

**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/26/2062/0G1	
2.	<b>Proposed Development:</b>	REMOVAL OF CONDITION 3 (6M BALL STOP FENCE) OF PLANNING APPLICATION 4/24/2050/0R1 APPLICATION FOR RESERVED MATTERS RELATING TO APPEARANCE, LANDSCAPING, LAYOUT & SCALE PURSUANT TO OUTLINE APPLICATION 4/21/2360/0O1	
3.	<b>Location:</b>	LAND AT SCALEGILL ROAD, WHITEHAVEN, MOOR ROW	
4.	<b>Parish:</b>	Egremont	
5.	<b>Constraints:</b>	ASC Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, PROWs - Public Right of Way	
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	<b>Report:</b>		
	<b>Site and Location</b>		
	<p>This application site relates to an area of agricultural land to the north of Scalegill Road to the west of Moor Row. The site covers an area of 1.50 hectares, and lies to the east of the new residential estate of Rusper Drive. The northern boundary of the site abuts the embankment to the Whitehaven-Rowrah cycleway, the eastern boundary adjoins the recreation ground and</p>		

the Moor Row Social Club is located adjacent to the southern boundary which partially occupied the site frontage.

### **Relevant Planning History**

4/21/2360/001 – Outline application for residential development with details of proposed access junction and all other matters reserved – Approved by Planning Panel subject to S106 agreement.

4/24/2050/0R1 – Application for reserved matters relating to appearance, landscaping, layout & scale pursuant to outline application 4/21/2360/001 – Outline application for residential development with details of proposed access junction and all other matters reserved – Approved.

4/25/2156/0A1 – Advertisement consent application for a sales board for housing development – Approved Advertisement Consent.

4/25/2101/DOC – Discharge of conditions 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, and 15 of planning application 4/21/2360/001 – Approved.

### **Proposal**

In December 2024, reserved matter approval (ref: 4/24/2050/0R1) was granted at this site relating to the appearance, landscaping, layout & scale pursuant to outline application 4/21/2360/001 – Outline application for residential development with details of proposed access junction and all other matters reserved.

This current application seeks permission to remove condition 3 attached to this reserved matters permission, which states the following:

3. Prior to its first installation at the application site, full details of the proposed 6 meter high ball stop fence to be installed along the eastern boundary as shown on the approved plan 'As Proposed Site Plan (Amended), Scale 1:200, Dwg No: 01, Rev: K, received by the Local Planning Authority on the 19<sup>th</sup> September 2024' must be submitted to and approved in writing by the Local Planning Authority. A scheme for the management and maintenance of the approved ball-stop fence must also be submitted and approved in writing by the Local Planning Authority prior to its first installation at the application site. The approved scheme must be installed prior to the first occupation of plots 10, 11, 12, and 13, and must remain in operational in accordance with the approved details for the lifetime of the development.

Reason

To protect the playing field and enable the residential development to exist alongside



## Cumberland Council

to meet the requirements of the NPPF.

### **Consultation Responses**

#### Egremont Town Council

No objection as long as Sports England have no objection.

#### Sports England

Thank you for consulting Sport England in respect of the removal of condition 3 which relates to a ball stop fence of planning application 4/24/2050/OR1.

Condition 3 of planning application 4/24/2050/OR1 reads:

“Prior to its first installation at the application site, full details of the proposed 6 meter high ball stop fence to be installed along the eastern boundary as shown on the approved plan ‘As Proposed Site Plan (Amended), Scale 1:200, Dwg No: 01, Rev: K, received by the Local Planning Authority on the 19th September 2024’ must be submitted to and approved in writing by the Local Planning Authority. A scheme for the management and maintenance of the approved ball-stop fence must also be submitted and approved in writing by the Local Planning Authority prior to its first installation at the application site. The approved scheme must be installed prior to the first occupation of plots 10, 11, 12, and 13, and must remain in operational in accordance with the approved details for the lifetime of the development. Reason

To protect the playing field and enable the residential development to exist alongside to meet the requirements of the NPPF.”

#### *The views of the National Governing Bodies for Sport*

As part of the assessment of this consultation, Sport England has sought the views of the following National Governing Bodies for Sport. These Governing Bodies act as Sport England’s technical advisors in respect of their sport and their sport facilities and ball strike.

The comments of the Football Foundation (FF), who provide observations to Sport England on behalf of the Football Association, have been summarised as:

- FF and County Football Association believe that due to the current sporadic usage on site and the distance away from the pitch, that the condition for the 6m fence could be removed.

#### *Sport England’s assessment of the planning condition*

The requirement for the ball stop mitigation was proposed at the reserved matters stage of the planning application and secured by way of condition 3.

Ball strikes have the potential to constitute a nuisance under the Environmental Health legislation and as such could prejudice the sporting use of the playing field.

Normally, Sport England would expect a ball strike fence/mitigation to be informed by a ball strike risk assessment which would consider the height and trajectory of any balls leaving a playing field. In the case of this planning consultation, a ball strike assessment has not been provided. However, Sport England notes that the applicant has provided a justification for the removal of the requirement for the ball stop mitigation originally proposed at the reserved matters stage, which relates to the use of the adjacent primary school site.

In planning consultations where there might be a possible risk of ball strike, Sport England will seek the views of the respective National Governing Bodies for Sport to seek their opinion if ball strike is likely to be an issue. This is because the Governing Bodies for Sport are the experts in ball strike matters relating for their sport.

In the case of this proposal, the FF, along with the County Football Association, comment above that due to the current sporadic usage on site and the distance away from the pitch, that the condition for the 6m fence could be removed.

In light of the specific circumstances that related to this site and this planning consultation, and the technical comments provided by the FF above, Sport England is satisfied that on this occasion that the ball stop fence is now no longer required. This is subject to the Council's Environmental Health Department being fully satisfied.

Sport England would advise that the Local Planning Authority (if they have not already done so), that they should undertake a formal consultation with their Environmental Health Department on this proposal to ensure that they are fully satisfied with the proposal to remove the ball stop fence.

Should the Environmental Health Department raise any concerns over the removal of the fence and the associated planning condition, Sport England would be grateful if the Local Planning Authority can reconsult Sport England with a copy of the Environmental Health's comments and we can review our position on this planning consultation.

### *Conclusion*

Sport England *does not wish to raise an objection* to the removal of the planning condition *subject to the Environmental Health Department not raising any concerns to the removal.*

The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

### Cumberland Council – Environmental Health

There are no objections from Environmental Health to the removal of condition 3 as detailed in this application.

Should anti-social behaviour / nuisance noise become an issue to residents, there is possible alternative redress through the statutory nuisance provisions of the Environmental Protection



## **Cumberland Council**

Act 1990 and provisions contained in the Anti-Social Behaviour, Crime and Policing Act 2014 overseen by this Council and Cumbria Police.

### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to 32 properties.

One letter of response has been received stating the following:

- No objections to the 6m ball stop fence being removed from the planning 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 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.

Strategic Policy DS1: Settlement Hierarchy

Strategic Policy DS2: Settlement Boundaries

Policy DS4: Design and Development Standards

Policy DS5: Hard and Soft Landscaping

Strategic Policy DS6: Reducing Flood Risk

Policy DS7: Sustainable Drainage

Policy DS8: Soils, Contamination and Land Stability

Strategic Policy H1: Improving the Housing Offer

Strategic Policy H2: Housing Requirement

Strategic Policy H3: Housing Delivery

Strategic Policy H4: Distribution of Housing

Strategic Policy H5: Housing Allocations

Policy H6: New Housing Development

Policy H7: Housing Density and Mix

Strategic Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N2: Local Nature Recovery Networks

Strategic Policy N3: Biodiversity Net Gain

Strategic Policy CO4: Sustainable Travel

Policy CO5: Transport Hierarchy

Policy CO7: Parking Standards

### **Other Material Planning Considerations**

National Planning Policy Framework (2024)

National Design Guide (NDG).

Cumbria Development Design Guide (CDG)

Strategic Housing Market Assessment 2021 (SHMA)

Copeland Borough Council Housing Strategy 2018 – 2023 (CBCHS)

The Cumbria Landscape Character Guidance and Toolkit (CLGC)

Copeland Borough-Wide Housing Needs Survey (2020)

National Planning Practice Guidance (NPPG)

### **Assessment**

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that to assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission



## Cumberland Council

	<p>unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.</p> <p>In terms of the conditions attached to the previous decision notice (ref: 4/24/2050/0R1) condition 1, 2, 4, 5, 6, 7 and 8 will be repeated to ensure works are carried out as per the approved details. The reason set out for condition 7 will also be amended to reflect the current adopted Local Plan.</p> <p>This application seeks to remove condition 3 of the original reserved matters approval. This condition sought the erection of a 6m ball stop fence to be installed along the eastern boundary of the site, prior to the first occupation of plots 10, 11, 12, and 13, with details to be submitted of the fence and its maintenance prior to its installation.</p> <p>The agent for this application has submitted a supporting statement with this application setting out a number of reasons that the conditions is not required, including examples of other developments without this requirement; lack of use of adjacent football pitch, and distance and orientation from the application site.</p> <p>Sports England, who originally requested this condition, have reviewed the application and have confirmed that based on advice from the Football Foundation they have no objection to this condition being removed due to the sporadic usage of the playing field and the applications sites distance from the pitch. Sports England have however confirmed that their no objection is dependent on the Council's Environmental Health Team also offering no objections to the proposal.</p> <p>Based on this, the Council's Environmental Health Team have reviewed the application and have confirmed that they have no objections with the removal of this condition. They have confirmed that any nuisance can be detail with via the Environmental Protection Act 1990 and the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>Moor Row School, the user of the playing field, have also confirmed no objections to the application.</p> <p>On the basis of the comments received from Sports England and the Council's Environmental Health Team condition 3 can be removed.</p>
8.	<p><b>Recommendation:</b> Approve</p>
9.	<p><b>Conditions:</b> <u>Standard Conditions</u></p> <p>1. The development must be carried out in accordance with the plans submitted and in</p>

accordance with the conditions attached to the outline planning permission.

#### Reason

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them:-

- Location Plan, Scale 1:1250, received by the Local Planning Authority on the 8<sup>th</sup> February 2024.
- As Proposed Site Plan (Amended), Scale 1:200, Dwg No: 01, Rev: L, received by the Local Planning Authority on the 18<sup>th</sup> December 2024.
- As Proposed House Type (Amended), Scale 1:100, Dwg No: 02, Rev: A, received by the Local Planning Authority on the 7<sup>th</sup> March 2024.
- As Proposed House Type (Amended), Scale 1:100, Dwg No: 03, Rev: A, received by the Local Planning Authority on the 7<sup>th</sup> March 2024.
- Highways & External Levels Plan Sheet 1 of 2 (Amended), Scale: 1:200, Drawing No: 01, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- Highways & External Levels Plan Sheet 2 of 2 (Amended), Scale: 1:200, Drawing No: 02, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- Highways Longitudinal Section (Amended), Scale: 1:200, Drawing No: 03, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- External Works Plan Sheet 1 of 2 (Amended), Scale: 1:200, Drawing No: 04, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- External Works Plan Sheet 2 of 2 (Amended), Scale: 1:200, Drawing No: 05, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- External Works Construction Details (Amended), Scale: 1:200, Drawing No: 06, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- Foul & Surface Water Drainage Plan Sheet 1 of 2 (Amended), Scale: 1:200, Drawing No: 20, Rev: B, received by the Local Planning Authority on the 26<sup>th</sup> July 2024.
- Foul & Surface Water Drainage Plan Sheet 2 of 2 (Amended), Scale: 1:200, Drawing No: 21, Rev: B, received by the Local Planning Authority on the 26<sup>th</sup> July 2024.
- Section Through SuDS Detention Basin and Headwall Details (Amended), Scale: 1:20 & 1:200, Drawing No: 22, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- General Drainage Construction Details, Scale 1:20, Drawing No: 23, Rev: -, received by the Local Planning Authority on the 8<sup>th</sup> February 2024.
- Surface Water Drainage Catchment Plan (Amended), Scale: 1:500, Drawing



## Cumberland Council

- No: 24, Rev: A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
- Drainage Strategy (Amended), Prepared by R G Parkins April 2024, Ref: K40461.DS/001A, received by the Local Planning Authority on the 30<sup>th</sup> April 2024.
  - Operation & Maintenance Plan for Sustainable Drainage Systems, Prepared by R G Parkins January 2024, Ref: K40461.ON/002, received by the Local Planning Authority on the 8<sup>th</sup> February 2024.
  - Landscape Plan (Amended), Scale: 1:250, Drawing No: WW/LO1 D, received by the Local Planning Authority on the 20<sup>th</sup> September 2024.
  - Design and Access Statement (Amended), received by the Local Planning Authority on the 4<sup>th</sup> March 2024.
  - Arboricultural Method Statement, received by the Local Planning Authority on the 16<sup>th</sup> October 2024.
  - Solar PV Schedule, received by the Local Planning Authority on the 11<sup>th</sup> December 2024.
  - Solar PV Panel Details, received by the Local Planning Authority on the 18<sup>th</sup> December 2024.
  - Materials Schedule, received by the Local Planning Authority on the 18<sup>th</sup> December 2024.

### 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.

### Prior to First Use/Occupation Conditions:

3. –

4. Prior to the first occupation of each dwelling hereby approved, the boundary treatment on that occupied plot must be installed in accordance with the following approved plans:

- As Proposed Site Plan (Amended), Scale 1:200, Dwg No: 01, Rev: K, received by the Local Planning Authority on the 19<sup>th</sup> September 2024.

The development must be retained in accordance with this approved detail at all times thereafter unless agreed in writing with the Local Planning Authority.

### Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with Policy

DS4 of the Copeland Local Plan 2021-2039.

5. Prior to the first occupation of any dwelling hereby approved the gable windows of the occupied dwelling must be fitted with obscure glazing in line with the approved documents:

- As Proposed House Type (Amended), Scale 1:100, Dwg No: 02, Rev: A, received by the Local Planning Authority on the 7<sup>th</sup> March 2024.
- As Proposed House Type (Amended), Scale 1:100, Dwg No: 03, Rev: A, received by the Local Planning Authority on the 7<sup>th</sup> March 2024.

The obscure glazing must be permanently retained at all times thereafter.

Reason

To safeguard the amenities of occupiers of adjoining properties in accordance with DS4 of the Copeland Local Plan 2021-2039.

Other Conditions:

6. All hard and soft landscape works must be carried out in accordance with the details illustrated on the following approved documents:

- Landscape Plan (Amended), Scale: 1:250, Drawing No: WW/LO1 D, received by the Local Planning Authority on the 20<sup>th</sup> September 2024.

The approved works must be implemented in full during the first planting season following completion of the development. Any trees or shrubs which are removed, die or become severely damaged or diseased within ten years of their first planting must be replaced in the next planting season with a similar species and in a similar location within one growing season. Any alterations to the agreed Landscape Plan should be approved in writing by the Local Planning Authority.

Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with Policy N6 of the Copeland Local Plan 2021-2039.

7. The development must be carried out in accordance with and implement all of the mitigation and compensation measures set out in the approved documents:

- Arboricultural Method Statement, received by the Local Planning Authority on



## Cumberland Council

the 16<sup>th</sup> October 2024.

The development must be carried out in accordance with the approved document at all times thereafter.

### Reason

To enhance the appearance of the development in the interest of visual amenities of the area and to ensure a satisfactory landscaping scheme in accordance with Policy N6 of the Copeland Local Plan 2021-2039.

8. The development hereby approved must be completed in accordance with the approved materials detailed within the approved documents:

- As Proposed Site Plan (Amended), Scale 1:200, Dwg No: 01, Rev: L, received by the Local Planning Authority on the 18<sup>th</sup> December 2024.
- Solar PV Panel Details, received by the Local Planning Authority on the 18<sup>th</sup> December 2024.
- Materials Schedule, received by the Local Planning Authority on the 18<sup>th</sup> December 2024.

The development must be retained in accordance with these approved details for the lifetime of the development.

### Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

### **Informative Notes:**

1. Prior to the commencement of this development, the requirements of Planning Conditions 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of Outline Planning Approval Ref: 4/21/2360/001 are required to be submitted and approved in writing by the Local Planning Authority.
2. Prior to the occupation/use of this development, the requirements of Planning Conditions 16, 17, and 18 of Outline Planning Approval Ref: 4/21/2360/001 are required to be submitted and approved in writing by the Local Planning Authority.
3. The development hereby approved must be carried out in accordance with conditions 1, 2, 3, 7, 19, 20, 21, 22, 23, 24, and 25 of Outline Planning Approval Ref: 4/21/2360/001.

4. The granting of planning permission would not give the applicant the right to divert, block or obstruct Public Right of Way FP 406016.
5. Public Right of Way FP 406016 must be kept open and unaltered for public use until an order made to divert or to temporarily close it has been confirmed.
6. The proposed development appears to be within very close proximity to Electricity North West's high and low voltage electricity distribution assets. The applicant should also be advised that, should there be a requirement to divert the apparatus because of the proposed works, the cost of such a diversion is usually borne by the applicant. The applicant should be aware of Electricity North West's requirements for access to inspect, maintain, adjust, repair, or alter any of their distribution equipment.
7. All external lighting must meet the guidelines and obtrusive limits details in the institute of lighting professionals Guidance Notes for the Reduction of Obtrusive light (GN01:2011).
8. 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 Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**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:** C. Burns

**Date :** 14.04.2026

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

**Date :** 15.04.2026

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