



CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/25/2418/0F1
2.	Proposed Development:	RETENTION OF OPEN PERGOLA STRUCTURE (RETROSPECTIVE)
3.	Location:	THE TOWER, INKERMAN TERRACE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	Publicity Representations &Policy	See report.
7.	Report:	<p>Site and Location</p> <p>This application relates to The Tower, a tall, square, distinctive stone building with historic characteristics, which is understood to be a former Brewery.</p> <p>It is located upon a steep driveway serving the dwellings Tower House, Tower Cottage and Bramble Cottage.</p> <p>The host property has a raised external balcony with spiral staircase exists on the front elevation.</p> <p>The property lies just within the boundary of the Corkickle Conservation Area.</p> <p>Proposal</p> <p>The proposal seeks retrospective planning permission for the retention of an open sided pergola structure over an existing hardstanding/block paved area, located within the front</p>

garden. The structure is open on all elevations with no sides, solid walls or glazing in situ. The structure is of wooden construction, and measures 8m in length and 4.08m in width, with a height of 2.45m from the ground level at the Tower.

The structure has been designed with a central wooden column with wooden beams that span the width of the structure in a lattice effect over a small paved seating area. It has an additional 60cm decorative piece on its top.

Relevant Planning History

4/89/0852/1 - CONVERSION INTO DWELLING

Consultation Responses

Whitehaven Town Council

No comments received within the consultation period.

The Coal Authority

No comments received within the consultation period.

Cumberland Council Conservation & Design Officer

No objections

- The proposal will have a negligible impact on the setting of this non-designated heritage asset, and no impact on the character and appearance of the conservation area, from which I anticipate no intervisibility.

Public Representations

The application has been advertised by way of a site notice and neighbour notification letters issued to 3 properties. 1 objection has been received in response to this application. The concerns raised within the objection are summarised below:

- The structure in question has been erected directly on our shared boundary fence and dominates my garden. In my opinion, it is both too tall and too close to our shared boundary.
- The ground level on 'The Tower' side of the boundary has been elevated to create a level area for parking. This in itself is not a problem for me, but it means that the 'ground level' on each side of our shared boundary is not the same (my side is now significantly lower). This magnifies the dominating effect of the structure in question by effectively adding significant height to that stated when viewed from my garden. It is unclear to me from the regulations as to how ground level increases should be considered in this context.



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- The site block plan submitted does not appear to be accurate as it shows a significant gap between the structure and our common boundary - which in reality does not exist (evidenced in the supporting photos). 'Plan and Elevation 2' states the gap to the boundary line as 820mm, I believe it is less than this. The elevation drawing provided states a height of 2400 mm, the tallest part of the structure (central column) is significantly taller than this figure. I believe the 2400mm is a ground to beam level measurement, whereas the central column is far taller (and located on our shared boundary).
- In Plan and Elevations 1, the plot area of the structure is 4080 x 8000mm , in 'Plan and elevation 2' 4200 x 6200mm. This seems a significant inconsistency - particularly on length. There are other smaller inconsistencies in the dimensions provided within the attached documents.

Planning Policies

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 Local Plan as commenced by Copeland Borough Council. The Local Plan 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 DS4: Design and Development Standards

Policy H14: Domestic Extensions and Alterations

Strategic Policy BE1: Heritage Assets

Policy BE2: Designated Heritage Assets

Policy BE4: Non-designated Heritage Assets

Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

The Conservation Area Design Guide

Countryside and Wildlife Act 1981

Assessment

The key issues raised by this proposal are the principle of development, its scale and design, the potential impacts on residential amenity, impact on Heritage assets and Biodiversity Net Gain.

Principle of Development

The retrospective application relates to a residential dwelling within the Corkickle Area of Whitehaven. The development includes an open sided pergola structure over an existing hardstanding/block paved seating area, located within the front garden to provide outdoor amenity space for the host dwelling.

Policy H14 of the Copeland Local Plan supports domestic extensions and alterations to residential properties subject to detailed criteria, which are considered below.

The principle of development is therefore accepted within the context of Policy H14 of the Copeland Local Plan.

Scale and Design

Policy H14 of the Copeland Local Plan indicates that developments within the curtilage of existing properties will be permitted, provided that they would not adversely alter the existing building or street scene, and they would retain an adequate provision of outdoor amenity space to serve the property.

Policy DS4 of the Copeland Local Plan and section 12 of the NPPF indicates that all new development should meet high quality standards.

The pergola structure that has been erected measures 8m in overall length and 4.08m in width, with a height of 2.45m.

A letter of objection has been received which raises concerns that the measurements indicated above on the plans submitted are not accurate. A site visit was therefore undertaken and measurements obtained which correspond to those detailed above. There is an additional 60cm decorative piece on top of the central column which would take the overall



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height to 3.05m however this is not considered to affect the overall massing of the structure.

The structure is of a wooden construction and has been designed with a central wooden column consisting of 6 vertical beams, with horizontal beams spanning the width of the structure to give a lattice roof design. The structure is open on all elevations with no sides, solid walls or glazing in situ.

A 1m high fence sits behind the pergola to indicate the boundary of the property.

The materials used are of typical pergola design and use and are therefore considered to be appropriate in this context.

The dwelling does not benefit from a typical rear garden and instead has a small area to the side of the property with decking and a small shed. The applicant has confirmed that the paved area to the front of their property is therefore their main area of outdoor amenity space to serve the property.

Notwithstanding its overall size, the location of the pergola has been erected in a suitable location at this site in order to retain an adequate provision of useable outdoor amenity space in accordance with Policy H14 of the Copeland Local Plan.

The scale and design of the pergola are considered to be acceptable, and the materials used are considered suitable for their use.

With regards to scale and design the development complies with policies DS4 and H14 of the Copeland Local Plan and NPPF guidance.

Residential Amenity

Policy DS4 of the Copeland Local Plan states that all new development should maintain high levels of amenity.

Policy H14 of the Copeland Local Plan indicates that house extensions will be permitted provided that the development would not harm the amenity of the occupiers of the parent property or adjacent dwellings.

As the application is retrospective, consideration has to be given to the impact based upon what has already been erected in this instance.

One objection has been received in relation to the consultation process which raises concerns that the structure has been erected directly on the shared boundary fence with the neighbouring property and alleges that the ground levels of The Tower have been elevated to create a parking area which thus magnifies the dominance of the structure upon the neighbouring property garden.

The applicant has confirmed that the old boundary wall was in poor condition and the ground was uneven, which required intervention to level out and reinforce it so that the area could be maintained accordingly. In addition, following a site visit, it is clear that the host property "The Tower" is situated on a plot that is already elevated to the neighbouring properties at Tower

House, and the ground slopes steeply downhill. The immediate property downhill, number 3 Tower House has a conservatory constructed close to the boundary with The Tower however, due to the varying gradients on site, this sits slightly below the ground level of the host property.

The pergola is stepped off the boundary with the conservatory by 0.82m, which is indicated with a 1m high boundary fence, and also includes mature hedgerow and shrubbery present along this elevation which is considered to shade the neighbouring property conservatory more than the scale of the pergola itself.

Whilst the pergola is situated close to the boundary, it has already been reduced in size previous to the planning application being submitted after the applicant sought advice from The Council.

The structure is open on all elevations with no sides, solid walls or glazing in situ, and has been designed to be roofless. Whilst the structure is located in close proximity to the neighbouring property, the design of the structure is not considered to detrimentally harm the neighbouring residential amenity to warrant refusal of this application. However, in order to protect residential amenity further, a planning condition is proposed to ensure that the development is retained in its existing form and is therefore not modified in any way without the prior written consent from the Local Planning Authority.

On balance, the proposal is therefore considered acceptable and complies with Policies DS4 and H14 of the Copeland Local Plan in this regard.

Impact on Heritage Assets

Policy BE1 provides for the preservation and enhancement of built heritage assets and ensures that new development is sympathetic to local character and history.

Policy BE2 states that development should preserve or enhance designated heritage assets (or important archaeological sites) and their settings. Proposals that preserve or enhance the character or appearance of a Conservation Area, especially those elements which have been identified in a Conservation Area Appraisal as making a positive contribution to its significance will be supported.

Policy BE4 refers to non-designated heritage assets, saying that development should preserve or enhance such heritage assets and their settings. Proposals that better reveal the significance of heritage assets will be supported in principle. Proposals affecting non-designated heritage assets or their settings should demonstrate that consideration has been given to their significance.

The host property is just located within the Corkickle Conservation Area boundary of it, however, the property is not a Listed Building. The site is therefore a non-designated Heritage Asset.

The property is located up a winding private driveway, and the pergola cannot be seen from



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	<p>the roadside. On this basis, it is not considered to negatively impact the Conservation Area.</p> <p>The Council's Conservation & Design Officer has been consulted on the application, and he has raised no objections. In his opinion the proposal will have a negligible impact on the setting of this non-designated heritage asset, and no impact on the character and appearance of the conservation area.</p> <p>On this basis, the structure is considered acceptable in terms of Policies BE1, BE2 and BE4 of the Copeland Local Plan.</p> <p><u>Biodiversity Net Gain</u></p> <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. The application details indicate that it is believed that if permission is granted for the development to which the application relates, the biodiversity net gain condition would not apply. There are exemptions to the biodiversity net gain requirement.</p> <p>An exemption applies to development which is the subject of a householder application. It is therefore accepted that the biodiversity net gain condition should not be applied in this case.</p> <p><u>Planning Balance and Conclusion</u></p> <p>This application seeks retrospective Planning permission for the retention of an open sided pergola structure over an existing hardstanding/block paved area, located within the front garden of The Tower.</p> <p>The property is located within the Corkickle Conservation Area, however, the structure cannot be seen from the roadside and is not considered to negatively affect the Conservation Area.</p> <p>The proposed structure is considered to be acceptable given its scale and design. The structure is not considered to have a detrimental impact upon neighbouring amenity; however, the use of an appropriately worded planning condition is proposed to further protect residential amenity.</p> <p>On this basis, the proposal is considered to be acceptable and complies with the policies of the Copeland Local Plan and NPPF guidance.</p>
8.	<p>Recommendation:</p> <p>Approve</p>
9.	<p>Conditions:</p> <p>1. Permission shall relate to the following plans and documents as received on the</p>

respective dates and development shall be carried out in accordance with them: -

- Application Form, received 4th December 2025;
- Site Location Plan, scale 1:1250, received 4th December 2025;
- Site Block Plan, scale 1:500, received 4th December 2025;
- Plans & Elevations, scale 1:100, received 4th December 2025;
- Design, Heritage and Access Statement, received January 2026;
- Supporting Photographs, received 4th December 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.

2. The development shall be retained in its existing form as per the approved plans and documents received by the Local Planning Authority on 4th December 2025 and shall not be modified without prior written consent from the Local Planning Authority.

Reason

To protect residential amenity in accordance with Policies DS4 and H14 of the Copeland Local Plan.

Informative Notes

Development Low Risk Area – Standing Advice – Mining Remediation Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242 Further information is also available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

Biodiversity Net Gain – Exemption

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 local planning authority, and
- (b) the local planning authority has approved the plan.

The planning authority, for the purposes of the Biodiversity Gain Plan is Cumberland



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Council.

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 one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

Applicable exemption: Householder development.

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: Demi Crawford

Date : 28/01/2026

Authorising Officer: N.J. Hayhurst

Date : 29/01/2026

Dedicated responses to:-