

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2334/0F1
2.	<b>Proposed Development:</b>	THE INSTALLATION OF A NEW PEDESTRIAN ACCESS AND THE CONSTRUCTION OF A NEW BANDSTAND WITH ASSOCIATED HARD AND SOFT LANDSCAPING TO PALLADIUM GARDENS IN MILLOM
3.	<b>Location:</b>	PALLADIUM GARDENS, ST GEORGES ROAD, MILLOM
4.	<b>Parish:</b>	Millom
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads
6.	<b>Publicity Representations &amp;Policy</b>	See report.
7.	<b>Report:</b>  <b>SITE AND LOCATION</b>  <p>This application site relates to Palladium Gardens, a 0.36-hectare area of public green, recreational space associated with the adjacent Palladium Building. The land is owned by Cumberland Council.</p> <p>The site is located off the A5093 Horn Hill within the centre of Millom and lies within the Millom Conservation Area. The site is bound by St Georges Road to the North, Millom Cricket Club to the South, Millom Palladium to the West and Millom Town Centre to the far East.</p>  <b>PROPOSAL</b>  <p>Planning permission is sought for the installation of a new pedestrian access, construction of a new bandstand, and the implementation of a new landscaping scheme for the site following Millom Town Council being successful in securing a 25-year lease from Cumberland Council.</p>	

## RELEVANT PLANNING APPLICATION HISTORY

4/97/0453/0 CHANGE OF PART OF SITE TO SEATING AND RECREATION, AREA  
INSTALLATION OF EQUIPMENT AND SEATING UNIT

## CONSULTATION RESPONSES

### Highways & 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.

### Cumberland Council Ecologist –

#### ***Breeding Birds***

The access track works should be completed outside of the breeding bird period (March – August inclusive). If this is not possible a breeding bird check should be carried out no more than 48 hours prior to the planned development to ensure no birds and their nests are present. If active nests are discovered an appropriate buffer zone should be established and works within that area ceased until the young have naturally fledged.

#### ***Small Mammals***

All development work should be carried out with care to avoid these small mammals such as hedgehogs. Contractors should be briefed about the potential presence of hedgehogs and Works should be supervised during initial clearance of the site to avoid injury to any disturbed individuals. Should any trenches and excavations be required, an escape route for animals that enter the trench must be provided, especially if left open overnight. Ramps should be no greater than of 45 degrees in angle. Ideally, any holes should be securely covered. This will ensure mammals are not trapped during work.

Stored materials should be raised (i.e. stored on pallets) in order to ensure that wildlife such as hedgehogs do not shelter in the piles.

#### ***Bats***

If lighting is to be used during operation at night, a bats-specific lighting scheme will be designed to minimise light impact. This should be in line with the guidance note for Bats and Artificial Lighting (Bat Conservation Trust, 2023).

### Cumberland Council Open Spaces

No comments received.

### Cumberland Council Conservation Officer –



## Cumberland Council

### First consultation:

- I am supportive of the concept.
- The proposed band stand is attractive and will make a pleasant addition to this space.
- There is value to the conservation area in its greenness, so care should be taken not to excessively hard surface it or fill it with structures incrementally, but this relatively modest proposal shouldn't cause undue harm to that while adding benefits of its own.
- Clarification could be provided on whether the ornate fretwork of the bandstand is to be cast or in laser-cut sheet metal, and the finish – whether painted, powder coated or bare metal, for instance.
- Has it been considered to use paving – flagstones, paviours, bricks etc. – instead of tarmac and resin-bound gravel for the paths? Our Conservation Area Design Guide urges avoidance of tarmac and concrete surfaces where possible.

### Second Consultation:

Following clarification from The Agent regarding proposed materials for the Bandstand, no further comments were made.

### Public Representations

The application has been advertised by way of neighbour notification letters issued to 6 properties. One representation has been received in response to this consultation which raises the following comments:

- In general, the trustees support the application as it has synergy with the long-term plans for the Palladium building. There is however an issue with access across the land owned by the palladium at the north end of the building. The owner/occupier of the palladium gardens has a restricted easement which is for "maintenance only" this would mean any access over the land would be Trespass for any other purpose than Maintenance.
- I would also like to bring to the attention of the planning department the very poor condition of the tree line on the land border with the palladium. Several trees have been damaged, and one even felled in high winds.
- I also make a note for the record that a good degree of the work detailed in this application has been carried out prior to this application being made making this a retrospective application.

### **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 Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2001- 2016.

The policies relevant to this application are as follows:-

Policy DS1 – Settlement Hierarchy

Policy DS2 – Settlement Boundaries

Policy DS4: Design and Development Standards

Strategic Policy R1 – Vitality of Town Centres

Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N3: Biodiversity Net Gain

Policy N6: Landscape Protection

Strategic Policy N12: Protected Open Space

Policy BE2: Designated Heritage Assets

Policy DS5: Hard and Soft Landscaping

Strategic Policy SC1: Health and wellbeing

Policy SC5: Community and Cultural Facilities

**Other Material Planning Considerations**

National Planning Policy Framework (NPPF, 2024)

Cumbria Development Design Guide

Wildlife and Countryside Act 1981

Cumbria Landscape Character Guidance and Toolkit (CLCGT)

Planning (Listed Building and Conservation Areas) Act 1990

## **ASSESSMENT**

The key issues raised by this proposal are the principle of development, its siting, scale, design, and visual impact, landscaping, impact on community facilities and health and wellbeing, access and Highway Safety, impact on heritage assets, Ecology and Biodiversity Net Gain.

The application has been submitted by Millom Town Council, but the site is owned by Cumberland Council.

### Principle of Development

Millom is identified in Strategic Policy DS1 as a Key Service Centre.

It is stated that the focus for development in Key Service Centres will be for town centre developments, employment development and medium scale housing extensions, windfall and infill development.

The settlement boundary for Millom is defined in Strategic Policy DS2. The application site is located within the Millom settlement boundary. It is stated that development within the defined settlement boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise.

Strategic Policy R1 of the Copeland Local Plan seeks to enhance the vitality and viability of town centres and villages identified in the settlement hierarchy by working with partners and applicants to support a network of healthy, vibrant and resilient town centres, comprised of a diverse range of retail, residential, leisure and other main town centre uses, that can effectively respond to change.

Strategic Policy SC1 promotes health and well-being in Copeland by supporting a range of new development types that: improves health, social and cultural wellbeing; creates mixed communities through new or improved developments that are located in areas with access to key services to reduce social isolation and create community resilience; and implements the policies within the Local Plan that promote active travel and protect or deliver new open spaces, sports, cultural and community facilities.

The application site relates to a 0.36-hectare area of public green, recreational space known as Palladium Gardens, associated with the Palladium Building which occupies a prominent location within the Centre of Millom. The application seeks to install a new pedestrian access, construction of a new bandstand, and the implementation of a new landscaping scheme to the site.

The principle of this development is therefore considered acceptable in accordance with Policy DS1, DS2, R1 of the Copeland Local Plan, and the provisions of the NPPF.

Impact of the Development; siting, scale, design, and visual impact

Policy DS4 of the Copeland Local Plan requires all new development to meet high-quality standards of design. This includes creating and enhancing locally distinctive places, the use of good quality materials that reflect the local character, including high quality and useful open spaces, providing high levels of residential amenity, adopting active travel principles, creating opportunities for social interaction, and effective use of land whilst maintaining amenity and maximising solar gain.

The proposal is located off the A5093 Horn Hill within the centre of Millom and is within the Millom Conservation Area. The site is bound by St Georges Road to the North which is fronted by mature trees and a concrete post and metal rail and wire fence, Millom Cricket Club to the South, Millom Palladium to the West and Millom Town Centre to the far East.

The site has been well maintained and majorly consists of a large area of mown amenity grassland with large flower beds, mature and maturing trees and shrubs, paths and urban furniture (benches), predominantly open to the public and utilised as open recreational space, however the site is currently corned off with herras fencing and is inaccessible.

The applicant has identified Palladium Gardens as the ideal location for the Construction of a New Band Stand due to the Palladiums musical and theatrical heritage. The proposal will be 4.349m in overall height, 4.518 metres wide and 3.913 metres deep. It includes 6 Victorian columns connecting 5 hardwood balusters with Morecambe Pier Panels. The bandstand will be finished with a 2mm aluminium sheet roof, Victorians Friezes, Victorian spandrels and a Finial on top.

The proposal is of a typical Victorian bandstand design and will occupy a prominent position in the middle of the Gardens. It has a 2.014-metre-wide entrance area that can be accessed by a new tarmac pathway that links the remainder of the site.

The application also seeks permission for a new pedestrian access and various new hard and soft landscaping.

The existing access lies to the North-West of the site linking directly to the side entrance of the Palladium. It is proposed that this access will be retained for the Palladium, and a new access point will be created to the East of the newly landscaped Gardens. It is proposed that the new access will be graded and will include a metal fence and railings between concrete panels at the entrance to allow the site to be inclusive of all mobilities. The new access allows the existing dropped kerb to now be utilised to allow direct access from the public highway each side of St. Georges Road and will be constructed out of tarmac.

Following a site visit, it is clear that some works have already been carried out with regards to the new access and walkways throughout the site.

A secondary access to the rear of the palladium building will also be retained which allows for vehicular access for those attending public events. As this is to be located to the rear of the Palladium, it remains subservient and will ensure that the visual appearance of the site is

maintained.

A comment was received as part of the consultation process that suggests that there are issues with this access across the land owned by the Palladium at the North end of the building. The comment alleges that the owner/occupier of the Palladium Gardens has a restricted easement which is for "maintenance only". Unfortunately, restricted easements are legally binding documents and is not a material Planning consideration, so cannot be considered as part of this application.

Overall, it is considered that the scale and design of the proposed new bandstand will not create any overlooking, security or privacy issues given the sites separation distance from the properties adjacent on St Georges Road.

The landscaping proposed is a positive improvement to what already exists on site, and the works already carried out relating to the access/pedestrian walkway albeit retrospective, are considered acceptable.

The site is currently partially screened along the Eastern perimeter adjacent to the road by existing, mature trees which are proposed to remain as part of the proposal.

It is therefore considered that the proposal would not negatively impact upon the character and appearance of the surrounding area and therefore complies with Policy DS4 of the Copeland Local Plan.

#### Landscaping

Strategic Policy N12 of the Copeland Local Plan states that development proposals that enhance Protected Open Spaces will be supported where they accord with the Development Plan. Development proposals that enhance Protected Open Spaces will be supported where they accord with the Development Plan.

Policy N6 of the Copeland Local Plan states that the Borough's landscapes will be protected and enhance by: supporting proposals which enhance the value of Copeland's landscapes; protecting all landscapes from inappropriate change by ensuring that development conserves and enhances the distinctive characteristics of that particular area in a manner commensurate with their statutory status and value; ensuring development proposals demonstrate that their location, scale, design and materials will conserve and where possible enhance the natural beauty, wildlife and cultural heritage of the Lake District National Park and Heritage; and Requiring a Landscape Appraisal, and where appropriate a Landscape and Visual Impact Assessment, to be submitted where development has the potential to impact upon landscape character or a protected landscape.

Where harm is identified the development will only be permitted where the benefits of the development outweigh any potential harm and mitigation and compensation measures must be provided. This policy further states that development proposals must be informed by the Council's Landscape Character Assessment, Settlement Landscape Character Assessment the Cumbria Landscape Character Guidance and Toolkit and where appropriate, the Lake

District National Park Landscape Character Assessment 108 from the earliest stage.

The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the site as being within coastal urban fringe containing low lying flat land with mixed land cover of mown grass, pasture, scrub and semi natural grassland. The CLCGT states that qualities of this landscape and seascape should be enhanced, restored and improved as important settings for recreation. In order to foster strong local ownership and distinctiveness, improvements should be made regarding community involvement. The rural and natural qualities of these areas will be reinforced and there will be the development of a bold landscape structure to unify disparate uses. This will be achieved through the conservation of rural green areas and a reduction in the impact of development in prominent locations.

As part of the proposal, a hard and soft landscaping scheme is proposed which comprises extensive planting of native and non-native trees and cultivars, shrubs and wildflowers with a total of 55 new trees planted. There are numerous mature and maturing trees on the site, sizes vary from extra-large to small maturing trees on the southern boundary all of which will be retained.

The proposed band stand will be constructed on an area of paths and mown grassland. The proposed planting scheme will be secured with the use of an appropriately worded condition.

Overall, it is considered that the proposed development will provide a positive regeneration of the Palladium Gardens whilst contributing positively to the historical significance of the Landscape of this green space, and the Millom Conservation Area.

The proposal is therefore considered to comply with Policy N6, N12 of the Copeland Local Plan and visions of the CLCGT.

#### Impact on Heritage Assets

Strategic Policy BE1 and BE2 of the Copeland Local Plan seek to protect or enhance heritage assets and their setting. Proposals that better reveal the significance of heritage assets will be supported in principle.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, states that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of [a conservation] area.”

NPPF para. 203 states that “In determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, and the desirability of new development making a positive contribution to local character and distinctiveness”.

NPPF para. 212 states, in the case of designated heritage assets, “great weight should be given to the asset’s conservation”, irrespective of whether potential harm is substantial, less than-substantial, or total loss. Where harm to a designated heritage asset is less-than substantial, it should be weighed against the public benefits of the proposal (para. 208).



Paragraph 216 of the National Planning Policy Framework (NPPF) states the effect on the significance of a non-designated heritage asset should be taken into account when making decisions and a balanced judgement will be required.

Opportunities should be sought for new development within conservation areas and the settings of heritage assets that enhances or better reveals their significance. (para. 219)

The Council's Conservation and Design Officer is supportive of the concept as the proposed band stand is attractive and will make a pleasant addition to this space overall. However, there is value to the Conservation Area in its greenness, so care should be taken not to excessively hard surface it or fill it with structures incrementally.

As some elements of the access/tarmac surfacing have already been undertaken, this application must seek to address whether this specific element of the proposal is acceptable retrospectively. Overall, it is considered the proposal is relatively modest and therefore shouldn't cause undue harm to that while adding benefits of its own.

Clarification was sought on whether the ornate fretwork of the bandstand is to be cast or in laser-cut sheet metal and the proposed finish. The Agent confirmed that the roofing panels for the bandstand will be supplied with a 2mm thick skin aluminium sheet metal complete with a large decorative cast finial, and all proposed metalwork components will be treated with a durable polyester powder coating finished to any standard classic RAL reference, complete with a matt, satin or gloss finish.

Following re consultation with the Council's Conservation and Design Officer, he had no further comments to make in respect of this application.

On this basis, the proposal complies with Policies BE1 and BE2 of the Copeland Local Plan, and provisions of the NPPF.

#### Impact on Biodiversity and Ecology

Policy N1 of the ELP seeks to ensure that new development will protect and enhance biodiversity and geodiversity and defines a mitigation hierarchy. These policies set out the approach towards managing development proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

Policy N3 requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1. This is in addition to any compensatory habitat provided under Policy N1. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

In England, BNG is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Applications must now deliver a Biodiversity Net Gain of 10%, resulting in more or better-quality natural habitat than there was before the development. Some developments are however except from these BNG

	<p>requirements.</p> <p>The application site is identified as a potential area for natterjack toads. However, the application site is not located within 200m of a watercourse (as indicated within the ALGE trigger list), and on this basis, the scale and nature of the proposal is not considered to significantly impact existing habitats.</p> <p>The Councils ecologist has recommended a BNG informative to be attached to the decision notice before development begins to ensure that a 10% net gain is met, and that a Habitat Management and Monitoring Plan ensures onsite habitat provisions are met.</p> <p>It is therefore considered that given the condition proposed, the development will comply with Policies N1 and N3 of the Copeland Local Plan and the NPPF guidance.</p> <p><u>Planning Balance and Conclusion</u></p> <p>The application seeks permission for the installation of a new pedestrian access, construction of a new bandstand, and the implementation of a new landscaping scheme.</p> <p>The proposed development is considered to be appropriate in scale and design.</p> <p>The proposal will improve the Millom Area and will have a positive impact on both community facilities and health and wellbeing.</p> <p>The proposal will not have any detrimental impacts upon heritage assets, or Highway safety, and the use of two appropriately worded planning conditions will protect the Landscape and Ecology and Biodiversity Net Gain.</p> <p>On balance, the proposed works represent an acceptable form of development which accords with the policies set within the Copeland Local Plan and the guidance in the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. 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>



## Cumberland Council

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|  | <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> <ul style="list-style-type: none"><li>- Application Form, received 3<sup>rd</sup> October 2025;</li><li>- Site Location/Block Plan scale 1:1250/500, drawing 25-29-P-L, received 3<sup>rd</sup> October 2025;</li><li>- Proposed Site Plan, scale 1:250, drawing 25-29-P-01, received 3<sup>rd</sup> October 2025;</li><li>- Proposed Bandstand details 1:15, drawing 27779-02, received 3<sup>rd</sup> October 2025;</li><li>- Design, Access &amp; Heritage Statement, received 3<sup>rd</sup> October 2025;</li><li>- BNG Assessment, Report 1025/1, received 3<sup>rd</sup> October 2025;</li><li>- BNG Metric, received 3<sup>rd</sup> October 2025;</li><li>- Landscape Design Plan, scale 1:100, drawing PA01 received 3<sup>rd</sup> October 2025.</li></ul> <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. No development hereby permitted shall commence until a Habitat Management and Monitoring Plan has been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason</p> <p>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.</p> <p>4. The development hereby approved shall not be brought into use until the habitat creation and habitat enhancement works detailed in the Habitat Management and Monitoring Plan secured by Planning Condition 3 have been completed in accordance with the approved details.</p> <p>Reason</p> <p>In the interests of ensuring measurable net gains to biodiversity and in accordance</p> |
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with the provision of Strategic Policy N3 of the Copeland Local Plan 2021-2039, the National Planning Policy Framework and The Environment Act 2021.

5. All hard and soft landscape works shall be carried out in accordance with the Landscape Design Plan, scale 1:100, drawing PA01 received by The Local Planning Authority on 3<sup>rd</sup> October 2025. The works shall be carried out in the first planting season following substantial completion of the development. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

#### Reason

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with the provisions of Policy DS5 and Strategic Policy N6 of the Copeland Local Plan 2021-2039.

#### Informative Notes

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

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority demonstrating a 10% net gain,
- b) the planning authority has approved the plan in writing,
- c) the onsite habitat provision is accompanied by a Habitat Management and Monitoring Plan in place for 30 years as the gains here constitute ‘Significant On-site Gains’, this monitoring plan is to be accepted by the council and,
- d) Monitoring results are to be programmed to be submitted to the council. These should include evidence demonstrating how BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed. The development shall be carried out in accordance with the approved plans.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the

statutory exemptions or transitional arrangements are considered to apply.

Before commencing development, a Biodiversity Gain Plan needs to be submitted and approved by the local planning authority.

Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

The template for the preparation of a Biodiversity Gain Plan can be accessed via this link:  
<https://www.gov.uk/government/publications/biodiversity-gain-plan>

#### **Statement**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against, primarily, the development plan policies, any duties applicable and also all material considerations, including Local Plan policy, the National Planning Policy Framework and any stakeholder representations that may have been received. In this context, having identified matters of concern with the application as originally submitted and, if applicable, following negotiations with the applicant, acceptable amendments and solutions to the proposal have been received. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

**Case Officer: Demi Crawford**

**Date : 27/1/2025**

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

**Date : 28/11/2025**

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