

## **Local Planning Authority Appeal Statement**

### **Appeal By:**

Sunshine Properties West Coast Ltd

### **Appeal Reference:**

APP/Z0923/W/22/3304945

### **Local Planning Authority Reference:**

4/22/2090/001

### **Proposal:**

Outline application for residential development with full details of proposed access and all other matters reserved

### **Site Address:**

Land adjacent to Round Close Park, Whitehaven

## **1. Decision of Local Planning Authority:**

- 1.1 On the 4<sup>th</sup> August 2022, application reference 4/22/2090/001 was refused by the Planning Panel of Copeland Borough Council for the following reasons:

### **Reasons for Refusal**

- 1) The proposed erection of 9 dwellings on the land, which is located outside any designated settlement boundary in open countryside location, represents an inappropriate form of development that will be located away from the provision of facilities and services. The site offers extremely limited opportunity for public transport and is beyond distances which residents could reasonably be expected to walk to access services. There are no pedestrian walkways on direct access routes from the site which would result in the only safe access to services being via vehicle. The perceived benefits that could result from nine dwellings on this land would not be sufficient to significantly and demonstrably outweigh this harm, especially as these dwellings are without justification. As such, it would not represent sustainable development as required by the NPPF.

The proposal is therefore contrary to policies ST1, ST2 and DM22 of the Copeland Local Plan 2013-2028, Policies DS3PU and DS4PU of the Emerging Copeland Local Plan and the objectives of paragraphs 8, 9, 11, 80 and Part 9 of the National Planning Policy Framework (2021).

- 2) The Application Site comprises an elevated parcel of agricultural land, the development of which would extend the built form of development at Round Close Park into open countryside to the northeast. This development would be visually prominent when viewed from the north and from significant areas within Moresby Parks to the north and east. Furthermore, development in this location would erode the extent of open space between Round Close Park and Moresby Parks which would have a significant detrimental impact in the character and appearance of the landscape

As a consequence, this development would be contrary to policies ST1 and ENV5 of the Copeland Local Plan 2013-2028, Paragraph 174 of the NPPF and the guidance set out in the Cumbria Landscape and Character Toolkit which seeks to maintain green gaps and avoid sporadic and peripheral development.

- 3) The use of the proposed access will materially increase traffic movements within close proximity to the private amenity space associated with the existing dwellings which flank the agricultural entrance. This will result in increased noise and disturbance and also potential glare from headlights during the hours of darkness which will have a detrimental impact on the amenities of the occupiers of these residential properties.

As a consequence, this development would be contrary to Policy ST1 of the Copeland Local Plan 2013 – 2028 and Section 12 of the NPPF which seek to protect residential amenity.

## **2. Statement of Case:**

- 2.1 The case of Copeland Borough Council is detailed in the Planning Panel report.
- 2.2 A copy of the Planning Panel report is contained at Annex A to this Appeal Statement.
- 2.3 This Statement of Case outlines changes in respect of relevant material planning considerations that have occurred since the determination of application reference 4/22/2090/001.

### Material Planning Considerations

#### *Emerging Copeland Local Plan 2021-2038 (ECLP)*

- 2.4 The emerging Copeland Local Plan 2021-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.
- 2.5 The ECLP was subject to public consultation on the Publication Draft from 10<sup>th</sup> January 2022 to 18<sup>th</sup> March 2022.
- 2.5 As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.
- 2.6 Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.
- 2.7 The ECLP continues to identify the site as open countryside.
- 2.8 As required by Paragraph 48 of the NPPF, in assessing the weight to be given to the ELP, each policy is required to be considered individually against the factors set out in 48a, 48b and 48c. These are considered in turn below:

48a: The ELP is at an advanced stage having been submitted to the Planning Inspectorate in September 2022. This indicates a significant amount of weight should be given to the Plan. The Council now have confirmation that the Plan will be subject to Examination commencing in January 2023.

48b: A small number of objections were received in relation to Policies DS3PU and DS4PU of the ELP. The policies within the emerging local plan can therefore be given limited weight, as set out within the Planning Panel Report.

#### Response to Appellant Statement

- 3.0 Paragraph 6.27 of the statement relates to the provision of a new footway to connect the development. As this would fall outside the red line area and with no details submitted, it is unclear if this is either enforceable or deliverable. This is a matter that the Appellant should have addressed fully as part of the justification for the proposal. Without the necessary detail the Local Planning Authority do not consider that any weight can be given to this matter.

#### **4.0 Conclusion**

- 4.1 The Council's case is laid out within the Planning Panel Report with no material changes since its date of publish.
- 4.2 The Emerging Copeland Local Plan 2021 – 2038 was submitted to the Planning Inspectorate in September 2022 which is post decision date for the application. In accordance with paragraph 48 of the NPPF some weight can now be attached to the Policies within the ECLP. These policies do not support the development of this site.
- 4.3 In overall terms, it remains that the adverse impacts of the development are considered to significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole. The proposal does not represent an appropriate form of sustainable development.

#### **5. Planning Conditions**

- 5.1 The required list of planning condition to which Copeland Borough Council would agree if the appeal were to be allowed is contained at Annex B to this Appeal Statement.

# **Annex A**

## **Planning Panel Report**

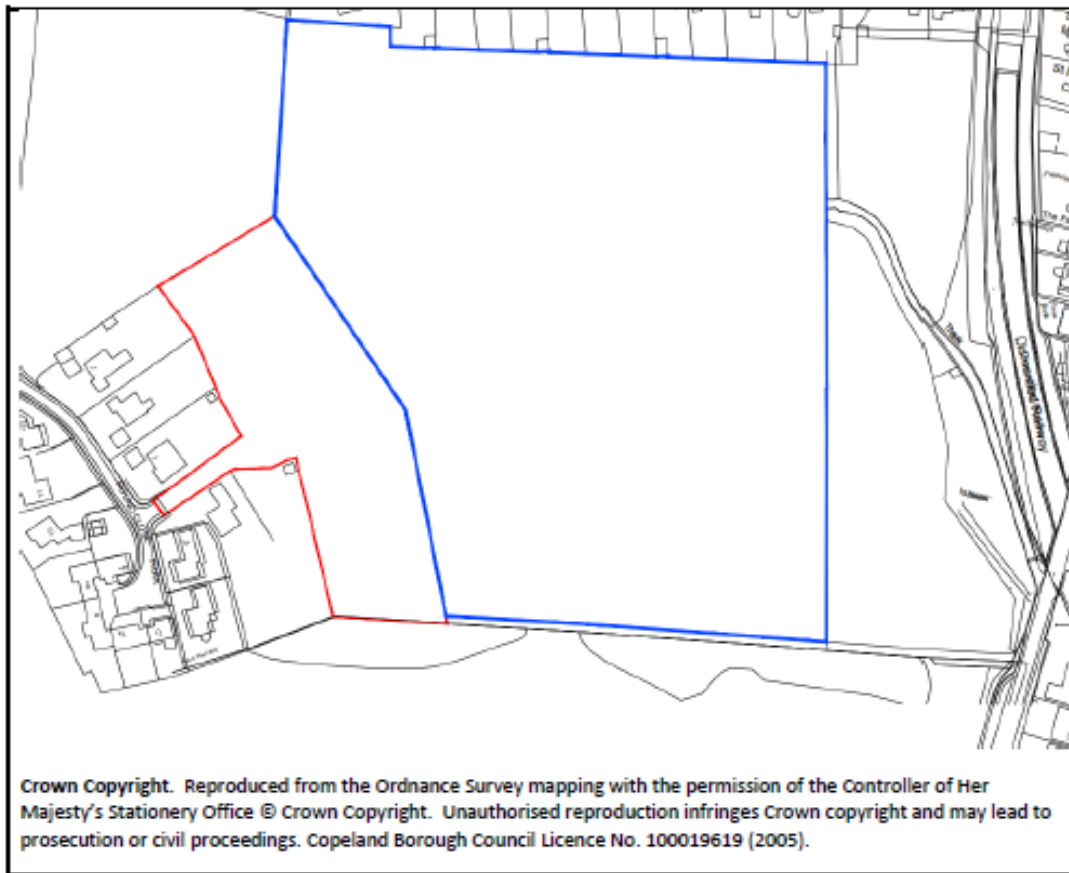


To: PLANNING PANEL

Development Management Section

Date of Meeting: 03/08/2022

Application Number:	4/22/2090/001
Application Type:	Outline
Applicant:	Sunshine Properties West Coast Ltd
Application Address:	LAND ADJACENT TO ROUND CLOSE PARK, WHITEHAVEN
Proposal	OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT WITH FULL DETAILS OF PROPOSED ACCESS AND ALL OTHER MATTERS RESERVED
Parish:	Moresby
Recommendation Summary:	Refuse



#### **Reason for Determination By Planning Panel**

The application is brought for consideration by Members of the Planning Panel due to the significant local interest in the application and as the application is a departure from the adopted Local Plan.

#### **Site and Location**

The Application Site comprises a 0.96 hectare parcel of agricultural land located to the north of the existing small residential estate comprising 14 dwellings that is known as Round Close Park. The houses occupy a relatively elevated location to the north of Whitehaven Golf Club.

The Application Site has agricultural fields to the west, north and east with residential properties to the south. Public Right of Way number 431021 flanks the southern boundary of the site which connects Round Close Park to Moresby Parks to the east.

#### **Proposal**

Outline planning permission is sought for residential development on the site, with approval for access and all other matters reserved.

It is proposed to secure access to the land off Round Close Park utilising an existing gateway which is currently used to provide access to the agricultural land to the north. The access would run between 3 and 4 Round Close Park. Round Close Park is accessed from Red Lonning (the U4008) which lies approximately 200 metres to the west.

Whilst the application does not seek the approval of layout or scale, an indicative plan showing 9 properties has been submitted, demonstrating how the scale of development proposed can be accommodated within the red line area.

The application has been submitted with the following documents:

- Site Location Plan;
- Indicative Layout;
- Existing Foul and Surface Water Drainage Plan;
- Footway letter;
- Coal Mining Risk Assessment;
- Planning Statement.

The applicant's agent has also confirmed that a new pedestrian footway could be created, if necessary, from Round Close Park top Harras Road which lies approximately 1000metres to the south. This would be sited within the highway verge on land owned by Cumbria County Council.

#### **Relevant Planning Application History**

Six dwellings and garages, refused in October 1992 (application reference 4/92/0658/0 relates).

#### **Consultation Responses**

##### **Moresby Parish Council**

The parish council having considered this application in detail advances the following points and set out their objections in the body of the response

1. The parish council consider this to be a speculative application without merit given primarily that it is not within any settlement area within the present Copeland Plan or in the plan that is at present under consideration prior to a hearing before a planning inspector. On that point alone it should be dismissed but there are further points.
2. We have had the opportunity to consider the letter written on behalf of the present residents of Round Close to yourselves. We agree and endorse each point made.
3. Additionally we consider that the drainage and sewage arrangements in the village of Moresby Parks are already under severe pressure and the addition of further housing will add to the problems. It is simplistic and unrealistic to believe that the existing outlets will meet the needs.



4. We endorse the view expressed by residents concerning the access to the existing Round Close dwellings. Further traffic from the 60 mph C4006 on a bad bend will heighten the chances of a road accident.
5. We are particularly concerned that granting this application would lead to a phase 2 and subsequent developments to reach Moresby Parks Road. This may not be the present intention of the applicant but we have seen other developers arguing a precedence once the first application has been granted with a phase 2 and phase 3 on land adjacent but not within the parish boundaries
6. We know that the primary school in Moresby Parks is already at capacity and another 10 families are likely to include children at junior school age. There is no safe way to school other than parent's cars. That itself offends the requirement for a sustainable development.
7. We want to see thriving communities within the villages that make up the parish of Moresby but we need to understand that services have to be able to meet the demands and an addition of this development would do nothing but exacerbate present problems.

#### Cumbria Highway Authority

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

Please could a plan showing visibility splays be submitted for the proposed access? The U4532 is under the national speed limit speed restrictions therefore 215m splays are required in both directions back by 2.4m and at a height of 1.05m above the carriageway. Drivers need to be able to see obstructions 2m high down to a point 600mm above the carriageway. The latter dimension is used to ensure small children can be seen. Within the visibility splay or sight line envelope there should be no obstructions to vision such as walls or vegetation etc within the vertical profile. If any obstructions need to be reduced or removed within the visibility splay, it should be within the applicants ownership.

If the applicants are not able to provide the full visibility splay requirements, we would strongly recommend that a speed survey is carried out and the results of the 85th%ile is submitted – this could allow the splay requirements to be reduced.

It is appreciated that the splay to the south-east of the access leads to a dead-end and therefore 215m will be unachievable but the north-west splay is required.

Please could there also be maximum achievable splays provided for the access of 4 Round Close Park in line with the guidance above to ensure that the existing residents will retain their safe access following the proposed intensification.

##### 2nd response

Following the submission of Drawing 784-B033293-TTE-00-XX-DR-O-0004-P01 demonstrating 60m North-west and 37m South-east which are acceptable given the nature of the road.

It should be noted that appropriate parking measured should be provided for each dwelling in line with the Cumbria Development Design Guide:

- 1 bedroom dwelling = 1 parking space
- 2, 3, 4 bedroom dwelling = 2 parking spaces
- 5+ bedroom dwelling = 3 parking spaces

Turning space should be available for HGVs such as refuse collection and emergency vehicles. If the site is to remain private, a refuse bin collection point should be provided close to the site entrance but within the site boundary - not on the highway.

Footways shall be provided throughout the development linking to existing footways on Round Close Park and a pedestrian crossing point should be provided on the existing footway adjacent to the site access between 3 and 5 Round Close Park. These works within the highway may require a suitable legal agreement to be in place prior to commencement.

No objections, subject to a number of conditions.

#### Rights of Way Officer

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

The Pre-application Planning Statement – recognises that FP 431021 lies within the development site and suggests that it will be protected and included in the proposed development. However, the legal line of the right of way has not been retained in the proposed site plan and is shown as being developed on. (See attached plan)

Section 7.7 of Policy ENV6 – Access to the Countryside within the Copeland Local Plan 2013-2028 recognises that existing Public Rights of Way are protected in law.

Section 130(1) of the Highways Act 1980 places a statutory duty on Cumbria Council as the Highway Authority to: -

- Assert and protect the rights of the public to the use and enjoyment of any highway for which they are the Highway Authority; and
- Prevent as far as possible the stopping up or obstruction of those highways.

The proposed site plan and layout as shown would not be acceptable. We would strongly advise the applicant that:

- The 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, stop up or to temporarily close it has been confirmed.
- The granting of planning permission would not give the applicant the right to block or obstruct the right of way as shown on the attached plan.

No development should take place on or near the footpath unless the appropriate statutory legal process has been successfully completed.

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

Further to the submission of an amended layout, no objections are raised and the Public Rights of Way – Planning Guidance Note for future reference was attached.

#### Local Lead Flood Authority

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

The application form states surface water will be discharged to the main sewer via the existing systems in place. The applicants should demonstrate that the NPPGs drainage hierarchy has been considered and mains sewer is the only viable means of surface water drainage for this site.

They need to show that infiltration is unachievable by submitting trial test results in line with BRE365 guidance. Following this they shall show that connecting into an existing watercourse would also be unachievable.

The Local Lead Flood Authority requires more information with regards to the surface water drainage before they can formally respond.

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

The application form states surface water will be discharged to the main sewer via the existing systems in place. The applicants should demonstrate that the NPPGs drainage hierarchy has been considered and mains sewer is the only viable means of surface water drainage for this site.

They need to show that infiltration is unachievable by submitting trial test results in line with BRE365 guidance. Following this they shall show that connecting into an existing watercourse would also be unachievable.

Given that this is an outline application, this detail can be considered at the reserved matters stage and can be conditioned as shown below.

#### United Utilities

No objections subject to a full surface water drainage condition

#### Copeland Flood and Coastal Defence Engineer

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

With regards to the above application, I have a number of comments a queries at this time.

- The application states that it is proposed to dispose of surface water by means of soakaways.
- The wider field in which the development is located is very boggy.
- What evidence is there that surface water by means of soakaways is feasible?

- What alternative means of surface water disposal are feasible if soakaways are not?

At this stage further information is required to support a feasible means of surface water disposal, if this is not forthcoming, then I will object to the proposed development.

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

To be honest, I did expect the discharge to the watercourse via the surface water sewers would be the most likely means of surface water disposal.

One matter that it would be useful that have further info with regards to the development, is the land itself.

I know that the area is generally very boggy and parts of the field are particularly wet, but will any consideration be given to that with regards to the properties themselves and any displacement of water and downstream effects?

#### 3<sup>rd</sup> response

##### General Comments

The Application states that the surface water will be disposed of by means of a soakaway.

The Planning Statement states that surface water systems are proposed to accommodate the 1 in 100 year event plus a 40% allowance for climate change in accordance with 2016 requirements.

Existing adopted separate foul and surface water sewers run through the site, with the surface water sewer discharging into an open watercourse to the east of the site.

The field within which the site sits, display evidence of holding water and being very boggy. Along with issues of water in the area, there are field drains which may, or may not run through the site.

Looking at surface water disposal, realistically infiltration would not be expected to work in such a location. There does appear to be a viable alternative by discharge to watercourse, which could utilise existing adopted surface water sewers, subject to existing sewer capacity. Alternatively, if necessary a new system could be created.

Probably from a flooding and drainage perspective the most difficult matter to consider for the development is the wetness of the existing site and how it may impact on the development. Downstream effects of the development would not be expected to impact existing properties, subject to appropriate design.

##### Suggested Conditions

Conditions that should be included in any approval for development of the site should include the following:

- Following the drainage hierarchy.



- Drainage system design to the latest standard, with climate change allowance and consideration for future development.
- Separate systems for foul and surface water.
- Consideration of the wetness on the land on the development itself.
- Consideration of how the development itself will impact land downslope, in particular with regards to any future development.

#### Summary

The site itself is considered as being at a low risk of flooding, although the site itself may be quite wet. Through appropriate consideration for the Drainage Strategy for the site of matters mentioned within this memo, it should be possible to undertake the development with a low flood risk and no increase in downslope flood risk.

Provided this is undertaken, I would have no objection to the proposed development.

#### The Coal Authority

The Coal Authority notes the conclusions of the Coal Mining Risk Assessment report. We consider that coal mining legacy poses a potential risk to the proposed development and that investigations are required, along with possible remedial/mitigatory measures, in order to ensure the safety and stability of the proposed development.

As such, should planning permission be granted for the proposed development, we would recommend that the following conditions are included on the Decision Notice:

1. Prior to the submission of any Reserved Matters application seeking approval of a detailed layout of development, a scheme of intrusive investigations shall be carried out on site to establish the risks posed to the development by past coal mining activity, including that posed by past opencast extraction. These works shall be carried out in accordance with authoritative UK guidance.
2. Any reserved matters application seeking approval of a detailed layout of development, shall be accompanied by: the findings of the intrusive site investigations (required by condition X above), and a proposed layout plan which identifies the alignment of any buried highwalls present within the site and defines appropriate 'no build' zones over these features.
3. Prior to commencement of development, any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the proposed development. These works shall be carried out in accordance with authoritative UK guidance.
4. Prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of any

remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

The Coal Authority therefore has no objection to the proposed development subject to the imposition of the above conditions. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

#### Copeland Borough Council Strategic Planning Team

##### **Location of the Site**

The application is located outside of Moresby Parks, adjacent to an isolated cluster of homes at Round Close Park, which is not easily accessible to nearby services. It is also close to another small cluster of isolated properties at Scilly Banks, separated by Harras Road which has a 60mph speed limit.

##### **The Copeland Core Strategy and Development Management Policies 2013-2028**

The Core Strategy was adopted in 2013 and remains the basis for determining planning applications. The Core Strategy identifies the site as being outside of, and some distance away from, the Settlement Boundaries for Whitehaven and the Local Centre of Moresby Parks. Sites outside of identified settlement boundaries are classed as being in the open countryside, meaning their development would be contrary to policy ST2. Development in these areas is limited to that which meets the defined needs of the local population (for example as a rural exception site), which needs to be proven in all cases.

The parts of Policy ST2 which refer to the settlement boundaries (identified on the Core Strategy Proposals Map) are considered to be “out-of-date”, regardless of the housing land supply position. This is because the development of the emerging Local Plan has indicated that in order to meet housing needs identified in the SHMA, development will be required outside of those boundaries over the Plan period. Given this, these parts of the policy are not considered to accord with the NPPF which requires local authorities to significantly boost housing land supply and can therefore be given little weight.

##### **Copeland Local Plan 2021-2038**

The Publication Draft of the Copeland Local Plan 2021-2038 has recently undergone public consultation, and it is anticipated that the Local Plan will be submitted to the Planning

Inspectorate in the late summer. The relationship between the site and the settlement boundaries within the emerging Local Plan remain the same, with the site being considered as unsustainable and in an open countryside location, contrary to policies DS3PU and DS4PU. Moresby Parks is listed as a Sustainable Rural Village in the Publication draft of the Local Plan, which is a new tier identified below Local Service Centres. Sustainable Rural Villages are defined as settlements which offer a limited amount of services but which could support a limited amount of growth to maintain communities.

Whilst the Local Plan has not yet been adopted, it can be given a reasonable amount of weight, based on the guidance provided by paragraph 48 of the NPPF. Weight may be given dependent on whether the policy has outstanding objections, and the significance of objections. No objections have been received in relation to the settlement boundary at Moresby Parks and therefore the proposed settlement boundary carries moderate weight.

#### **SHLAA Position**

The site has been assessed through the Copeland Strategic Housing Land Availability Assessment (SHLAA) process. The site is included in the SHLAA (2022) as part of site Mp010 which is considered to be non-developable. This is due to its position in both the adopted and emerging Local Plans as being outside of the settlement boundary. Other reasons for the sites exclusion include the difficulty of achieving vehicular and pedestrian access, areas of surface water flooding and a history of landfill on parts of the site. The site has previously been promoted through the Local Plan process, but it is considered that there are more suitable sites for development in Moresby Parks. More information surrounding why Mp010 has been discounted as an allocation or Settlement boundary extension in the Local Plan can be found in the Discounted Site profile which accompanies the Publication Draft.

#### **Housing Provision**

The Five Year Housing Land Supply Statement (2021) demonstrates a 5.6 year supply of deliverable housing sites against the emerging housing requirement and an 86 year supply against the Government's standard methodology figure. Also, more than 150 homes have been built in Copeland annually over the past three years.

As has been previously mentioned, Moresby Parks is a Sustainable Rural Village within the emerging Local Plan. These are settlements which could support a limited amount of growth to maintain communities. In principle, a development of 9 dwellings would be appropriate for a settlement of this size. However, the emerging Local Plan has provided several boundary extensions in Moresby Parks, including land to the east of the settlement. There is also an extant planning permission on two pieces of land to the north which would provide sufficient dwellings to meet housing need (approximately 100 homes), with a Reserved Matters application submitted on one of these. These sites present a more suitable extension to the settlement boundary due to their connectivity with the existing built form and services.

#### **Rural Exception Site**

Policy SS3 of the Copeland Core Strategy states that outside of the settlements listed in the settlement hierarchy, housing development will be supported only on rural exception sites



that meet certain criteria listed in paragraph 5.4.6. It is not clear how the development would reflect local needs as no reference has been made to the Strategic Housing Market Assessment or Housing Needs Study in the application. The application does not state that the homes will be provided for local occupancy. Should the applicant wish to bring forward the site as a rural exception site it is recommended that they engage in pre-application discussions with the Council first.

### Accessibility

There is no existing safe and accessible pedestrian access into Moresby Parks or Whitehaven from this site. In the Development Strategy and Hierarchy Paper 2022, safe and accessible walking routes have been defined as those which have a continuous pavement with street lighting. This lack of existing suitable pedestrian links from the proposed development would result in an increased reliance on private vehicles, contributing towards increased CO2 emissions. This is contrary to the Cumbria wide target of net zero carbon emissions by 2037.

It is noted that the application is accompanied by a letter outlining the ability for a 2m footpath to be provided along Red Lonning. However, the Strategic Planning Team would question the viability of delivering a footpath of this distance (1km) to support the delivery of 9 dwellings. Further to this, there is no evidence that the proposed footpath would provide adequate streetlighting and safety of pedestrians is also questioned due to the proposal for the footpath to require users to cross the busy Harras Road, which has a 60mph speed limit.

Even with the delivery of the proposed footpath, the site would be approximately 2.5km away from any services in Hensingham, and 3km away from those in Whitehaven Town Centre. When developing the Settlement Hierarchy and Development Strategy update, evidence from a number of sources was used to identify a suitable walking distance. Planning for Walking (Chartered Institution of Highways and Transportation 2015) advises that most people will only walk when their destination is less than 1 mile away. It is likely that the footpath proposed here will not be utilised regularly by people living in the proposed development to access services, which is again likely to result in a high reliance on private vehicles.

### Summary

The Council can now demonstrate a five year supply of deliverable housing sites as identified in the Housing Land Supply Position Paper 2021, however as stated above, one of the most important policies relating to the application is partly out-of-date, albeit for a different reason. The tilted balance is therefore engaged.

Paragraph 11 of the NPPF states that where policies which are most important for determining the application are out-of-date, permission should be granted unless:

- I. "the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole"



The Strategic Planning team considers that there are adverse impacts associated with the development of this site and are unable to support development in this location. This primarily includes the unsustainable location of the site, which is poorly connected to the settlements of Whitehaven and Moresby Parks, and contrary to both ST2 of the Core Strategy and DS3PU and DS4PU of the emerging Copeland Local Plan.

When considering the planning balance, the Case Officer will need to determine whether the benefits of the scheme (the provision of additional housing) outweigh the harm of development (the open countryside location and poor connectivity of the site).

### Public Representation

The application has been advertised by way of a press notice, site notice and neighbour notification letters issued to 14 no. properties.

29 letters of support from various locations have been received.

23 letters of objection have been received from local residents raising the following concerns:

- No information is provided with regards to the existing public footpath;
- The scale of the development is too large and constitutes a 65% increase on the existing estate;
- Increase in traffic;
- Increased demand on local services;
- The road is not wide enough to accommodate the additional traffic without significant disruption;
- The application appears to show the want for further dwellings if this is approved;
- The site is greenfield land and there are other sites that would fulfil future housing requirements;
- There is not a safe walking route to local schools and amenities;
- There is no street lighting;
- There is not a bus service that would allow for standard working hours (9am-5pm);
- The electricity supply for Round Close Park is erratic and this would be strained with further dwellings;
- Telephone and broadband speeds are already slow and further development would put additional strain on capacity;
- Water pressure issues are common in Round Close Park;
- Surface water drainage is already an issue and is likely to be worsened by development;
- The access to Round Close Park does not have good visibility;
- The curvature of the road, vegetation and wall makes the visibility obscure when performing a right hand turn;
- The access to the A595 past the Rosehill Theatre is very difficult;
- An additional footpath should be a requirement for this application;
- Footpath crossing points are ill placed with poor visibility;

- The Applicant has failed to mention the previous refusals on the site;
- Visual amenity would be spoiled which is currently provided by the agricultural landscape;
- The first part of the access road does not belong to the Applicant;
- Any approval of this application would make the areas identified for housing in the 2021-2037 Local Plan unviable;
- The existing footpath to Moresby Parks is not suitable for use due to drainage issues;
- There is no longer a Post Office in Moresby Parks;
- The application is for isolated non-essential housing development in the countryside which is contrary to the NPPF;
- The application falls outside the settlement boundaries;
- The application site is not sustainable;
- Development would change the nature of the street which has a community feel and cul-de-sac element;
- Golf balls from the nearby golf course may cause a health and safety risk to new dwellings;
- Building work will create noise nuisance;
- The existing view of the horizon will be broken;
- The green space loss will impact on mental health;
- There is no sustainability brief included with the application;
- The site is at risk from historic mining related issues;
- Any approval of this application would encourage the Applicant to apply for more dwellings;
- The street will no longer be safe for children due to the increased traffic;
- The development would have a negative effect on the nature on this site.

## 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

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST4 – Providing Infrastructure

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV5 – Protecting and Enhancing the Borough's Landscapes

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM12 – Standards for New Residential Developments

Policy DM22 – Accessible Developments

Policy DM24 – Development Proposals and Flood Risk

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 – Landscaping

Policy DM28 – Protection of Trees

Emerging Copeland Local Plan (ELP)

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Publication Draft Consultation. The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Given the stage of preparation of the Copeland Local Plan 2017-2035 some weight can be attached to policies within the Publication Draft where no objections have been received. The Publication Draft provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the National Planning Policy Framework.

The following policies are relevant to this proposal:

- Strategic Policy DS1PU - Presumption in favour of Sustainable Development
- Strategic Policy DS2PU - Reducing the impacts of development on Climate Change
- Strategic Policy DS3PU - Settlement Hierarchy
- Strategic Policy DS4PU - Settlement Boundaries
- Strategic Policy DS5PU - Planning Obligations
- Policy DS6PU - Design and Development Standards
- Policy DS7PU - Hard and Soft Landscaping
- Strategic Policy DS8PU - Reducing Flood Risk Policy
- Policy DS9PU: Sustainable Drainage
- Strategic Policy H1PU - Improving the Housing Offer

- Strategic Policy H2PU - Housing Requirement
- Strategic Policy H3PU - Housing delivery
- Strategic Policy H4PU - Distribution of Housing
- Strategic Policy H5PU - Housing Allocations
- Policy H6PU - New Housing Development
- Policy H7PU - Housing Density and Mix Strategic
- Policy H8PU - Affordable Housing
- Strategic Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity
- Strategic Policy N2PU - Local Nature Recovery Networks
- Strategic Policy N3PU - Biodiversity Net Gain
- Strategic Policy N6PU - Landscape Protection

#### **Other Material Planning Considerations**

National Planning Policy 2021 (NPPF)

Planning Practice Guidance (PPG)

National Design Guide (NDG)

The Conservation of Habitats and Species Regulations 2017 (CHSR)

Cumbria Development Design Guide (CDDG)

Cumbria Landscape Character Guidance Toolkit (CLCGT)

Manual for Streets (MfS)

#### **Assessment**

##### **Principle of Development**

The application site lies within the Parish of Moresby and adjoins the Parish boundary of Whitehaven. Policy ST2 of the CS identifies Whitehaven as Copeland's Principal Town and Moresby Parks as a Local Centre.

The Core Strategy identifies the site as being outside of, and some distance away from, the Settlement Boundaries for Whitehaven and the Local Centre of Moresby Parks. Sites outside of identified settlement boundaries are classed as being in the open countryside, meaning their development would be contrary to policy ST2.

Policy ST2 of the CS states that outside of the defined settlement boundaries, development is restricted to that which has a proven requirement for such a location, including... housing that meets proven specific and local needs including provision for agricultural workers,



replacement dwellings, replacement of residential caravans, affordable housing and the conversion of rural buildings to residential use.

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to the provision of housing where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Out of date includes where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

In 2021, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 5.6 year supply of deliverable housing sites against the emerging housing requirement and a 86 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.

Notwithstanding the above, the parts of Policy ST2 which refer to settlement boundaries policies in the CS must still be considered out of date, regardless of the housing land supply position. This is because the development of the Emerging Copeland Local Plan (ECLP) has indicated that in order to meet housing needs identified in the SHMA, development will be required outside of those boundaries over the Plan period. Given this, these parts of the policy are not considered to accord with the NPPF which requires local authorities to significantly boost housing land supply and can therefore be given little weight in the decision-making process.

Consultation on the Emerging Copeland Local Plan 2017-2035 Publication Draft (ECLP) ended on 18<sup>th</sup> March 2022. The ECLP will, once adopted, will replace the policies of the adopted CS.

The ECLP has been drafted based upon an evidence base of documents which includes a updated Strategic Housing Market Assessment (SHMA). The SHMA calculates housing need in Copeland over the plan period 2017-2035 of 140 dwellings per annum. The ECLP confirms that to meet the housing need identified in the SHMA, development will be required beyond the existing development boundaries identified in Policy ST2 of the CS.

The ECLP identifies Moresby Parks as a Sustainable Rural Village, which is a new tier identified below Local Service Centres. Sustainable Rural Villages are defined as settlements which offer a limited amount of services but which could support a limited amount of growth to maintain communities.

The ECLP also continues to identify the Application Site as outside the revised development boundary for Whitehaven.

The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Whilst the Local Plan has not yet been adopted, it can be given a reasonable amount of weight, based on the guidance provided by paragraph 48 of the NPPF. Weight may be given dependent on whether the policy has outstanding objections, and the significance of objections. No objections have been received in relation

to the settlement boundary at Moresby Parks and therefore the proposed settlement boundary carries moderate weight.

The site has been assessed through the Copeland Strategic Housing Land Availability Assessment (SHLAA) process. The site is included in the SHLAA (2022) as part of site Mp010 which is considered to be non-developable. This is due to its position in both the adopted and emerging Local Plans as being outside of the settlement boundary. Other reasons for the sites exclusion include the difficulty of achieving vehicular and pedestrian access, areas of surface water flooding and a history of landfill on parts of the site. The site has previously been promoted through the Local Plan process, but it is considered that there are more suitable sites for development in Moresby Parks.

In the context of the above, Paragraph 11 of the NPPF is engaged with the policies of the Development Plan which are most important for determining the application to be considered out of date and it required that planning permission be granted unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

In applying the provisions of Paragraph 11:

- the Application Site would assist in a small boost to housing supply within the Borough as detailed in Policy ST2 of the CS and the ECLP as required by the NPPF;
- the proposed development comprising the erection of 9 no. dwellings would create a material increase in the number of dwellings situated in this area of open countryside which would exacerbate its visual impact within the locality;
- the Application Site is located outside of the defined development boundary in Policy ST2 of the CS and does not have a safe walking route to Whitehaven. This is due to the necessity to cross Harras Road which has a 60mph limit and the lack of pavements and street lighting for the route;
- The existing footpath between Round Close Park and Moresby Parks is poor, with flooding issues, no lighting and no marked path, meaning it is unlikely to be utilized fully;
- Sustainable travel options do not exist in the vicinity, with no bus service running close to the site and walking distances to services exceeding those that can be reasonably expected as required by Policy DM22 of the CS;
- Any development on the site would result in a high reliance on private vehicles.

### **Housing Need**

Policy SS3 of the CS and Policy H7PU of the ELP seek that applications for housing development should demonstrate how the proposals meet local housing needs and aspirations identified in the Strategic Housing Market Assessment.

The Application Site is located within the Whitehaven Rural Housing Market Area (HMA) in the Copeland Strategic Housing Market Assessment 2021 Update (SHMA).

In terms of housing mix, the SHMA concludes that the analysis broadly suggests a need for 60% of market homes to have 3 or more bedrooms and 40% of market homes to have 1-2 bedrooms. It is stated that the Council should also consider the potential role of bungalows as part of the future mix of housing.

Policy SS3 of the Copeland Core Strategy states that outside of the settlements listed in the settlement hierarchy, housing development will be supported only on rural exception sites that meet certain criteria listed in paragraph 5.4.6. It is not clear how the development would reflect local needs as no reference has been made to the Strategic Housing Market Assessment or Housing Needs Study in the application. The application does not state that the homes will be provided for local occupancy.

The submitted plans do not specify the scale or type of dwellings to be delivered by the scheme, but may modestly assist in providing a greater balance of housing stock within the Whitehaven area in accordance with the provisions of Policy SS3 of the CS. As no details of the dwellings have been received, this remains a neutral consideration and cannot weigh in favour of the development.

#### **Settlement Character, Landscape Impact and Visual Impact**

Policy ENV5 states that the Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.

Paragraph 174 of the NPPF requires that planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes... and b) recognising the intrinsic character and beauty of the countryside.

The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the Application Site as being located in an area of landscape character Sub Type 5d – Urban Fringe.

The key characteristics of Sub Type 5d are stated as: long term urban influences on agricultural land; recreation, large scale buildings and industrial estates are common; mining and opencast coal workings are found around Keekle and Moor Row; Wooded valleys, restore woodland and some semi-urbanised woodland provide interest.

The CLCGT states that there are tendencies for urban development to further encroach on the countryside and that the expansion of villages can lead to a poor definition between town and country, losing the existing green corridors between settlements.

The guidelines for development in areas of Sub Type 5d include consideration of opportunities to enhance and strengthen green infrastructure to provide a link between



urban areas and the wider countryside, encourage the provision of green corridors and protect 'green' areas from sporadic and peripheral development. Emphasis is on the retention of green gaps to maintain distinctive, undeveloped characteristics. The CLCGT suggests the careful siting of any new development to non-prominent locations.

The Application Site comprises an elevated parcel of land that would extend the existing group of dwellings at Round Close Park to the northeast into open countryside. This development would be visually prominent when viewed from the north and from significant areas within Moresby Parks to the north and east. Furthermore, development in this location would erode the extent of open space between Round Close Park and Moresby Parks which would have a significant detrimental impact in the character and appearance on the locality. As a consequence this proposal would be in conflict with Policy ENV5 of the Local Plan and the guidance set out in the CLCGT which seeks to maintain green gaps and avoid sporadic and peripheral development.

### **Highway Safety and Parking**

Access to the Application Site is deliverable via the existing gated agricultural access from Round Close Park which runs between the properties at 3 and 4 Round Close Park.

Cumbria Highways requested details of visibility splays on both the junction onto the U4008 and Round Close Park. When considered in relation to the nature of the road, the provided splays are acceptable to the Highways Authority.

Whilst the visibility splays are technically acceptable, there are concerns that the use of the access road for residential purposes would have a material adverse effect on the existing dwellings at 3 and 4 Round Close Park. At present, the access is used for agricultural purposes only and on a limited basis. The provision of 9 dwellings will result in a significant material increase in vehicular traffic using this access road, generating vehicle and pedestrian activity to and from the site. The introduction of this level of activity in close proximity to the private garden areas of the adjoining residential properties, 3 and 4 Round Close Park, would result in significant and unacceptable increases in noise and disturbance for these residents which is not reflective of the current quiet situation. Furthermore, the use of the access would involve vehicles turning off Round Close Park at 90 degrees and this is likely to give rise to vehicle headlights shining into neighbouring property windows. This would have an adverse impact on the amenities of the occupiers of the dwellings that adjoin the access.

Parking provision in accordance with the requirements of the Cumbria Design Guide is clearly deliverable on the Application Site.

Overall, although a technically safe and acceptable access can be provided to serve the development proposed, the adverse impacts on residential amenity resulting from the use of the proposed access is considered to be unacceptable and does not respond positively to the development or wider area, as required by Policy DM22 of the Copeland Local Plan.



## **Accessibility**

There is no existing safe and accessible pedestrian access into Moresby Parks or Whitehaven from this site. In the Development Strategy and Hierarchy Paper 2022 which was prepared as part of the ECLP, safe and accessible walking routes have been defined as those which have a continuous pavement with street lighting. This lack of existing suitable pedestrian links from the proposed development would result in an increased reliance on private vehicles, contributing towards increased CO2 emissions. This is contrary to the Cumbria wide target of net zero carbon emissions by 2037.

It is noted that the application is accompanied by a letter outlining the ability for a 2m footpath to be provided along Red Lonning. However, the viability of delivering a footpath of this distance (1km) to support the delivery of 9 dwellings is questionable. Further to this, there is no evidence that the proposed footpath would provide adequate streetlighting and safety of pedestrians is also questioned due to the proposal for the footpath to require users to cross the busy Harras Road, which has a 60mph speed limit.

Notwithstanding this, even with the delivery of the proposed footpath, the site would be approximately 2.5km away from any services in Hensingham, and 3km away from those in Whitehaven Town Centre. When developing the Settlement Hierarchy and Development Strategy update, evidence from a number of sources was used to identify a suitable walking distance. Planning for Walking (Chartered Institution of Highways and Transportation 2015) advises that most people will only walk when their destination is less than 1 mile away. It is likely that the footpath proposed will not be utilised regularly by people living in the proposed development to access services, which is again likely to result in a high reliance on private vehicles.

## **Rights of Way**

Public Right of Way (PROW) 431021 runs along the proposed access road from Round Close Park and through the site towards Moresby Parks. The initial indicative layout submitted was not acceptable to the Cumbria Rights of Way Officer as it would require that the footpath be diverted. A further plan was subsequently submitted by the applicant's agent to show the PROW retained in its current position and no further objections were raised.

As the layout is indicative only, full details of the development would be required at a later stage with the PROW fully considered, however, the submitted information shows that the development could be accommodated on the site without any effect on the existing PROW.

## **Flood Risk and Drainage**

The Application Site is located within Flood Zone 1. The proposed comprises a more vulnerable use and is therefore a compatible use in Flood Zone 1.

The Application Site is not shown to be liable to surface water flooding, however local residents raised concerns with localized flooding and its effects on the field and public right of way.

Due to the poor drainage in the area, it is proposed to drain the site to the existing system. The Local Lead Flood Authority requested that full drainage details be submitted prior to the commencement of the development, including consideration of the drainage hierarchy.

No details are provided in respect of foul water disposal.

On this basis the relevant statutory consultees have requested that a planning condition should be requested requiring the submission, approval and implementation of a detailed scheme for the disposal of foul water and surface water in accordance with the national drainage hierarchy.

### **Ground Conditions**

The development site lies within a Coal Development Referral Area with the potential for past shallow mine workings. A Coal Mining Risk Assessment was submitted with the application which concluded that the coal mining/opencast stability risks from mining legacy can be mitigated by routinely adopted measures and should not preclude planning permission being granted with regards to coal mining legacy issues. It also suggests that gas monitoring takes place prior to the commencement of any construction.

The Coal Authority have raised no objections to the proposal but have requested the imposition of conditions for any approval to include further site investigations.

### **Ecology**

Policies ENV3 and DM25 of the CS and Policy N1PU of the ELP seeks to ensure that new development will protect and enhance biodiversity and geodiversity.

Policy N3PU of the ELP seeks that development achieve a biodiversity net gain of 10%; however, given that outstanding objections exist to the policy, only limited weight can currently be afforded this policy in decision making.

The Application Site comprises an existing area of agricultural grassland. As a grassland monoculture, the Application Site is not of significant ecological interest.

No protected species are known to exist on the Application Site.

### **Benefits**

Paragraph 11 of the NPPF requires any adverse impacts to be weighed against the benefits that a scheme would produce.

The provision of these dwellings would only make a very small contribution to the supply and delivery of housing within the Borough.

Although there would be some economic benefits this would be limited to the construction phase which would only be apparent on a temporary basis. Consequently little weight can be attached to this benefit.

Social benefits would be limited as the applicant has failed to provide any evidence that the proposed housing is required to meet a defined need. The site is located outside the settlement boundaries for Moresby Parks and Whitehaven and the lack of services and sustainable transport options within the immediate area would place a reliance on the motor car which would be at odds with the environmental aspect of sustainable development.

Given the outline nature of the proposal no details of any proposed landscaping have been submitted.

### Other issues

The following concerns which have been raised by objectors are not considered to be material planning considerations and therefore have not formed part of the assessment when considering this application:-

- The indicative layout shows intention of further development, should these 9 dwellings be approved – Whilst the plans do show an extension to the on site access road, any further proposals for additional dwellings would require planning permission.
- The electricity supply, broadband, telephone lines and water pressure for Round Close Park are erratic – the developer would have to ensure that any required infrastructure is suitable for the number of dwellings proposed.
- The first part of the access road is not owned by the Applicant – clarification was sought from the Agent with regards to site ownership. The Agent has confirmed that the applicant is working on this proposal on behalf of the site owners and so Certificate B has been completed on the application form. It is also claimed that there is a right to use the access and services for any means to the retained land which formed part of the original development at Round Close Park. This information is sufficient for the purposes of the planning application.
- Golf balls from the nearby golf course may cause a health and safety risk to new dwellings.
- Building work will create a noise nuisance – whilst construction noise may occur this would be for a limited period only.
- The existing view will be lost – whilst this is unfortunate, loss of view cannot be considered.

### The Planning Balance and Conclusion

The Council can now demonstrate a five year supply of deliverable housing sites as identified in the Housing Land Supply Position Paper 2021, however as stated above, one of the most important policies relating to the application is partly out-of-date, albeit for a different reason. The tilted balance is therefore engaged.

Paragraph 11 of the NPPF states that where policies which are most important for determining the application are out-of-date, permission should be granted unless:



- I. “the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”

The proposed development is in clear conflict with the provisions of Policy ST2 of the CS with regard to the location out with the settlement boundaries of both Moresby Parks and Whitehaven; however, given the importance of this policy to the determination of the application and its level of conformity with the NPPF, only limited weight can be given to this conflict in decision taking.

In terms of paragraph 11 of the NPPF, the benefits arising from the proposal in terms of 9 dwellings are limited to the construction phase and will only contribute modestly to the Council’s housing targets and will not meet a local housing need. The adverse impacts of dwellings in this unsustainable location which is poorly connected to the settlements of Whitehaven and Moresby Parks and which occupies an elevated and prominent position within the local landscape are considered to significantly and demonstrably outweigh these minor benefits.

On this basis, this is considered to be an unacceptable form of unsustainable development.

**Recommendation: -**

Refuse.

**Reasons for Refusal**

- 1) The proposed erection of 9 dwellings on the land, which is located outside any designated settlement boundary in open countryside location, represents an inappropriate form of development that will be located away from the provision of facilities and services. The site offers extremely limited opportunity for public transport and is beyond distances which residents could reasonably be expected to walk to access services. There are no pedestrian walkways on direct access routes from the site which would result in the only safe access to services being via vehicle. The perceived benefits that could result from nine dwellings on this land would not be sufficient to significantly and demonstrably outweigh this harm, especially as these dwellings are without justification. As such, it would not represent sustainable development as required by the NPPF.

The proposal is therefore contrary to policies ST1, ST2 and DM22 of the Copeland Local Plan 2013-2028, Policies DS3PU and DS4PU of the Emerging Copeland Local Plan and the objectives of paragraphs 8, 9, 11, 80 and Part 9 of the National Planning Policy Framework (2021).

- 2) The Application Site comprises an elevated parcel of agricultural land, the development of which would extend the built form of development at Round Close Park into open countryside to the northeast. This development would be visually prominent when viewed from the north and from significant areas within Moresby Parks to the north and east. Furthermore, development in this location would erode the extent of open space between Round Close Park and Moresby Parks which would have a significant detrimental impact in the character and appearance of the landscape

As a consequence, this development would be contrary to policies ST1 and ENV5 of the Copeland Local Plan 2013-2028, Paragraph 174 of the NPPF and the guidance set out in the Cumbria Landscape and Character Toolkit which seeks to maintain green gaps and avoid sporadic and peripheral development.

- 3) The use of the proposed access will materially increase traffic movements within close proximity to the private amenity space associated with the existing dwellings which flank the agricultural entrance. This will result in increased noise and disturbance and also potential glare from headlights during the hours of darkness which will have a detrimental impact on the amenities of the occupiers of these residential properties

As a consequence, this development would be contrary to Policy ST1 of the Copeland Local Plan 2013 – 2028 and Section 12 of the NPPF which seek to protect residential amenity.

# **Annex B**

## **Conditions**

1. The layout, scale, appearance, means of access thereto and landscaping must be as may be approved by the Local Planning Authority.

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. Detailed plans and drawings with respect to the matters reserved for subsequent approval must be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted must be commenced not later than the later of the following dates:-

a) The expiration of THREE years from the date of this permission

Or

b) The expiration of TWO years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. 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:-

Site Location Plan, scale 1:500, drawing number 007, received 24<sup>th</sup> February 2022;  
Indicative Layout, scale 1:500, drawing number 006a, received 24<sup>th</sup> June 2022;  
Coal Mining Risk Assessment, written by Geo Investigate, received 24<sup>th</sup> February 2022;  
Planning Statement, written by SRE Associates, received 24<sup>th</sup> February 2022.

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.

Pre-commencement conditions

4. The development shall not commence until visibility splays providing clear visibility of 60m (north west) by 2.4m by 37m (south east) down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted

development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

Reason

In the interests of Highway Safety and in accordance with Policy DM22 of the Copeland Local Plan.

5. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete.

Reason

To ensure a minimum standard of construction in the interests of highway safety and in accordance with Policy DM22 of the Copeland Local Plan.

6. No dwellings or buildings or structures shall be commenced until the access roads, as approved, are defined by kerbs and sub base construction.

Reason

To ensure that the access roads are defined and laid out at an early stage and in accordance with Policy DM22 of the Copeland Local Plan

7. The use of the development shall not be commenced until the access has been formed to give a minimum carriageway width of 4.8 metres, and that part of the access road extending 10 metres into the site from the existing highway has been constructed in accordance with details approved by the Local Planning Authority.

Reason

In the interests of highway safety and in accordance with Policy DM22 of the Copeland Local Plan

8. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway shall be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.



#### Reason

In the interests of highway safety and environmental management and in accordance with Policies DM22 and DM24 of the Copeland Local Plan.

9. Development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:

- pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
- retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- Details of any proposed temporary access points (vehicular / pedestrian)
- surface water management details during the construction phase

#### 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.

10. Prior to the submission of any Reserved Matters application seeking approval of a detailed layout of development, a scheme of intrusive investigations shall be carried out on site to establish the risks posed to the development by past coal mining activity, including that posed by past opencast extraction. These works shall be carried out in accordance with authoritative UK guidance.

Prior to the commencement of the development hereby approved, the findings of the intrusive site investigations including a proposed layout plan which identifies the alignment of any buried highwalls present within the site and defines appropriate 'no build' zones over these feature, must be submitted to and approved in writing by the local planning authority.

#### Reason

In order to ensure the stability and suitability of the site in accordance with Policy ST1 of the Copeland Local Plan.

11. Prior to commencement of development, any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the proposed development. These works shall be carried out in accordance with authoritative UK guidance.

Reason

In order to ensure the stability and suitability of the site in accordance with Policy ST1 of the Copeland Local Plan.

Prior use conditions

12. Details showing the provision of a vehicle turning space within the site, which allows vehicles visiting the site to enter and leave the highway in a forward gear, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the turning space constructed. The turning space shall not thereafter be used for any other purpose.

Reason

To ensure that provision is made for vehicle turning within the site and in the interests of highway safety and in accordance with Policy DM22 of the Copeland Local Plan.

13. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is occupied/brought into use.

Reason

In the interests of highway safety and in accordance with Policy DM22 of the Copeland Local Plan.

14. Prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason

In order to ensure the stability and suitability of the site in accordance with Policy ST1 of the Copeland Local Plan.

## Other conditions

15. Footways shall be provided that link continuously and conveniently to the nearest existing footway. Pedestrian within and to and from the site shall be provided that is convenient to use.

### Reason

In the interests of pedestrian safety and in accordance with Policy DM22 of the Copeland Local Plan.

16. Foul and surface water must be drained on separate systems.

### Reason

In order to ensure a satisfactory drainage system for the site and in accordance with Policy DM24 of the Copeland Local Plan.

## Informative

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 0845 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com) <<http://www.groundstability.com>>