that these areas will achieve the proposed condition and detail on remedial actions in Table 1 is not required.



Cumberland Council

ii. Section 1.12 has been amended to provide sufficient detail on the SUDS management regime and how Criteria A, C and E1 and E2 (on the Urban type condition sheet) will be satisfied to achieve moderate condition. Section 1.17 has been amended to provide further detail on how Criteria A - G will be achieved (on the Low distinctiveness Condition assessment sheet), achieving good condition.

iii. Section 1.22 states a monitoring regime of visits to all areas annually in years 2, 5, 7, 10, 20, 25 and 30 in line with Condition 7.

iv. Table 1 – Risk register has been updated to include the risk of failure to maintain sufficient species diversity (Criteria A) for the good condition modified grassland. Conditions 4-7 Conditions 4-7 relate to the implementation of the Habitat Management and Monitoring Plans (HMMP). These conditions cannot be met at this time until habitat management and creation activities have been completed.

Conclusion

Previous comments made by Tetra Tech on behalf of Cumberland Council (784-B072252 LAND OFF DALZELL STREET 5th August 2025) have been addressed. The information presented in the HMMP is considered sufficient to discharge Condition 3 at this stage.

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:

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 (LP):

Cumberland Council continued the preparation of the LP as commenced by Copeland Borough Council.

The LP was adopted by Cumberland Council on the 5th of November 2024 replacing the

	<p>Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2001-2016.</p> <p>Strategic Policy DS1: Settlement Hierarchy</p> <p>Policy DS4: Design and Development Standards</p> <p>Policy DS5: Hard and Soft Landscaping</p> <p>Strategic Policy DS6: Reducing Flood Risk</p> <p>Policy DS7: Sustainable Drainage Policy DS8: Soils, Contamination and Land Stability</p> <p>Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity</p> <p>Strategic Policy N3: Biodiversity Net Gain</p> <p>Strategic Policy N6: Landscape Protection</p> <p>Policy N14: Woodlands, Trees and Hedgerows</p> <p>Key Other Material Planning Considerations</p> <p>National Planning Policy Framework (NPPF)</p> <p>Planning Practice Guidance (PPG)</p> <p>National Design Guide (NDG)</p> <p>The Conservation of Habitats and Species Regulations 2017 (CHSR)</p> <p>Cumbria Development Design Guide (CDDG)</p> <p>Assessment</p> <p>Condition 3 seeks to discharge the requirements for the development provide a Habitat Management and Monitoring Plan. Based on the details submitted with this application, the Council's Ecology Consultant has confirmed that this condition can be discharged.</p> <p><u>Conclusion</u></p> <p>Discharge condition 3.</p>		
8.	<p>Recommendation:</p> <p>Approve</p>		
<table> <tr> <td>Case Officer: Sarah Papaleo</td><td>Date : 08/09/2025</td></tr> </table>		Case Officer: Sarah Papaleo	Date : 08/09/2025
Case Officer: Sarah Papaleo	Date : 08/09/2025		



**Cumberland
Council**

Authorising Officer: N.J. Hayhurst	Date : 09/09/2025
Dedicated responses to:- N/A	