



## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/26/2015/0F1
2.	<b>Proposed Development:</b>	INSTALLATION OF FIVE SCULPTURE POLES FORMING PART OF AN ART TRAIL
3.	<b>Location:</b>	LAND BETWEEN PUBLIC FOOTPATH AND STUBSGILL BECK, DISTINGTON
4.	<b>Parish:</b>	Distington
5.	<b>Constraints:</b>	ASC Adverts - ASC;Adverts, TPO - TPO, Coal - Standing Advice - Data Subject To Change, Outer Consultation Zone - Cycliffe 3KM, PROWs - Public Right of Way
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: NO  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>	
	<b>Site and Location</b>	This application relates to five points between the public footpath and Stubsgill Beck, Distington.
	<b>Relevant Planning Application History</b>	There are no previous applications in these locations.

## **Proposal**

Planning permission is sought for the installation of five sculpture poles forming part of an art trail by Stubsgill Beck, Distington. The sculpture poles are 15cm in diameter each and will be post-creted into the ground. The poles are topped by a 35 x 35 cm square with a 20 cm rotational disc in the centre depicting woodland artwork.

This proposal forms part of the Riveting Rivers scheme. The poles will depict the life cycles of various animals.

## **Consultation Responses**

### Distington Parish Council

No response received.

### Cumbria Highways/Local Lead Flood Authority

#### 1<sup>st</sup> response

- Access:

Please confirm whether the site will be accessed on foot or by vehicle. All plant, machinery, equipment, and any concrete-mixing activities must be kept well away from the watercourse at all times.

- Public Right of Way:

A Public Right of Way (footpath/bridleway/byway) No. 404006 lies adjacent to/within the site. The applicant must ensure that no obstruction to this PROW occurs during the works or upon completion of the development.

#### 2<sup>nd</sup> response

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.

### Footpaths Officer

We have no objection to the application. Public Right of Way FP 404006 is located to the north of the development site. The applicant should be advised that:

- The granting of planning permission would not give the applicant the right to block or obstruct the Public Right of Way shown on the attached plan.
- The Public Right of Way as shown on the definitive map and statement must be kept open and unaltered for public use until an order made to divert, extinguish or to temporarily close it has been confirmed.



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### Environment Agency

No response received.

### Public Representation

The application has been advertised by way of a site notice.

No responses were received as part of these advertisements.

### **Planning Policies**

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 2001-2016.

The policies relevant to this proposal are:

Strategic Policy DS1: Settlement Hierarchy

Strategic Policy DS2: Settlement Boundaries

Policy DS4: Design and Development Standards

Strategic Policy DS6: Reducing Flood Risk

Policy DS7: Sustainable Drainage

Strategic Policy SC1: Health and Wellbeing

Policy SC2: Sporting, Leisure and cultural Facilities (excluding playing pitches)

Policy SC5: Community and Cultural Facilities

Strategic Policy N3: Biodiversity Net Gain

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide (NDG).

The Conservation of Habitats and Species Regulations 2017 (CHSR).

Cumbria Development Design Guide (CDDG).

### **Assessment**

#### **Principle of Development**

The site where it is proposed to install the sculpture pole are identified in Strategic Policy DS1 as being outside of any settlement boundaries and are therefore defined as Open Countryside. Policy DS2 defines the exceptions for development with a proven need for an open countryside location including rural development such as agricultural, forestry, farm diversification or tourism that depend on such a location.

Policy SC1 promotes health and well-being by supporting a range of development types including new sports, cultural and community facilities,

Policy SC2 seeks to protect and enhance existing sports and leisure facilities.

Policy SC5 seeks to protect existing community and cultural facilities.

Policy DS4 of the LP seeks to achieve a high standard of design.

The Application relates to a site which is located outside any defined settlement boundaries.

Whilst it is located outside of any settlement boundaries, the sculpture poles will enhance the existing river walk and draw both local users and tourism.

It is considered that the use should be encouraged and would help to facilitate health and cultural benefits to its users.

#### **Scale and Design**

Policy DS4 outlines the requirement for new development to meet high-quality standards of design, including measures such as: creation and enhancement of locally distinctive places sympathetic to surrounding context; use good quality building materials that reflects local character and vernacular, sourced locally where possible; support good health and well-being by incorporating high quality, inclusive and useful open spaces and providing high levels of



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residential amenity; create layouts that encourage walking and cycling; provision of safe and accessible pedestrian routes; create opportunities that encourage social interaction; be of flexible and adaptable design; maximise solar gain; and, address land contamination and land stability.

The development is modest with five small poles being positioned within an existing walking route. In accordance with Policy DS4 the development supports health and wellbeing.

The Highway Authority initially requested information relating to the access of the site. It was clarified that this would be on foot and this was considered to be acceptable.

On balance and given the existing characteristics, appearance and constraints of the Application Site, it is considered that in design terms, the development is acceptable in its context.

### **Flood Risk and Drainage**

Policy DS7 requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.

Policy DS6 seeks that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.

The Council's GIS details that the development is situated within Flood Zone 3, therefore being at significant risk of flooding. A Flood Risk Assessment has been submitted in support of the application.

Cumberland Council – LLFA have confirmed no objections to the flood risk assessment and consider that there is unlikely to be a material effect on site or elsewhere due to the development. No response was received from the Environment Agency.

Overall, the drainage is considered to comply with Policies DS6 and DS7 of the Copeland Local Plan.

### **Biodiversity Net Gain 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.

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.

Biodiversity Net Gain became mandatory for small sites in the UK on 01<sup>st</sup> April 2024.

This development will impact less than 25 square metres and is therefore considered to be exempt.

	<p><b>The Planning Balance</b></p> <p>Whilst the site is located outside of any settlement boundaries, the sculpture poles will enhance the existing river walk and draw both local users and tourism. This is given great weight.</p> <p>The project will promote health and well-being and will encourage cultural use of the area. This is given great weight.</p> <p>Given the existing characteristics, appearance and constraints of the Application Site, it is considered that in design terms, the development is acceptable in its context. It has been designed to be modest and will limit the impact on public viewpoints. This is given moderate weight.</p> <p>In accordance with Policies DS6 and DS7, there is unlikely to any effect on the existing situation in relation to flood risk. This is given moderate weight.</p> <p>In overall terms, the development is considered to represent a sustainable form of development which is in conformity with the requirements of the development plan.</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> <ol style="list-style-type: none"> <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 21st January 2026;</li> <li>Location Plan, scale 1:1250, received 21st January 2026;</li> <li>Elevations and Design, received 21st January 2026;</li> <li>Flood Risk Assessment, written by the West Cumbria Rivers Trust, received 21st January 2026.</li> </ul> </li> </ol>



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### 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.

### Informative Notes

#### Environmental Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

#### 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 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: De Minimis

	<b>Statement</b> 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.
<b>Case Officer: Sarah Papaleo</b>	<b>Date : 10/03/2026</b>
<b>Authorising Officer: N.J. Hayhurst</b>	<b>Date : 16/03/2026</b>
<b>Dedicated responses to:- N/A</b>	