

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/25/2242/0F1
2.	Proposed Development:	APPLICATION TO DETERMINE IF PRIOR APPROVAL IS REQUIRED FOR PROPOSED NEW BROADBAND INFRASTRUCTURE - PROPOSED 2 X FOOTWAY CHAMBERS
3.	Location:	PORT HAVERIGG MARINA VILLAGE, PORT HAVERIGG
4.	Parish:	Millom
5.	Constraints:	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, SSSI - SSSI, Coal - Off Coalfield - Data Subject To Change, Key Species - Known Sites for Natterjack Toads, PROWs - Public Right of Way
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: Site and Location	This application relates to land at Port Haverigg Holiday Village, located to the east of

Haverigg. The site relates to land at the main entrance to the site, and within the main part of the holiday village in the most eastern part of the site.

Relevant Planning History

4/81/1132/0 – Change of use to a caravan site and associated holiday activities – Approved.

4/19/2153/0G1 – Removal of condition 10 of planning permission 4/81/1132/086 – Ongoing.

4/19/2298/0F1 – Lawful development as a caravan site, and land used in conjunction for roads, parking and manoeuvring, open recreation areas, water sport including boat yard and quay, miniature railway and BBQ and landscaping – Ongoing.

Proposal

This application seeks prior approval for the installation of new broadband infrastructure within Port Haverigg Marine Village. The works comprise:

- Proposed 2 x footway chambers with approximately 1.60m of narrow trench along the roads through Port Haverigg Marina Village.
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Consultation Responses

Millom Town Council

No objections in principle to this application.

Cumberland Council – Highway Authority & Lead Local Planning 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, although any works within or near the Highway must be authorised by the Council and no works shall be permitted or carried out on any part of the Highway including Verges, until you are in receipt of an appropriate permit from the LHA Streetworks team.

Natural England

NO OBJECTION SUBJECT TO MITIGATION

We have reviewed the location plan submitted to us and Natural England can confirm that the proposal is within Duddon Estuary Site of Special Scientific Interest (SSSI) and it's overlapping designations (Morecambe Bay SAC, Morecambe Bay and Duddon Estuary SPA and Duddon Estuary RAMSAR). Based on the plans submitted, Natural England considers that the siting of the proposed development will not damage or destroy the interest features for which the above SSSI has been notified, provided a CEMP is approved and signed by the

district ecologist/biodiversity officer.

Natural England notes that a CEMP has been provided with this consultation. In this instance we refer you to the advice below to ensure the current CEMP contains measures to address the impacts listed where relevant.

Construction Environmental Management Plan (CEMP):

Natural England advises a Construction Environmental Management Plan (CEMP) should be approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats.

The CEMP should address the following impacts:

- Storage of construction materials and equipment
- Details on the storage and disposal of waste on site
- Noise/visual/vibrational impacts
- Timings of works to avoid nesting/breeding seasons
- Mammal ramps for open excavations
- Lighting measures to ensure boundary habitats are not illuminated
- Details of methods for pollution control to ensure that no pollution (such as debris from dust or surface run off, as well as chemicals or fuel) is able to enter the watercourse
- Details of Biosecurity to ensure that all equipment brought onto site does not bring any contaminants such as invasive species onto the site and into the waters

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. The CEMP should be approved in writing by yourselves as competent authority.

Natural England do not require re-consultation on this aspect of the proposals. We have no comment to make on other prior approval matters included in the consultation.

To help ensure that the necessary subsequent steps are taken by the applicant to avoid any harmful effects on Protected Sites and Protected Species in accordance with discharging your authority's statutory duties, we recommend that should your authority give its prior approval to the proposed development, the following paragraphs are included on your decision notice/letter as advisory notes to the applicant;

Site of Special Scientific Interest

Should prior approval be given, and before a Code Operator commences a permitted development within a Site of Special Scientific Interest (SSSI), it must give written notice to

Natural England and await its advice.

See for further details: Guidance for broadband suppliers working in protected nature sites - GOV.UK (www.gov.uk). Protected Species In addition to the advice in this letter, there may be impacts on protected species and a mitigation licence may be required from Natural England.

Further information can be found here <https://www.gov.uk/guidance/wildlife-licences> Natural England's Discretionary Advice Service If you have any queries relating to the advice in this letter or if you wish to discuss the impacts on designated sites and scope for mitigation with Natural England, we can provide advice through our Discretionary Advice Service.

Cumberland Council – Ecologist

The County Ecologist acknowledges that this is a permitted development application and accepts the HRA, CEMP and EMP submitted. Additionally, whilst this application is for a permitted development, it is not actually exempt from BNG. In order to comply with the biodiversity net gain exemptions in accordance with Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024, the impacts of these construction works must be temporary, meaning the existing habitat must be returned to its pre-development habitat type and condition [or better] within 2 years of works commencing.

Cumberland Council – Environmental Health

There are no objections to this proposal from Environmental Health though it should be noted that much of the Port Haverigg Marina Village site sits on land that was historically part of the Hodbarrow Iron Ore Mine and is marked on Council mapping as being potentially contaminated land as designated by Part 2A Environmental Protection Act 1990. Whilst there has been considerable development of the site since the mine's closure in 1968, there is the likelihood that the proposed ground works may encounter underlying made ground and fused slag deposits that contain elevated levels of heavy metals in particular. If there is visual / olfactory evidence of contamination in the soil, it is recommended that the advice of a competent geo environmental engineer is sought. The submitted CEMP does reference disposal of controlled waste and this may include contaminated material from the groundworks that may need WAC testing prior to disposal. A suitable risk assessment for construction staff should be made and consideration given to the possible long-term corrosive effect of any made ground and slag deposits on trench materials and sub-surface pipework / cables. In other respects, the CEMP is acceptable to Environmental Health.

If it is practicable, noisy works should be confined to standard construction hours of 08.00 – 18.00 Monday to Friday (health and safety considerations notwithstanding).

Public Representation

This application has been advertised by way of a site notice. No responses have been received to this statutory notification period.

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 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 5th of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2001-2016.

Strategic Policy DS1: Settlement Hierarchy

Strategic Policy DS2: Settlement Boundaries

Policy DS4: Design and Development Standards

Strategic Policy CO1: Telecommunications and Digital Connectivity

Other Material Planning Considerations

National Planning Policy Framework (2024)

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment

The installation of a new electronic communication apparatus is considered permitted development under Schedule 2 Part 16 Class A of The Town and Country Planning (General

Permitted Development) (England) Order 2015. This order sets out certain conditions for the prior approval of the installation of electronic communication apparatus of up to 30m, which requires the submission of an application to the Local Planning Authority to determine if prior approval will be required as to the siting and appearance of the development.

The provision of Schedule 2, Part 16, Class A of the GPDO 2015 are considered in turn below:

In respect of the provisions of A:-

The proposal comprises the installation of new broadband infrastructure within Port Haverigg Marine Village

In respect of the provisions of A.1:-

The works include the installation of new broadband infrastructure comprising the installation of two underground footway chambers with approximately 1.60m of narrow trench along the roads through Port Haverigg Marina Village.

In respect of the provisions of A.2 :-

- 1) (a) Not applicable.
(b) Not applicable.
(c) Not applicable.
(d) Not applicable.
- 2) (a) Not required until development complete.
(b) Not required until development complete.
- 3) (a) Not applicable.
(b) An application to determine if prior approval is required (current application) has been submitted and the development has not commenced.
(c) Not applicable.
(d) Not applicable.
(e) Not applicable.
- 4) (a) Not applicable.
(b) Not applicable.
(c) Not applicable.
(d) Not applicable.
(e) Not applicable.
- 5) Not applicable.

5a) Not applicable.

In respect of the provisions of A.3 :-

- 1) Notice served on owners of land. Evidence submitted as part of current application.
- 2) Notice served on owners of land. Evidence submitted as part of current application.
- 4) An application to determine if prior approval is required (current application) has been submitted and the development has not commenced.
- 5) (a) Application supported by written description and relevant fee.
(b) Application includes relevant information.
(c) Evidence provided.
(d) Not applicable.
- 6) Relevant consultees notified and site notice displayed.
- 7) No objections have been received in relation to the application.
- 8) An application to determine if prior approval is required (current application) has been submitted and the development has not commenced.
- 9) Conditions will be included to secure these details.
- 10) Not applicable.
- 11) Conditions will be included to secure these details.
- 12) Not applicable.
- 13) Not applicable.

The proposed works include the installation of new broadband infrastructure comprising the installation of two underground footway chambers with approximately 1.60m of narrow trench along the roads through Port Haverigg Marina Village.

The proposed works will be located underground within the existing Holiday Village. The siting and appearance of the proposed works are therefore considered acceptable for this site.

The proposed works are to be sited within the Duddon Estuary Site of Special Scientific Interest (SSSI) and Ramsar, the Morecambe Bay and Duddon Estuary Special Protection Area (SPA) and the Morecambe Bay Special Area of Conservation (SAC). The application is therefore supported by high-level Desk Based Ecology Assessment, a Habitat Regulations Assessment (HRA), and an Ecological Management Plan.

The submitted Desk Study concludes that the planned works within the Millom OLT have potential to impact upon the Morecombe Bay SAC SPA, Duddon Estuary Ramsar SSSI, Drigg Coast SAC SSSI, Annaside SSSI and Shaw Meadow & Sea Pasture SSSI designations, to impact priority habitats and the following protected species: bats, birds,

badgers, brown hare, hedgehog, great crested newt, common toad, common reptiles, otter and other protected aquatic, plant or invertebrate species. The works may also facilitate the spread of INNS. The study therefore recommends the following surveys/assessments are undertaken:

- Habitats Regulation Assessment for Morecombe Bay SAC SPA Duddon Estuary Ramsar and Drigg Coast SAC designated sites
- SSSI Notification for works inside the Duddon Estuary SSSI
- Works to follow measures within an Ecological Management Plan.
- Arboricultural Impact Assessments (AIA) where works lie adjacent to priority woodlands.
- Daytime Bat Walkover (DBW) of any trees should they need to be felled/pruned.
- Vegetation clearance undertaken outside of the bird nesting season and red squirrel breeding season, or pre-works inspection carried out by an appropriately qualified ecologist.
- eDNA survey of GCN and natterjack toad suitable ponds or works nearby to be undertaken under ecological supervision.
- Otter survey where works are scheduled to cross the River Annas at Skellerah Bridge, Corney.
- Invasive non-native species walkover.

The submitted HRA considers the proposed works upon the following European sites: Morecambe Bay SPA, Morecambe Bay and Duddon Estuary Ramsar and Morecambe Bay SAC. Drigg Coast SAC was scoped out of the assessment due to negligible risk of impacts arising from the proposed works and significant distance from the proposed works. The assessment screened out: direct loss of habitat within a European Site; indirect loss or degradation of habitat within a European Site; and harm to qualifying fauna. The assessment concluded that this was based on the assumption that the best practise construction measures will be set out in a Construction Environmental Management Plan by an appropriately skilled ecologist.

The submitted Ecological Management Plan contains specific measures to protect features of ecological interest during the proposed works. The plan details proposed mitigation measures including: waste management, tree management, dust suppression, de-watering and de-silting procedures, and measures to limit impacts on the on-site biodiversity and ecology.

A Construction Environment Management Plan (CEMP), has also been submitted with this application detailing how any adverse environmental impacts associated with the construction of the broadband infrastructure will be minimised. Natural England have stated that a CEMP should be submitted and agreed with the Council's Ecologist for this application, the details of

	this document have been agreed by the Ecological Officer. Appropriately worded planning conditions will be included within any decision notice to ensure works are carried out in accordance with these documents and the proposed mitigation measure set out within these reports. No objections have been received from the Council's Ecologist, Natural England, or the Council's Environmental Health Team. Conclusion The requirements of the provisions of Schedule 2 Part 16 Class A of the GPDO 2015 are achieved. The siting and appearance of the development is acceptable. The proposal is not considered to have a significant adverse effect on designated sites or protected species subject to the mitigation measures outlined within the application. Prior approval is not required.
8.	Recommendation: Prior notification not required.
9.	Conditions: <u>Standard Conditions:</u> 1. The development hereby approved must be carried out within a period of 5 years from the date of this decision. Reason To comply with the requirements of Part 16 Class A (A.3) (11) (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). 2. This permission relates to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:- - Application Form, received by the Local Planning Authority on the 9th July 2025. - Certificate of Ownership – Certificate B, Town and County Planning (Development Management Procedure) (England) Order 2025, received by the Local Planning Authority on the 9th July 2025.

- Covering Letter, Prepared by Wardell Armstrong, received by the Local Planning Authority on the 9th July 2025.
- Site Location Plan, Scale 1:5000, DRG No: ST21363-OLT40-001, Rev: A, received by the Local Planning Authority on the 9th July 2025.
- Extent of Proposed Works Within SSSI, Scale: 1:25 & 1:250, DRG No: ST21363-OLT40-H-002, Rev: C, received by the Local Planning Authority on the 9th July 2025.
- Technical Note, Prepared by Wardell Armstrong, received by the Local Planning Authority on the 9th July 2025.
- Report to Inform Habitats Regulations Assessment, Prepared by Wardell Armstrong June 2025, received by the Local Planning Authority on the 9th July 2025.
- Construction Environmental Management Plan (CEMP), Prepared by Novo Technologies October 2024, received by the Local Planning Authority on the 9th July 2025.
- Ecological Management Plan, Prepared by Novo Technologies, received by the Local Planning Authority on the 9th July 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.

Other Conditions:

3. The development hereby approved must implement all of the mitigation and compensation measures set out in the approved documents:
 - Technical Note, Prepared by Wardell Armstrong, received by the Local Planning Authority on the 9th July 2025.
 - Report to Inform Habitats Regulations Assessment, Prepared by Wardell Armstrong June 2025, received by the Local Planning Authority on the 9th July 2025.
 - Construction Environmental Management Plan (CEMP), Prepared by Novo Technologies October 2024, received by the Local Planning Authority on the 9th July 2025.
 - Ecological Management Plan, Prepared by Novo Technologies, received by the Local Planning Authority on the 9th July 2025.

Reasons

To protect the ecological interests evident on the site, in accordance with policies N1 and N3 of the Copeland Local Plan 2021 – 2039.

Informatives:

1. Any works within or near the Highway must be authorised by the Council and no works shall be permitted or carried out on any part of the Highway including Verges, until you are in receipt of an appropriate permit from the LHA Streetworks team.
<https://www.cumberland.gov.uk/parking-roads-and-transport/streets-roads-and-pavements/street-licences-and-permits/street-permit-and-licence-fees-and-charges>
Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.
2. Before a Code Operator commences a permitted development within a Site of Special Scientific Interest (SSSI), it must give written notice to Natural England and await its advice. See for further details: Guidance for broadband suppliers working in protected nature sites - GOV.UK (www.gov.uk).
3. This application is not exempt from BNG. In order to comply with the biodiversity net gain exemptions in accordance with Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024, the impacts of these construction works must be temporary, meaning the existing habitat must be returned to its pre-development habitat type and condition [or better] within 2 years of works commencing.
4. Noisy works should be confined to standard construction hours of 08.00 – 18.00 Monday to Friday (health and safety considerations notwithstanding).

Case Officer: C. Burns

Date : 22.09.2025

Authorising Officer: N.J. Hayhurst

Date : 22/09/2025

Dedicated responses to:- N/A