

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/26/2131/0B1
2.	Proposed Development:	VARIATION OF CONDITION 2 (PLANS) TO INCREASE SCALE OF BUILDING OF PLANNING APPLICATION 4/23/2085/0F1 - ERECTION OF TWO NEW BUILDINGS (ONE TO CONTAIN UNITS 1 & 2 AND ONE TO CONTAIN UNIT 3) TO INCLUDE COMMERCIAL SHOP FRONT, MANUFACTURE, WAREHOUSING & DISTRIBUTION (USE CLASSES B2 AND B8)
3.	Location:	UNITS 1, 2 & 3 JOE MCBAIN AVENUE, MORESBY PARKS
4.	Parish:	Moresby
5.	Constraints:	ASC Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Key Species - Bounds of Sensitive Area for Hen Harriers, Preferred Route Corridor - Within Preferred Route Corridor
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 a plot of land situated on Joe McBain Avenue in Moresby Parks. The site is located on a commercial park with other units to the west and south west. Joe

McBain Avenue runs to the south and east of the site.

Relevant Previous Planning Permission:

A Planning application for the erection of two new buildings (one to contain units 1 and 2 and one to contain unit 3) to include commercial shop front, manufacturing, warehouse and distribution was approved in August 2023 (application reference 4/23/2085/0F1 relates);

An application for the discharge of conditions 3, 4, 5, 6, 8, 9, 10 and 11 of planning approval 4/23/2085/0F1 was approved in February 2025 (application reference 4/24/2386/DOC relates).

Proposal:

This application seeks to vary condition 2 (plans) of the previous planning permission to allow an increase in the size of building 1 (units 1 and 2).

Planning condition 2 which was imposed on planning permission ref. 4/23/2085/0F1 states the following:

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: -

Application form, received 22nd March 2023;

Site Location Plan, scale 1:1250, drawing number GSK0040, received 25th April 2023;

Proposed Site Plan, scale 1:1250 and 1:500, drawing number MP-PR-002A, received 22nd March 2023;

Proposed Plans, drawing number G-SK002B, received 22nd March 2023;

Proposed Elevations, drawing number GSK001C, received 22nd March 2023;

Proposed 3D Image, received 22nd March 2023;

Preliminary Environmental Appraisal, written by Geo Environmental Engineering, reference GEO 2016-2088, received 22nd March 2023;

Proposed Materials, received 22nd March 2023;

Design and Access Statement, written by Paul Jefferson, received 22nd March 2023;

Drainage Report, written by Kingmoor Consulting, reference 23-186r001, received 25th April 2023;

Agent's Statement re. Trade Counters, received 9th August 2023;

Proposed Floor Plans showing Trade Counters, scales 1:500 and 1:1250, drawing number MP-PR-002C, received 9th August 2023.

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act



Cumberland Council

1990, as amended by the Planning and Compulsory Purchase Act 2004.

Consultee:	Nature of Response:
Whitehaven Town Council	No objections
Cumberland Highways/LLFA	The Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) can confirm that we have no objection to the Variation of condition 2 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.
Environmental Health	There are no objections to this proposed development from Environmental Health.
The Coal Authority	We have no objections to this variation of condition application, however we would request that our Informative Note is added to any new planning permission granted. In the event that any coal mining features are encountered as part of any further ground excavation works, all works should cease and ground conditions should be assessed by a competent and experienced engineer.
Ecology	The County Ecologist has no comments to make on the latest information.
Environment Agency	We have no comments to make in respect of the proposed development. This consultation is inappropriate, and we did not need to be consulted because: Variation of condition – didn't recommend condition.
Neighbour Responses:	
None received.	

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.

Planning approval 4/23/2313/0F1 was determined under the previous Local Plan, however this current discharge of conditions application is being considered under the Copeland Local Plan 2021-2016 as this now forms the development plan.

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 E1: Economic Growth

Strategic Policy E2: Location of Employment

Policy E7: Safeguarding of Employment Sites

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



Cumberland Council

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

The Planning Practice Guidance (NPPG):

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

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. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission 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.

Assessment:

This application seeks to vary condition 2 of the planning approval 4/23/2085/0F1 to allow for minor alterations to the development.

It is proposed to increase the size of the building which will create Units 1 and 2. The details are below:

Layout	Length	Width	Eaves Height	Overall Height
Approved	59m	21m	7m	10m
Amended	62m	27m	11m	13m

The fundamental details of the development will remain the same with a small increase to the overall size of the building. Due to the location which comprises part of a commercial park, the increase in size is not considered to create a significant change to the approved permission and is acceptable.

Consequently, condition 2 is suitable for variation based on the information submitted as part of this application.

Other Planning Conditions

In accordance with the guidance set out in the NPPG it is relevant to consider the other conditions that were imposed on the original planning permission. It is necessary to amend the wording of several of the conditions to reflect the details that have already been agreed

	but which require ongoing compliance. These are summarized below:- Condition 1 – commencement of development before the expiration of three years of the date of the permission – this condition cannot be varied under a S73 application. Condition 2 – plans – to be reworded to include the amended plans. Condition 3 – CTMP – discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 4 – visibility splays – discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 5 – car park design - discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 6 – contamination - discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 7 – pedestrian island – to remain as worded. Condition 8 – SUDS and foul water - discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 9 – SUDS maintenance and management - discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 10 – carriageway access, footpaths - discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 11 – landscaping - discharged in February 2025 (application reference 4/24/2386/DOC relates). Condition 12 – external lighting – to remain as worded. Condition 13 – use class – to remain as worded.
8.	Recommendation: Approve amendment of condition
9.	Conditions: 1. The development hereby permitted must be commenced before the 15th August 2026. Reason To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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: -

Application form, received 28th April 2026;

Site Location Plan, scale 1:1250, drawing number GSK0040, received received 28th April 2026;

Proposed Site Plan, scale 1:1250, drawing number MP-PR-002A, received 22nd March 2023;

Proposed Alterations Building A/B Site Plans, scale 1:250, drawing number 25-052-DWG002 B, received 28th April 2026;

Proposed Alterations Building A/B Elevations, scale 1:250, drawing number 25-052-DWG001 B, received 28th April 2026;

Preliminary Environmental Appraisal, written by Geo Environmental Engineering, reference GEO 2016-2088, received 22nd March 2023;

Proposed Materials, received 22nd March 2023;

Design and Access Statement, written by Paul Jefferson, received 22nd March 2023;

Drainage Report, written by Kingmoor Consulting, reference 23-186r001, received 25th April 2023;

Agent's Statement re. Trade Counters, received 9th August 2023;

Proposed Floor Plans showing Trade Counters, scales 1:500 and 1:1250, drawing number MP-PR-002C, receive 9th August 2023.

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.

3. Development must be undertaken in accordance with the Construction Phase Traffic Management Plan, reference 24-471r002, received 13th November 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety in accordance with Policy CO7 of the Copeland Local Plan.

4. Development must be undertaken in accordance with the Visibility Splay Plan, reference 24-471-DWG009 A, received 13th November 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

In the interests of highway safety and in accordance with Policy CO7 of the Copeland Local Plan.

5. Development must be undertaken in accordance with the parking approved on the Overall Site Plan, reference 24-471-DWG001 A, received 13th November 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

In the interests of highway safety and in accordance with Policy CO7 of the Copeland Local Plan.

6. Development must be undertaken in accordance with the details, strategy and remediation laid out within the Contaminated Land Remediation Strategy, written by Kingmoor Consulting, received December 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework and Policy DS8 of the Copeland Local Plan.

7. Prior to the first occupation of the development hereby approved, highway improvements including a new pedestrian island crossing point and the repositioning of the speed restriction signs on the Moresby Parks Road must be constructed and available for use in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. These must remain operational during the lifetime of the development.

Reason

In order to ensure active travel to and from the site in accordance with Policy CO7 of the Copeland Local Plan.

8. Development must be undertaken in accordance with the drainage approved on the Drainage Detail Plan, reference 24-471-DWG010 A, received 13th November 2024 and

approved under discharge of conditions reference 4/24/2386/DOC.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution and in accordance with Policies DS6 and DS7 of the Copeland Local Plan.

9. Development must be undertaken in accordance with the drainage management approved on the Operational Drainage Management Plan, reference 24-471r004, received December 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development and in accordance with Policies DS6 and DS7 of the Copeland Local Plan.

10. Prior to the first use of the development, accessible parking bays must be provided in accordance with the Overall Site Plan, reference 24-471-DWG001 A, received 13th November 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

To ensure that adequate provision is made for all users in accordance with the adopted car parking guidelines and in accordance with Policy CO7 of the Copeland Local Plan.

11. Prior to the first use of the development hereby approved, the highways and footways must be constructed in accordance with the approved Highways Works Sheets received as part of the discharge of conditions application reference 4/24/2386/DOC. The works must be retained as such at all times for the lifetime of the development.

Reason

To ensure a minimum standard of construction in the interests of highway safety and in accordance with Policy CO7 of the Copeland Local Plan.

12. Development must be undertaken in accordance with the landscaping scheme approved

on the Overall Site Plan, reference 24-471-DWG001 A, received 13th November 2024 and approved under discharge of conditions reference 4/24/2386/DOC.

Reason

In the interests of visual amenity and in accordance with Policy DS5 of the Copeland Local Plan.

13. Prior to their installation full details of any external lighting must be submitted to and approved in writing by the Local Planning Authority. Any lighting must conform to requirements set out in the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E3 contained within the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting GN01/21. Development must be maintained in accordance with the approved details at all times thereafter.

Reason

For the avoidance of doubt and to protect the visual and residential amenity within the locality in accordance with Policy DS4 of the Copeland Local Plan.

14. The commercial premises hereby granted planning permission must be used for Class B2 and B8 of the Town and Country Planning (Use Classes)(England) Order 1987 (as amended) only, including ancillary trade use, and for no other purpose without the express written consent of the Local Planning Authority.

Reason

To ensure that inappropriate uses are not brought onto the Industrial Estate and in accordance with Policy E2 of the Copeland Local Plan 2013-2028.

Informative Note

Coal Mining Legacy

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



**Cumberland
Council**

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 a variation of condition in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: Sarah Papaleo

Date : 17/06/2026

Authorising Officer: N.J. Hayhurst

Date : 23/06/2026

Dedicated responses to:- N/A