

Local Planning Authority Statement of Case

Appeal By:

Harras Park Estates

Appeal Reference:

APP/Z0923/W/21/3277409

Local Planning Authority Reference:

4/19/2233/001

Proposal:

Outline application for residential development of up to 50 dwelling with full details of site entrance and associated junction improvements (resubmission)

Site Address:

Land to south of Elizabeth Crescent, Whitehaven

1. Introduction:

Site;

This appeal relates to a broadly rectangular 3.18 hectare parcel of land located in an elevated position to the south of the existing housing estate of Bay Vista which is to the northeast of Whitehaven.

The land is in agricultural use and is therefore greenfield in nature/character.

The land slopes from south to north and its boundaries are defined by existing hedgerows and tree belts.

The land is directly bounded by the existing dwellings on Elizabeth Crescent to the north and open fields to the east, south and west.

Proposals;

The submitted planning application seeks Outline Planning Permission with all matters excluding access reserved for the development to up to 50no. dwellings.

Access to the development is proposed via the existing highway serving Elizabeth Crescent. A scheme of works are proposed to both the junction of Victoria Road with Rosemary Close and to Victoria Road itself to facilitate access to the development.

A connection is proposed to an existing Public Right of Way to provide greater pedestrian access/linkages to the proposed development.

Information is submitted in support of the Outline Planning Application that seeks to demonstrate that surface water can be discharged to an existing watercourse via a scheme of SuDS features and attenuation and that foul water can be discharged to the public mains sewer.

Whilst not forming part of the formal application, an indicative layout plan has been prepared and submitted which details how a scheme of 50no. dwellings could be accommodated on the Application Site.

Directly Relevant Planning Application History;

Application Ref. 4/17/2296/001 - Outline Application for Residential Development of up to 50 Dwellings – Refused by Members of the Copeland Planning Panel.

Application Ref. 4/17/2296/001 was the subject of a planning appeal under appeal ref. APP/Z0923/W/18/3217111. The planning appeal was dismissed by the Planning Inspectorate.

2. Scope of Statement of Case

The submitted appeal is against non-determination of Planning Application Ref. 4/19/2233/001 under Section 78(2) of the Town and County Planning Act 1990 (as amended).

Under the Constitution of Copeland Borough Council, Planning Application Ref. 4/19/2233/001 is required to be determined by Members of the Planning Panel (Planning Committee).

To date an Officer Report to Planning Panel has not been prepared and the application has not been the subject of consideration by Members of the Planning Panel. As such, there is no formal decision or minded to decision from the Members of the Planning Panel.

There is no clear and defined authority within the Constitution of Copeland Borough Council that provides delegated authority to Officers to prepare a Statement of Case that addresses the issues raised by an Appellant without a formal or reasonably a minded to decision from Members of the Planning Panel that would determine the stance to be adopted in any Statement of Case.

On the 18th October 2021, formal confirmation was sought from the appointed Planning Inspector as to whether they wished for Officers to seek a minded to decision from Members of the Planning Panel, which would enable the preparation of a Statement of Case that addresses the issues raised by the Appellant; and, if they would be willing to agree an extension to the appeal timetable to enable the minded to decision to be secured.

On the 25th October 2021, the appointed Planning Inspector confirmed that it would not be reasonable to extend the appeal timetable to enable a minded to decision from the Planning Panel given the delay in the appeal process that may result and that based on the appeal documentation currently submitted, they were satisfied that they will be able to establish the main issues of relevance to the appeal

A copy of the letter to the Planning Inspector of the 18th October 2021 and the email response of the 25th October 2021 are contained at Annex A to this Statement of Case.

In the context of the above, it is confirmed that this Statement of Case has been prepared on the basis that the authors (Officers of Copeland Borough Council) are not the decision maker and that Members of the Copeland Planning Panel have not made a formal or minded to decision in relation to this Outline Planning Application.

The Appeal Statement is therefore limited to the following:

- a brief timeline of the Outline Planning Application;
- identification of the relevant policies of the Development Plan;
- identification of the relevant material planning considerations;

- identification of the key issues without narrative or argument regarding the acceptability of the scheme; and,
- a draft list of planning conditions for use should the Planning Appeal be allowed.

3. Brief Overview of the Outline Planning Application to Date

Outline Planning Application Ref. 4/19/2233/001 was submitted on 26th June 2019.

The Outline Planning Application was the subject of formal consultation in respect of the documentation initially submitted and subsequent consultations in response to additional/revised information submitted by the Agent/Applicant in response to consultation responses received, with particular regarding to highways and drainage.

Additional specific information was requested by Cumbria County Council – LLFA in relation to surface water drainage. The Agent confirmed that the additional information was to be submitted in response to the request by Cumbria County Council - LLFA. It was confirmed that there would be delays in the preparation of this information due to both Covid-19 and furlough.

Extensions of the determination period were agreed by the Applicant/Agent to enable the preparation of the additional information and to enable completion of consultations throughout the determination period.

The most recent extension of the determination period expired on the 18th June 2021 without the submission of the additional specific information requested by Cumbria County Council – LLFA previously confirmed as being forthcoming by the Agent.

The Applicant then proceeded to appeal against the non-determination of the Outline Planning Application on the 21st June 2021.

In anticipation of any request from the Planning Inspector to seek a minded to decision from Members of the Copeland Planning Panel, formal comments were requested from Cumbria County Council – LLFA in respect of the drainage information submitted as of the 18th June 2021. This is outlined in their consultation response of the 23rd June 2021.

The objection submitted by the Bay Vista Residents Group was formally received by Copeland Borough Council on the 17th June 2021. Again, in anticipation of any request from the Planning Inspector to seek a minded to decision from Members of the Copeland Planning Panel, formal comments were requested from Cumbria County Council – Highways and LLFA in respect of the objection submitted. No comments have been received from Cumbria County Council – Highways and LLFA in relation to the objection. It has latterly been requested that Cumbria County Council – Highways and LLFA issue any comments directly to the Planning Inspectorate due to the scope of this Statement of Case.

4. Relevant Policies of the Development Plan

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles
Policy ST2 – Spatial Development Strategy
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 EN4 – Heritage Assets
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 DM27 – Built Heritage and Archaeology
Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP):

Saved Policy TSP8 - Parking Requirements
Proposals Map including settlement boundaries.

5. Other Material Planning Considerations

Application Ref. 4/17/2296/001 and Planning Appeal Ref. APP/Z0923/W/18/3217111.

National Planning Policy Framework (NPPF).

Planning Practice Guidance (PPG).

National Design Guide (NDG).

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

Cumbria Development Design Guide (CDDG).

Five Year Housing Land Supply Statement (HLPS) - In November 2020, the HLPS was published, which demonstrates a 6.35 year supply of deliverable housing sites against the emerging housing requirement and a 55 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test. As outlined at Paragraph 5.1.2 of the HLPS, applications for development outside the settlement boundaries in the Copeland Local Plan 2013-2028 will be determined in accordance with the NPPF, other policies relevant to the proposal and other material planning considerations.

Emerging Copeland Local Plan (ECLP) - The emerging Copeland Local Plan 2017-2035 was recently the subject of a Preferred Options Consultation. The Preferred Options Consultation builds upon the completed Issues and Options Consultation, which finished in January 2020. Given the stage of preparation, the emerging Copeland Local Plan 2017-2035 has only limited weight in decision making, but 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.

It is highlighted that the Appeal Site is not located within the proposed settlement boundary for Whitehaven and is not proposed for allocation for residential development in the ECLP.

Copeland Landscape Settlement Study (CLSS) – The CLSS was published in July 2020 and was prepared to form part of the evidence base for the ECLP and to assist in the determination of planning applications.

6. Key Issues

The key issues relating to the proposed development are considered to comprise the following:

- if the principle of proposed residential development is acceptable;
- if unacceptable impacts upon the safe operation of public highways will occur;
- if sufficient information has been submitted and if the development can be adequately drained without increased flood risk on or off the Application Site;
- if unacceptable adverse impacts upon the character of the local landscape or unacceptable visual impacts will occur;
- if unacceptable adverse impacts upon heritage assets will occur;
- if affordable housing, open space and play provision are required;
- if sufficient information has been submitted and if unacceptable impacts will occur in respect of ecology and trees; and,
- if any requirement exists for a Section 106 planning obligation to make the development acceptable in planning terms.

7. Planning Conditions

(1) Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the council in writing before any development is commenced.

(2) An application for approval of the reserved matters shall be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted shall 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.

(3) The development hereby permitted shall be carried out in accordance with the following approved plans:

****As submitted by the Appellant****

Pre-Commencement

Drainage

(4) No development shall commence until a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed and maintained after completion) has been submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed, maintained and managed in accordance with the approved details.

(5) No development shall commence until a construction surface water management plan that considers how surface water run-off will be managed during the construction phase of the development has been submitted to and approved in writing with the local planning authority. The development shall be completed in accordance with the approved details.

(6) No development shall commence until a condition and capacity survey of the culverted watercourse (or piped drainage system) downstream of the surface water discharge point shall be submitted to and approved in writing by the Local Planning Authority. The information provided should also include details of any repair and mitigation required to the culverted watercourse. The development shall be completed in accordance with the approved details.

Highways

(7) No development shall commence until details of the carriageway, footways, footpaths, cycle ways etc. have been submitted to and approved in writing by the local planning authority. The details shall be designed, constructed, drained and lit to a standard suitable for adoption and include longitudinal/cross sections. Any works so approved shall be constructed before the development is complete.

(8) No development shall commencement until visibility splays providing clear visibility as shown on WYG Drawing Number A102063_C001D have been provided at the junction of Rosemary Close (U4450) and Victoria Road (U4011). 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 grow within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that local traffic and construction traffic is safeguarded.

(9) No development shall commence until full engineering, drainage and construction details of the gateway feature and footway realignment both shown indicatively on WYG Drawing Number A102063_C001D have been submitted to and approved in writing by the local planning authority. The works shall be completed and made operational before general development of the site commences so that local traffic and construction traffic is safeguarded.

(10) Before general development of the site commences, the site access shall be formed connecting to the existing highway and that the part of the access road extending 30 metres into the Application Site from the existing highway has been constructed in accordance with the details approved by the Local Planning Authority.

(11) No development shall 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 formation of the construction compound and access tracks and any areas of hard standing 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)
- Consideration of road conditions due to winter weather and how it may affect access to the site.

The development shall be completed in accordance with the approved details.

(12) No development shall commence until detailed drawings showing the footway connection to footpath 431008 have been submitted to and approved in writing by the Local Planning Authority. Any such approved connection shall be completed in accordance with the approved details before the development is occupied.

Construction Management

(13) No development shall take place until a Construction Method Statement and Management Plan has been submitted to and approved in writing by the local planning authority. The statement will include:

- the means of access for demolition and construction traffic
- the loading and unloading of plant and materials
- the means of keeping the public highway free from obstruction and dirt
- the storage of plant and materials used in construction, including measures to prevent silt and other containments entering surface water drains and a scheme for recycling/disposing of waste resulting from construction works.

The development shall be completed in accordance with the approved details.

Trees

(14) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with Clause 7 of British Standard BS5837 - *Trees in Relation to Construction - Recommendations* has been submitted to and approved in writing by the Local Planning Authority.

The tree protection measures shall be carried out as described and approved prior to the commencement of the development and shall be maintained until the development is completed.

Ground Conditions

(15) No development shall commencement until a Phase 2 Ground Investigation to assess all geohazards as per the recommendations of Preliminary Environmental Risk Assessment Ref. 2017-2356 has been submitted to and approved in writing by the local

planning authority. The Phase 2 Ground Investigation shall include a details of any remedial works or mitigation required to make the development safe. The development shall be completed in accordance with the approved details.

Pre-Occupation Planning Conditions and Other Planning Conditions

Highways

(16) No dwellings shall be occupied until the estate road including footways and cycle ways to serve such dwellings have been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

(17) Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority for approval before development commences. The development shall be completed in accordance with the approved details.

Construction Management

(18) No construction work associated with the development hereby approved shall be carried out outside of the hours of 08:00 hours - 18.00 hours Monday - Friday and 08:00 hours – 13:00 Saturday, nor at any time on Sundays and bank holidays.

Ground Conditions

(19) If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted to and obtained written approval from the Local Planning Authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Ecology

(20) The development shall implement all of the mitigation and compensation measures set out in the Preliminary Ecological Appraisal for Land off Elizabeth Crescent, Whitehaven, Cumbria prepared by Open Space dated August 2017.

Annex A

Correspondence with Planning Inspectorate

Tina Gozra
3/E
Temple Quay House
2 The Square
Bristol
BS1 6PN

Please Contact: Nick Hayhurst
Officer Tel No: 01946 598331
My Ref: 4/19/2233/001
Date: 18th October 2021

WEST3@planninginspectorate.gov.uk

Dear Tina,

TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY HARRAS PARK ESTATES
SITE ADDRESS: ELIZABETH CRESENT, WHITEHAVEN, CUMBRIA, CA28 6JQ
APPEAL REF. APP/Z0923/W/21/3277409

I write with reference to the above planning appeal for which you are the case officer.

The submitted appeal is against non-determination of Planning Application Ref. 4/19/2233/001 under Section 78(2) of the Town and County Planning Act 1990 (as amended).

The Start Letter issued requires Copeland Borough Council to prepare their Statement of Case prior to the 3rd November 2021.

Under the Constitution of Copeland Borough Council, Planning Application Ref. 4/19/2233/001 is required to be determined by Members of the Planning Panel (Planning Committee).

To date an Officer Report to Planning Panel has not been prepared and the application has not been the subject of consideration by Members of the Planning Panel. As such, there is no formal decision or minded to decision from the Members of the Planning Panel.

There is no clear and defined authority within the Constitution of Copeland Borough Council that provided delegated authority to Officers to prepare a Statement of Case that addresses the issues raised by an Appellant without a formal or reasonably a minded to decision from Members of the Planning Panel that would determine the stance to be adopted in any Statement of Case.

In the context of the above, please can you advise regarding the following:

- i. if the Planning Inspector wishes for Officers to seek a minded to decision from Members of the Planning Panel to establish the position of Copeland Borough Council and would enable the preparation of a Statement of Case that addresses the issues by the Appellant; and,
- ii. if the Planning Inspector would be willing to agree an extension to the appeal timetable to enable the completion of i. above.

I trust that the above is both clear and acceptable; however, if you have any queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'N. S. Hayhurst' followed by a stylized flourish.

Nick Hayhurst
Head of Planning and Place

Christopher Harrison

From: West 3 <West3@planninginspectorate.gov.uk>
Sent: 25 October 2021 12:05
To: Christopher Harrison
Subject: RE: Appeal Ref. APP/Z0923/W/21/3277409. Elizabeth Cresent, Whitehaven.

CAUTION: External email, think before you click!
Please report any suspicious email to our [IT Helpdesk](#)

Dear Chris

Thank you for your letter of 18 October 2021 identifying that there is no formal decision or minded to decision from Members of the Council's Planning Panel on the development that is the subject of the above appeal. The Inspector appointed to determine the appeal notes the offer to seek a minded to decision from members of the Planning Panel to establish the position of the Council. However, the Inspector considers that it would not be reasonable to extend the appeal timetable to enable a minded to decision from the Planning Panel given the delay in the appeal process that may result. Furthermore, based on the appeal documentation currently submitted, the Inspector is satisfied that she will be able to establish the main issues of relevance to the appeal.

Kind regards
Tina

From: Christopher Harrison <Christopher.Harrison@copeland.gov.uk>
Sent: 18 October 2021 10:47
To: West 3 <West3@planninginspectorate.gov.uk>
Subject: Appeal Ref. APP/Z0923/W/21/3277409. Elizabeth Cresent, Whitehaven.

Dear Tina Gozra,

I write with reference to the above Planning Appeal for which the Appeal Questionnaire etc. has recently been submitted to the Planning Inspectorate.

Please find attached a letter which seeks clarity from the allocated Planning Inspector regarding two issues pertinent to the Planning Appeal.

My sincere thanks in anticipation.

Yours sincerely,

Chris

Please note that the advice in this email is given in good faith on the basis of the information available at the present time. The advice may be subject to revision following further examination or consultation, or where additional information comes to light, and is therefore not binding on any future recommendation which may be made to the Council or any formal decision by the Council.

Chris Harrison
Principal Planning Officer
Copeland Borough Council

☎ - Phone: 07392 280647
✉ - Email: christopher.harrison@copeland.gov.uk
💻 - Website: www.copeland.gov.uk

Copeland Borough Council, The Copeland Centre, Catherine Street, Whitehaven, Cumbria, CA28 7SJ. Tel: 01946 598300. Fax: 01946 598303. www.copeland.gov.uk



Working to improve lives, communities and the prosperity of Copeland

 **Think of the environment...please don't print this e-mail unless it is necessary.**

Copeland - the best place to live in Cumbria This email is confidential and is for the attention of the addressee only. Copeland Borough Council accept no responsibility for information, errors or omissions contained in it. We make every effort to keep our network free from viruses. You should independently check this e-mail and any attachments for viruses, as we can take no responsibility for any computer viruses that might be transferred by way of this e-mail.

[Please take a moment to review the Planning Inspectorate's Privacy Notice which can be accessed by clicking this link.](#)



Please note that the contents of this email and any attachments are privileged and/or confidential and intended solely for the use of the intended recipient. If you are not the intended recipient of this email and its attachments, you must take no action based upon them, nor must you copy or show them to anyone. Please contact the sender if you believe you have received this email in error and then delete this email from your system.

Recipients should note that e-mail traffic on Planning Inspectorate systems is subject to monitoring, recording and auditing to secure the effective operation of the system and for other lawful purposes. The Planning Inspectorate has taken steps to keep this e-mail and any attachments free from viruses. It accepts no liability for any loss or damage caused as a result of any virus being passed on. It is the responsibility of the recipient to perform all necessary checks.

The statements expressed in this e-mail are personal and do not necessarily reflect the opinions or policies of the Inspectorate.

DPC:76616c646f72