

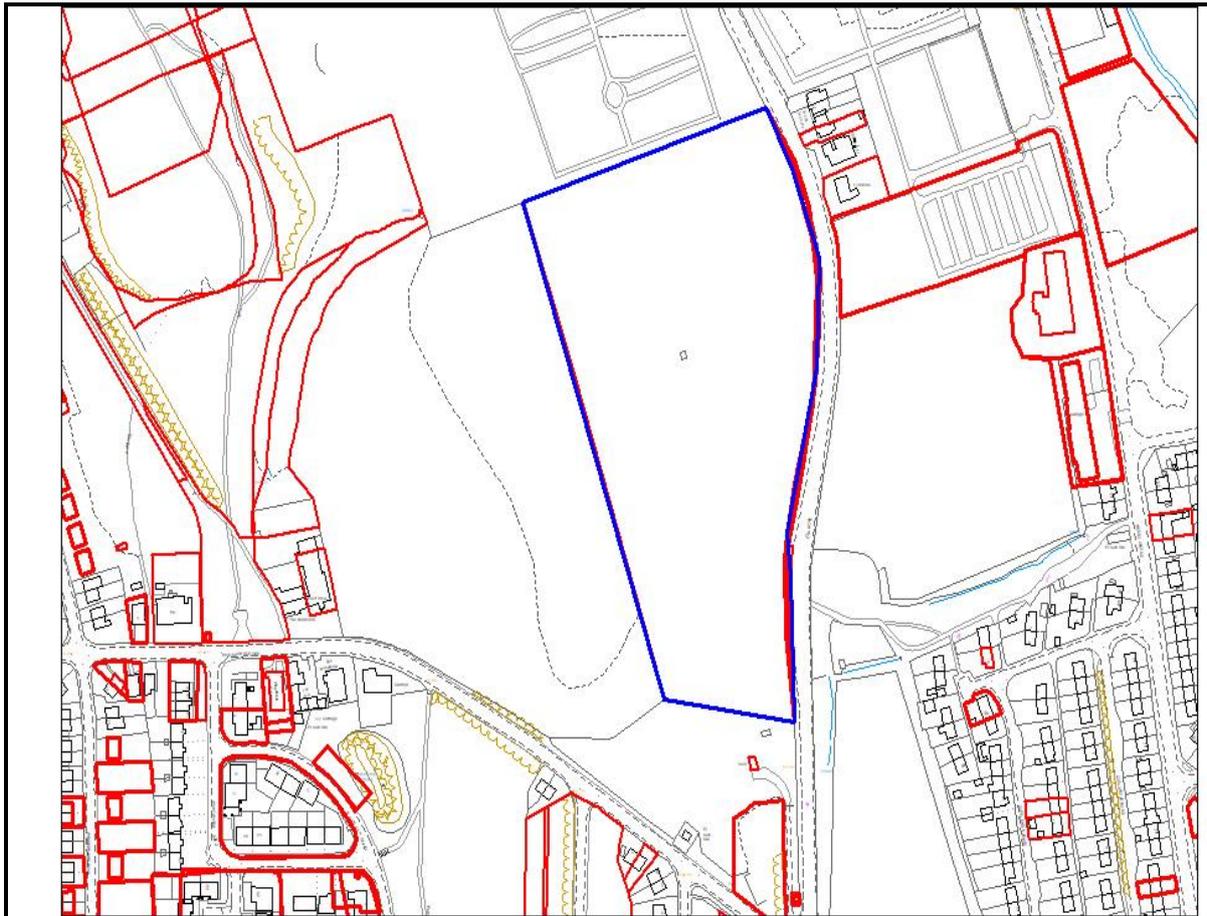


**To: PLANNING PANEL**

**Development Management Section**

**Date of Meeting: 24/11/2021**

<b>Application Number:</b>	4/20/2514/0F1
<b>Application Type:</b>	Full : CBC
<b>Applicant:</b>	Astime Properties Limited
<b>Application Address:</b>	LAND AT LOW ROAD, WHITEHAVEN
<b>Proposal</b>	RESIDENTIAL SITE FOR UP TO 99 DWELLINGS
<b>Parish:</b>	Whitehaven
<b>Recommendation Summary:</b>	<p>Issue delegated authority to the Head of Planning and Place to approve Full Planning Permission subject to the following:</p> <ul style="list-style-type: none"><li>- The planning conditions outlined at the end of this report</li><li>- The Applicant entering into a Section 106 planning obligation to secure 12 affordable units, the provision and maintenance of open space, the provision and maintenance of an attenuation pond and any required Travel Plan Monitoring fee.</li></ul>



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### **Reason for Determination by Planning Panel**

The application is brought for consideration by Members of the Planning Panel as the Planning and Place Manager considers it to be of sufficient importance in planning terms to refer to the Planning Panel for determination.

### **Introduction**

This application relates to an area of scrub land which fronts onto Low Road and lies adjacent to the cemetery. It covers an area of approximately 3.4 hectares. The site previously housed a large workhouse building which was demolished due to subsidence.

### **Proposal**

This Full Planning Application seeks permission for residential development on the site, comprising 99 dwellings. The number has been reduced from the previous scheme

approved on the site due to the need to comply with updated guidance in relation to drainage and highway design.

The proposed dwellings are to be a mix of 2, 3 and 4 bedroomed detached and semi-detached units. The development has been designed to take advantage of the slope across the site which falls to meet Low Road on its eastern boundary. This will allow the inclusion of a variation in heights of between 2 and 3 storeys.

The dwellings are to be constructed in a mixture of brick and render and will have tiled pitched roofs. The houses are to be arranged around a circular estate road which will be accessed off Low Road using an existing entrance.

Twelve of the units are to be affordable.

Several areas of open space and landscaping are to be provided within the layout. The open space nearest to Low Road is to contain an attenuation pond which will be used to control surface water run-off from the site. A footpath link is also to be created to provide access from the site onto Low Road.

An existing belt of vegetation is to be retained along the western boundary to provide a soft edge to the development with the adjoining cemetery.

The application is accompanied by the following information:-

- Site Location Plan
- Proposed Site Plan
- Proposed Street Elevations and Sections
- Existing Site Survey
- Elevation and Layout Plans for each dwelling type
- Drainage Strategy Layout
- Transport Assessment
- Phase 1 Desk Study
- Coal Mining Risk Assessment
- Ecological Appraisal
- Design and Access Statement
- Tree Report
- Flood Risk Assessment

### **Relevant Planning Application History**

Retail park consisting of 5 units, filling station with associated roads and parking area, approved in June 1990 (application reference 4/90/0234/0 relates);

Outline application for proposed housing development, approved in December 2001 (application reference 4/01/0681/0 relates);

Erection of 17 no. houses, approved in April 2002, (application reference 4/02/0080/0 relates);

Outline application for 114 dwellings comprising of detached and semi-detached and terraced houses plus apartments, approved in September 2006 (application reference 4/06/2457/0 relates);

Application to extend extant planning permission (4/06/2457/0 – outline application for 114 dwellings) in order to extend the time limit for implementation, approved in October 2011 (application reference 4/11/2375/001 relates);

Residential development (107 dwellings), approved in April 2015 (application reference 4/15/2007/0F1 relates);

Variation of conditions 4, 5, 7, 11, 12, 14, 15, 19, 20 and 21 of planning approval 4/15/2007/0F1 (107 dwellings), approved in July 2019 (application reference 4/19/2105/0B1 relates).

## **Consultation Responses**

### Whitehaven Town Council

No objections.

### Cumbria Highways

#### *First response*

I am giving this application a look over one thing to note, the Transport Assessment is from 2014 which is considered out of date, I would suggest the applicant carry out a new TA which takes into account new developments in the area.

#### *Second response*

Further to the submission of an updated Transport Assessment, the following comments were made:

The site has a longstanding history with planning consent 4-15-2007 for up to 107 dwellings which was approved in 2016. As planning consent appears to have expired in December 2019, this application has been submitted with a reduction in dwelling numbers from 107 to 99 and updated drainage information and an EVA access.

The site is located on the outskirts of Whitehaven with public transport links nearby and the town is within walking distance so is considered sustainable.

I would reiterate what has been previously said with regard to the steep nature of the site, whilst the primary road and secondary roads are within the CDDG guidelines of 1 in 20 and 1 in 10 gradients the site is not compliant with regard to DDA/Lifetime Homes requirements and there will be a requirement to have grit bins strategically placed at junctions/corners.

The addition of an EVA is welcomed, however after further consideration given its location and gradient there is concern that pedestrians or playing children using bicycles may lose

control going down the EVA and over-running out onto the public highway, this could be mitigated through the use.

The carriageway and footways at the proposed access are considered wide enough to allow and given the location of the internal junction loop road in relation to the access off the B5345 there is no longer a requirement for an EVA.

The proposed speed humps located around the development to reduce speeds need to be replaced with speed tables, this can be secured through condition.

It is noted that there is a requirement to have carriageway drainage connection agreed with the highway authority at the proposed access into the existing system, if the site is to be adopted then I see no opposition to this requirement, I will seek to secure further detailed information in respect of highway drainage.

It should be noted that the detention basin despite its use in attenuating highway surface water would not be adopted by this authority, therefore a management and maintenance plan will be required and a suitable maintenance company appointed at the expense of the applicant. A travel plan is required for this site to encourage a modal shift away from private car use and encourage more sustainable travel. A Travel Plan is a "living document" that needs to be updated, amended, approved and monitored throughout the life of the development. There are administration cost implications for the County Council as the Local Highway Authority relating to elements such as reviewing the implementation and management of the travel plan, providing advice on its monitoring or future review, travelling to and attending meetings with the development's travel plan coordinator, reviewing marketing material, reviewing survey results. In order for this work to be undertaken by the County Council's Travel Plan Coordinator, a financial contribution will be required from the developer towards staff costs incurred by the County Council and this should be included as part of a Section 106 Agreement.

The cost to a developer for this input from the County Council's Travel Plan Coordinator will be a contribution of £6,600 to cover the 5 year period of the travel plan.

Given the constraints of the existing highway towards Low Road, Whitehaven all traffic associated with the construction of the development must access from the A595 (T) along the C4035 and then B5345. Concern has been raised in relation to existing highway infrastructure on the B5345 at Low Rd, Whitehaven, and possible request for contributions from this development, however given the intensive nature of the works required, timescale's and associated costs it would not be feasible to secure contributions in this respect.

There are no concerns from a PROW or Archaeological perspective.

Summary - No objections, subject to conditions.

#### Local Lead Flood Authority

The applicant proposes a betterment to the Qbar discharge rate which is welcomed, the drainage hierarchy has been considered and overall the proposed strategy is acceptable to the LLFA.

The LLFA agrees with the findings of the FRA in that a full repair of the existing culvert along the northern site boundary/cemetery is required and will be secured through condition, this is an ordinary water course so consent will be required from LLFA to carry out works.

Detailed within the surveys and as a recommendation by the RG-Parkins is that the LLFA liaise with the downstream landowners in regard to repair of the culverted water course within the cemetery, given the cost implications of constructing a new drain circa 400m in length within the public highway has the applicant considered approaching CBC with a view to repairing the damaged sections of culvert within the cemetery through appointed contractor or thorough developer contributions?

This would then give the option for the site to connect to the existing culvert either within the development site subject to levels or within the footway along the B5345 as previously suggested.

It would also remove the requirement for a survey and assessment downstream of the new connection point below Jefferson Park.

No objections, subject to conditions.

#### United Utilities

Following our review of the submitted Flood Risk Assessment and Drainage Strategy, ref: K36110/01/FRA/CA dated 25/11/2020 proposing surface water discharging into watercourse via existing highway drain and new surface water sewer, we can confirm the proposals are acceptable in principle to United Utilities and therefore should planning permission be granted we request the following condition is attached to any subsequent Decision Notice:

#### Condition 1 – Surface water

The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment and Drainage Strategy, ref: K36110/01/FRA/CA dated 25/11/2020 proposing surface water discharging into watercourse via existing highway drain and new surface water sewer. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

#### Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

#### The Environment Agency

*Environment Agency position – Flood risk.*

We have no objection to the proposed development.

The development site is located in flood zone 1, and drains to the main river Pow Beck which runs in culvert at this location.

We are satisfied that the necessary discussions are ongoing between the applicant and the Lead Local Flood Authority (LLFA) and United Utilities development planning and SUDS consultees regarding the drainage of this site.

*Environment Agency position – Contaminated Land*

The previous use of the proposed development site as an infirmary presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer B.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Condition

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - All previous uses
  - Potential contaminants associated with those uses
  - A conceptual model of the site indicating sources, pathways and receptors
  - Potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete

and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

#### Reasons

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

To prevent deterioration of a water quality element to a lower status class in the Secondary B aquifer and the near surface water which sources the springs emanating to the west of the site.

#### Flood and Coastal Drainage Engineer

##### *First response*

Generally with regards to flooding and drainage, I happy with most things that are within the Flood Risk Assessment and Drainage Strategy, but there are still a few niggling queries.

My main comments and queries are as follows:

- It's good to see that a cut off drain has proposed along the western boundary of the site to intercept flow from the higher ground to the west of the site.
- This should be installed at the commencement of site works as it will minimise water external to the site affecting the site works.
- It is proposed to connect this land drain into the culvert that runs through part of the site close to the boundary with Whitehaven Cemetery.
- The culvert appears to be blocked, or collapse in this area and needs repaired prior to the land drain being connected into it.
- The repair isn't actually a planning matter, but I suggest that it be conditioned that the repairs are undertaken prior to the land drain being connected into the culvert.
- Most of the proposed highway drainage from the site is to be directed to a detention pond in the north east corner of the site and released off site at a limit of 5l/s.
- However, because of the site topography, it is proposed that the site highway drainage from the new access road will need to be connected to the existing highway drainage in Low Road.
- This will need to be approved by Cumbria Highways in advance, otherwise alternative arrangements for the highway drainage for the access road will need to be agreed prior to planning approval.
- Each individual plot is to have a geo-cellular storage crate beneath the shared drive, with discharge limited to 0.1l/s.
- It is intended that the surface water system and SUDS components will be offered for adoption by the sewerage undertaker and or highways authority, so these aspects of the system need to be approved by the appropriate agency.
- The detention pond is to be maintained by a private management company.

- The individual plot drainage will remain the responsibility of the plot owner, although I'm not sure how this would work for the storage crates beneath shared drives.
- Off-site the surface water system will be a 150mm pipe installed beneath Low Road to an existing culvert near the junction of Low Road and Meadow Road.
- I'm not sure how practical this is in terms of other service along the route.
- Ultimately the surface water will discharge to Pow Beck, which is the catchment the greenfield runoff ends up in, although I'm not convinced that the routing via the culvert is the appropriate means in terms of sub catchment and capacity considering it wasn't possible to survey the culvert and assess its condition. [The culvert through the site and Whitehaven Cemetery was discounted due to it being in very poor condition in parts – that would be my problem to solve.]
- In the case of an exceedance event, exceedance flows are to be directed from the detention pond into an adjacent landscaped area.
- Calculations based on the existing site being greenfield, although classed as brownfield, and a 1% event with 40% uplift for climate change and 10% for urban creep based on plot area.
- One thing that I didn't see is management of surface water on site during construction, to prevent water running off site onto Low Road.

#### *Agent's response*

I have read at length David's comments with reference to the Surface water design and I can't see with the except of my comments below that there is anything specifically to reply or comment on at this time unless you advise otherwise as his points appears positive or neutral in this respect.

1. Repairs to culvert - bullet point 5, I note this is confirmed as not being a planning matter as such I can't see a Planning Condition can be attached to a Decision notice. It remains that the culvert and pipework in the cemetery is CBC drains and you should complete any drain repairs irrespective of the current planning application.
2. Management of Surface Water during construction - last bullet point. If you would like a statement regarding this please let me know and I will ask RG Parkins to produce the relevant report.

#### *Second response*

With regards to the tow points below, either I'd made an error in my original bullet point, or the Agent has miss understood it.

I was referring to the section of the culvert within the development site, which is the developer's responsibility, not the section in Whitehaven Cemetery, which is Copeland's responsibility

Part of the boundary wall between the development site and Whitehaven Cemetery has collapsed and I was informed that this was down to water coming from the damaged section of culvert within the development.

With regards to the second point, I would expect that this can be covered within the Construction Management Plan, assuming one is to be submitted.

### The Coal Authority

The Coal Authority concurs with the recommendations of the supporting Coal Mining Risk Assessment report; that intrusive investigations are required along with 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:

- No development shall commence until a scheme of intrusive investigations has been carried out on site to locate and establish the condition of recorded mine shaft 297516-023 and to establish the risks posed to the development by past shallow coal mining activity. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.
- No development shall commence until a detailed remediation scheme to protect the development from the effects of coal mining legacy related land stability risks has been submitted to the Local Planning Authority for consideration and approval in writing. The scheme shall be informed by the results of intrusive site investigations (required by condition X above) and shall include details of the proposed treatment of recorded mine entry 297516-023 and any treatment works required in respect of past shallow coal mining activity. Following approval, the remedial works shall be implemented on site in accordance with the approved details.
- Following the implementation and completion of the approved remediation scheme (required by condition XX above) and prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing.

The Coal Authority therefore wishes to raise 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.

### Natural England

No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

### Council Arborist Consultant (Capita)

Consent for the development of this site was granted in 2016. However, the proposal was not started within the three-year commencement date. This application seeks to renew the previous application Ref. 4/15/2007/0F1.

My colleague Rob Sim commented on the original application on the 25 February 2015.

I have no further comments to make only that conditions relating to landscaping and tree protection measures are carried over from the previous consent to this application, should it prove acceptable.

### Copeland Housing Strategy

#### *First response*

We recognise that 3 and 4 bedroom properties are popular with families and younger professional people with higher incomes and will attract people to the area, but would recommend a slightly higher number of 2 bedroom properties, taking into account evidence in the SHMA (2019) and Housing Needs Survey report (2020) – both indicated a greater need of 2 and 3 bedroomed properties.

The design and access statement refers to 12 affordable units on the site, but the application suggests market housing only – clarification has been sought from the agent but is still outstanding at the time of this response. The 2019 SHMA indicated that there was need for around 83 affordable units per year over the period 2017-2035, predominately in the Whitehaven Housing Market area. This was confirmed by the Housing Needs Survey and Report issued in 2020, which also found that over half of newly forming households in Copeland could not afford an average priced dwelling without spending more than 33% of their gross income and almost a third could not afford a lower quartile dwelling. These figures were slightly higher for the Whitehaven area. We would therefore encourage provision of affordable housing on this site, and a mix of affordable sale and rent, in line with the D&A statement.

Overall, we are supportive of this application, recognising that it will provide modern family homes close to the town centre.

#### *Agent response*

Apologies for the confusion on this, it is proposed that affordable housing are all the two bedroomed units highlighted in blue to the South of the site, their plots numbers are 60 - 71 inclusive and this follows the original planning consent where the affordable were in the same location. With regards the tenure of these a split of 6 rented / shared ownership would be consider appropriate.

It is not proposed to alter the overall housing mix for the site to increase two bedroomed houses as we believe there is sufficient supply of this housing type. At the time of writing there are currently 60, two bedroomed properties on the market within Whitehaven with prices between £45k - £240k, including shared ownership and retirement apartments as such an increase over the numbers proposed is not an acceptable option for this site, and not the housing assessment ones to reflect live market trends / forces.

#### *Second response*

We recognise that 3 and 4 bedroom properties are popular with families and younger professional people with higher incomes and will attract people to the area, but would recommend a slightly higher number of 2 bedroom properties, taking into account evidence in the SHMA (2019) and Housing Needs Survey report (2020) – both indicated a greater

need of 2 and 3 bedroomed properties. The agent's comment re the number of 2-bedroom properties for sale in Whitehaven currently is noted, however.

We understand that it is proposed to develop 12 affordable units on this site, as a mix of shared ownership and rental, and we very much welcome this proposal. We are aware that first time buyers often struggle to achieve the deposit levels required to get a mortgage and would encourage this to be considered by the developer in terms of the offer.

The 2019 SHMA indicated that there was need for around 83 affordable units per year over the period 2017-2035, predominately in the Whitehaven Housing Market area. This was confirmed by the Housing Needs Survey and Report issued in 2020, which also found that over half of newly forming households in Copeland could not afford an average priced dwelling without spending more than 33% of their gross income and almost a third could not afford a lower quartile dwelling. These figures were slightly higher for the Whitehaven area.

Overall, we are supportive of this application, recognising that it will provide modern family homes close to the town centre.

#### Cumbria County Council Education Department

##### *Pupil Yield Assessment*

A total of 99 dwellings are proposed. Within the submitted planning application form the dwelling mix is specified as being 12 x 2-bedroom dwellings, 43 x 3-bedroom dwellings and 44 x 4-bedroom dwellings. These figures have been utilised in a dwelling-mix led assessment of pupil yield from the development. This assessment calculates that the proposed development would yield an estimated 40 children: consisting of 23 primary school age pupils (comprising 10 infant and 13 junior) and 17 secondary school age pupils.

##### *Nearest Schools*

**Nearest Primary Schools:** The proposed development site is in the catchment areas of Kells Infant School and Monkway Junior School both of which lie approximately 0.9 miles from the site. There are six other primary schools within the statutory 2 mile primary school walking threshold of the site. These comprise: St Mary's Catholic Primary School (0.9 mile), St Begh's Catholic Junior School (1 mile), Valley Primary School (1.6 miles), St Gregory's & St Patrick's Catholic Infant School (1.6 miles), St James' C of E Infant School (1.6 miles), and St James' Junior School (1.7 miles).

**Nearest Secondary Schools:** The proposed development site is in the catchment area of Whitehaven Academy which lies approximately 2.5 miles from the site. The next nearest secondary school is St Benedict's Catholic High School which lies approximately 2.7 miles from the site and is therefore also within the statutory 3 mile secondary school walking distance threshold.

##### *School Capacity*

**Primary School Capacity for Infants:** Currently the nearest two schools with infant provision do not have sufficient capacity to accommodate all of the primary infant yield of 10 from this development. However, there are three other schools with infant provision within the 2

mile walking threshold of the site, and each of these has more than sufficient available infant places to accommodate the full estimated primary infant yield of this development in themselves. Therefore an education contribution is not required for the infant age pupils estimated to be yielded from this development.

Primary School Capacity for Juniors: There are currently projected to be 45 junior places available in the catchment school of Monkway. There are also junior spaces available across the four other schools with junior provision within the 2 mile walking threshold of the site. Consequently an education contribution would not be required in connection with the 13 junior age pupils estimated to be yielded from this development.

Secondary School Capacity: There are sufficient places to accommodate the estimated secondary pupil yield of 17 from this development at Whitehaven Academy. Therefore no education contribution would be required in connection with secondary school capacity.

It should be noted that should your council be minded to grant planning permission for the currently undetermined application for full planning permission for the erection of 40 dwellings on Land at Water's Edge, Whitehaven (Planning Application Reference 4/20/2455/0F1), that this would not affect the ultimate conclusion that no education contributions are required in connection with this application (4/20/2514/0F1).

It should also be noted that the above analysis represents a snapshot in time.

### **Public Representation**

The application has been advertised by way of a site notice, press notice and neighbour notification letters issued to 13 no. properties.

No comments have been received as a result of these advertisements.

### **Planning Policies**

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

#### Development Plan

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

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

Copeland Local Plan 2001-2016 (LP) :

Saved Policy TSP8 - Parking Requirements

HSG2 – New Housing Allocations

Proposals Map including settlement boundaries.

**Other Material Planning Considerations**

National Planning Policy 2021 (NPPF)

National Planning Practice Guidance (PPG)

National Design Guide (NDG)

Manual for Streets

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

Cumbria Development Design Guide (CDDG).

Strategic Housing Market Assessment 2021 (SHMA)

Copeland Housing Strategy 2019

Copeland Borough-Wide Housing Needs Survey 2020

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.

## **Assessment**

The main issues raised by this application relate to the principle of development, housing need, layout, scale and design, ecology, trees, highway safety, drainage and ground conditions. These are considered below.

### Principle of the development

Policies ST1 and ST2 along with Policies SS1, SS2, and SS3 of the Copeland Local Plan 2013-2028 seek to promote sustainable development to meet the need and aspirations of the Borough's housing market. These policies further concentrate development within the defined settlement boundaries in accordance with the Borough's settlement hierarchy. The NPPF also seeks to support the Government's objective of significantly boosting the supply of housing through sustainable development.

This site has already had the benefit of planning permission in the past which has established the principle of developing the land for residential purposes. The site is brownfield land and lies within the settlement boundary for Whitehaven, the Principal town within the Borough. Its development for housing is consistent with the strategic development principles set out in Policies ST1 and ST2 of the Local Plan.

Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to developments relating 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 November 2020, the Copeland Borough Council produced a Five Year Housing Land Supply Statement 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.

Notwithstanding the above, the policies in the CS and LP must be considered out of date.

Consultation on the Local Plan 2017-2035 Preferred Options Draft (ECLP) ended in December 2020. The ECLP will, once adopted, replace the Core Strategy.

The ECLP has been drafted based upon an evidence base of documents which includes a Strategic Housing Market Assessment (SHMA). The SHMA calculates the housing need in Copeland over the plan period of 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. Policy ST2 also does not accord with the NPPF which requires local planning authorities to significantly boost housing delivery.

In the context of the above, Paragraph 11 of the NPPF is engaged and the policies of the Development Plan which are most important for determining the application are 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 comprises a parcel of brownfield land that is within the settlement boundary of Whitehaven in a location that is considered to be a sustainable location for new residential development;
- the proposed development would assist in significantly boosting housing supply to meet the identified need for housing within Whitehaven and the wider Borough as detailed in Policy ST2 of the CS;
- the proposed development comprising the erection of 99 dwellings is appropriate in size and character to the Principal Centre of Whitehaven in accordance with the spatial objectives of Policy ST2 and ST2 of the CS;
- the Site is located in close and convenient proximity to the wide range of services and employment opportunities located within Whitehaven, many of which are located within walking distance of the Application Site.
- Sustainable travel options exist within the vicinity of the site

#### Housing Need and Housing Mix

Policy SS3 of the LP states that applications for housing development should demonstrate how the proposals help to deliver a range of good quality and affordable homes for everyone. It is confirmed that development proposals will be assessed according to how well they meet the identified need and aspirations of the Borough's individual Housing Market Areas as set out in the Strategic Housing Market Assessment including: creating a more balanced mix of housing types and tenures within the housing market area; including a proportion of affordable housing that makes the maximum contribution to meeting the identified needs in the housing market areas; and, establishing a supply of sites suitable for executive and high quality family housing, focussing on Whitehaven and its fringes as a priority.

The Application Site is located within the Whitehaven 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 70% of market homes to have 3 or more bedrooms and 30% of market homes to have 1-2 bedrooms.

The proposed development comprises:

- 12 x 2 bed dwellings
- 43 x 3 bed dwellings

- 44 x 4 bed dwellings

The proposed mix broadly accords with the provisions of the SHMA and Policy SS3 of the LP, Whilst the provision of 12 affordable units (11% of the total housing proposed) falls below the 15-25% quota set out in the Local Plan, the NPPF (July 2021) sets a minimum threshold of 10% on sites that comprise major development. On this basis the provision of 12 affordable units is considered to be appropriate in this case as the site is difficult to develop due to ground conditions, the potential for contamination and surface water drainage. The affordable units are to be offered as a mix of shared ownership and rental.

The Council's Strategic Housing Manager has indicated support for the proposals as it will provide modern family homes close to the town centre.

#### Layout, Scale and Design

Policies ST1, DM10, DM11, and DM12 of the Local Plan, and section 12 of the NPPF seek to secure high standards of design for new residential properties. These policies seek to create and maintain a reasonable standard of amenity, and set out detailed requirements with regard to standard of residential amenity, including the provision of parking spaces, separation distances and open space.

The proposed layout and scale of the development is considered to be appropriate given the constraints of the land in terms of its configuration, gradient and restraints relating to drainage and highways requirements.

The dwellings are arranged around a circular estate road which enables the creation of linear frontages. The use of the slope across the site allows for a variations in the scale and heights of the units. This together with the use of a varied palette of external facing materials will help to break up the frontage of the development and provide an attractive and modern appearance which will enhance the locality.

The interface separation distances between existing and proposed dwellings required by Policy DM12 of the Local Plan are achieved.

Given the scale, form and layout of the proposed development adverse impacts will not result through loss of light, overbearing, overshadowing and overbearing effects as required by Policy ST1 of the Local Plan.

Parking has been provided to the front of the dwellings with some soft landscaping proposed at the edges and between the parking bays in order to help soften the visual impact of the driveways.

It is also proposed to provide several areas of open and amenity space within the layout which will help to soften the appearance of the overall residential development.

The submitted details are considered to be in accordance with Policies DM10, DM11 and DM12 of the Local Plan.

#### Ecology and Arboriculture

Policies ST1, ENV3 and DM25 of the Copeland Local Plan and section 15 of the NPPF outline how the Council will protect and enhance the biodiversity and geodiversity within the

Borough. These policies set out the approach towards managing development proposals that are likely to have an effect on nature conservation sites, habitats and protected species.

A Preliminary Ecological Appraisal has been submitted in support of the planning application. This outlines that no conclusive evidence was found of bats and red squirrel being present on the site and that the vegetation that is to be cleared has a low ecological significance. Furthermore, the trees within the development area are generally of low quality.

A Tree Report was submitted to supplement the Preliminary Ecological Appraisal. It concludes that it is possible to retain any significant trees on site without additional damage or stress to the trees and recommendations for each tree has been provided as part of the report. It also confirms that the proposed development will not affect the mature trees along the boundary of the cemetery which fall outside the red line boundary of the Application Site.

Mitigation measures identified within the Preliminary Ecological Appraisal and also the recommendations set out within the Tree Report can be secured by suitably worded planning conditions to ensure that these measures are implemented prior to and during the clearing of the site.

#### Landscaping

Policy DM26 of the LP requires that development proposals, where necessary, will be required to include landscaping schemes that retain existing landscape features, reinforce local landscape character and mitigate against any adverse visual impact. Care should be taken that landscaping schemes do not include invasive non-native species. The Council will require landscaping schemes to be maintained for a minimum of five years.

With regards to landscaping on the site as part of the development, the proposed hard and soft landscaping appears to be acceptable in principle but does not include sufficient detail to allow a full assessment. Conditions are proposed to secure a hard and soft landscaping scheme prior to the commencement of works and also measures to ensure that the existing trees which are to be retained are adequately protected and that net-gain can be provided in accordance with the NPPF.

#### Access and Highway Safety

Policy T1 of the Core Strategy requires mitigation measures to be secured to address the impact of major housing schemes on the Boroughs transportation system. Policy DM22 of the Copeland Local Plan requires developments to be accessible to all users and to meet adopted car parking standards, which reflect the needs of the Borough in its rural context.

It is proposed to achieve access to the site using an existing entrance off Low Road. This access was deemed acceptable to serve 107 units in the previously approved scheme. This scheme is for a reduced number of 99 units. The speed limit at Low Road is 30 mph and visibility spays can be achieved which are far in excess of the requirements set out in the Manual for Streets.

The application is accompanied by an updated Transport Assessment. The layout of the scheme has been amended to incorporate an increase in the width of the circular loop road within the site and also the incorporation of some traffic calming measures as requested previously by the Highways Authority. The number of units has also been reduced to 99 in total to ensure compliance with the latest guidance relating to highways and drainage requirements.

The site is located on the outskirts of Whitehaven with public transport links nearby and the town is within walking distance so is considered sustainable. The Highway Authority has requested a Travel Plan which would be required for the life of the development in order to encourage a modal shift away from private car use. The document requires updating and monitoring which has administration cost implications for the County Council, therefore a financial contribution is required from the Applicant. This cost should be included as part of a S106 agreement and would be for a sum of £6600 to cover a 5 year period.

The Highway Authority has raised no objections to the development subject to planning conditions.

Overall, it is considered that the details comply with Policies T1 and DM22 of the Copeland Local Plan.

#### Flood Risk and Drainage;

Policy ST1B(ii) and paragraph 163 of the NPPF seek to focus development on sites that are at least risk of flooding and where development in flood risk is unavoidable, ensure that the risk is minimised or mitigated through appropriate design. Policy ENV1 and DM24 of the Copeland Local Plan reinforces the focus of protecting development against flood risk.

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.

There is historical evidence of surface water drainage issues within the area. The submitted proposal involves the provision of attenuation tanks and a detention pond to limit the rate of flow from the site. An existing culvert may also be used subject to an assessment of its condition and capacity. The LLFA, the Environment Agency, United Utilities and the Councils Drainage Officer have confirmed that they have no objections to the development of this land subject to the use of planning conditions to secure an agreed foul and surface water drainage scheme prior to the commencement of development.

Overall, it is considered that, subject to the recommended conditions, the proposal complies with Policies ENV1 and DM24 of the Copeland Local Plan with regards to drainage.

#### Ground Conditions and Contamination

The NPPF under paragraph 183 requires sites to be suitable for their proposed use taking into account ground conditions and any risks arising from land instability and contamination, including any proposals for mitigation and remediation.

The site has been the subject of past mining activity and has also suffered from subsidence. The former large workhouse building which occupied the site was previously demolished due to subsidence.

The Coal Authority has confirmed that there is a recorded mine present on the southern end of the site. There is also the risk of mineshaft collapse and mine gas. A detailed Coal Mining Risk Assessment report has been provided with the application which sets out a remediation strategy. This includes a full site investigation including the drilling of boreholes and also the backfilling and capping of the mineshaft. The submitted layout has been designed to ensure that no dwellings are built on this area which is to be retained as open space.

The Coal Authority has confirmed that they are satisfied that the site is or can be made safe and stable for the proposed development subject to a full investigation and detailed remediation strategy, both of which can be secured by appropriately worded planning conditions.

Given the brownfield nature of the site and its previous use there is also a risk of contamination. The Environment Agency has confirmed that they have no objections to the development subject to a full risk assessment and appropriate mitigation being carried out prior to the commencement of development on the site. These can be secured by condition.

#### Planning Balance

For the reasons outlined above, in assessing the proposed development, Paragraph 11 of the NPPF is engaged with the policies of the Development Plan which are most important for determining the application are 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.

The proposed site has previously benefitted from planning permission for residential development and is situated within the settlement boundary for Whitehaven. The site is located on the outskirts of Whitehaven with public transport links nearby and the town is within walking distance so is considered sustainable.

This proposal would facilitate the reuse of a brownfield site and would significantly boost the housing supply to meet the identified need for housing within Whitehaven and the wider Borough. The proposed mix of housing accords with the mix detailed in Policy SS3 and the SHMA and would also provide 12 affordable units.

The scale, design and layout is considered to be acceptable and will provide an attractive and modern appearance which will enhance the immediate locality.

Any harm identified is minor and subject to planning conditions unacceptable impacts will not result in respect of ecology, access, parking, drainage and ground conditions.

In overall terms the benefits of the proposal would significantly outweigh any harm when assessed against the policies in the NPPF taken as a whole.

## **Recommendation:-**

Issue delegated authority to the Head of Planning and Place to approve Full Planning Permission subject to the following:

- The planning conditions outlined at the end of this report, and
- The Applicant entering into a Section 106 planning obligation to secure 12 affordable units, the management and maintenance of open space, the installation and maintenance of an attenuation pond and any required Travel Plan Monitoring fee.

## **Standard Conditions**

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

### Reason

To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

Site Location Plan, scale 1:1250, drawing number 3917 03, received 22nd December 2020;

Existing Site Plan, scale 1:500, drawing number 3917 01. received 22nd December 2020;

Proposed Site Layout, scale 1:1000, drawing number 1092 01A, received 22nd December 2020;

House Type A, scale 1:100, drawing number 3917 04, received 22nd December 2020;

House Type B, scale 1:100, drawing number 3917 05, received 22nd December 2020;

House Type C, scale 1:100, drawing number 3917 06, received 22nd December 2020;

House Type D, scale 1:100, drawing number 3917 07, received 22nd December 2020;

House Type E, scale 1:100, drawing number 3917 08, received 22nd December 2020;

Street Elevations, scale 1:250, drawing number 3917 11A, received 22nd December 2020;

Planning Statement, written by Green Swallow North Limited, received 29<sup>th</sup> March 2020;

Design and Access Statement, written by Day Cummins, received 22nd December 2020;

Ecological Appraisal, written by Envirotech, received 22nd December 2020;

Flood Risk and Drainage Strategy, written by R.G. Parkins and Partners Ltd, received 22nd December 2020;

Proposed Surface Water Drainage Offsite Route, scale 1:1000, drawing number K36110/A1/100C, received 22nd December 2020;

Proposed Outline Drainage Plan, scale 1:500, drawing number K36110/A1/101A, received 22nd December 2020;

Tree Report, written by Envirotech, received 22nd December 2020;  
Transport Assessment, written by Tetra Tech, report no. B028073, received 15<sup>th</sup> June 2021;  
Coal Mining Risk Assessment, written by Meridian Geoscience, received 22nd December 2020.

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**

3. The carriageway, footways, footpaths, cycle ways etc must be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, must be submitted to the Local Planning Authority for approval before work commences on site. No work must be commenced until a full specification has been approved. These details must be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved must 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 Policies ST1 and DM22 of the Copeland Local Plan.

4. 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 must be submitted to the Local Planning Authority for approval before development commences. Any details so approved must be constructed as part of the development.

Reason

To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

5. The development shall not commence until visibility splays providing clear visibility of 60 metres in both directions measured 2.4metres 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 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 construction traffic is safeguarded.

Reason

In the interests of highway safety and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

6. Full details of the highway surface water drainage system 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 ENV1 and DM24 of the Copeland Local Plan.

7. The existing boundary wall to the Low Road boundary, must be taken down and rebuilt in similar style providing a footway width of not less than 2.4m along the site frontage. Any gates in the wall must open inwards. A full specification of the wall and supporting structural calculations, must be submitted for approval before any works commences. Alternative footway provision must be provided along Low Road during the demolition and rebuilding works.

Reason

To ensure a minimum standard of construction in the interests of highway safety and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

8. Development must not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP must 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;
  - Details of proposed crossings of the highway verge;
  - 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 to and from site;
- The management of junctions to and crossings of the public highway and other public rights of way/footway;
- 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.

9. Prior to the commencement of any development, 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 and must include details of the following must be submitted to and approved in writing by the Local Planning Authority:

1. Arrangements for adoption by appropriate public body, statutory undertaker, or private management company; and
2. Arrangements for inspection and ongoing maintenance of all elements of the surface water drainage scheme to secure its effective operation for the lifetime of the development.
3. Proposals to repair to the culverted water course along the northern boundary of the site which must be 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 drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment & Drainage Statement K36110/01/FRA/CA dated 25/11/2020 and plan K36110/A1/101-A.

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

#### Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

10. No development must commence until a construction surface water management plan has been agreed in writing with the local planning authority.

Reason

To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

11. Prior to the commencement of any development, a condition and capacity survey of the culverted watercourse (or piped drainage system) downstream of the surface water discharge point in the B5345 below Jefferson Park at must be submitted to and approved by the Local Planning Authority. The information provided must also include mitigation measures where it is deemed the improvements are required.

Reason

To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

12. No development approved by this planning permission must commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - All previous uses
  - Potential contaminants associated with those uses
  - A conceptual model of the site indicating sources, pathways and receptors
  - Potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy

giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme must be implemented as approved.

#### Reasons

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

To prevent deterioration of a water quality element to a lower status class in the Secondary B aquifer and the near surface water which sources the springs emanating to the west of the site and in accordance with Policy ST1 of the Copeland Local Plan.

13. No development must commence until a scheme of intrusive investigations has been carried out on site to locate and establish the condition of recorded mine shaft 297516-023 and to establish the risks posed to the development by past shallow coal mining activity. The intrusive site investigations must be carried out in accordance with authoritative UK guidance.

#### Reason

In order to ensure that any historical mine workings have been considered and mitigated and in accordance with Policy ST1 of the Copeland Local Plan.

14. No development must commence until a detailed remediation scheme to protect the development from the effects of coal mining legacy related land stability risks has been submitted to the Local Planning Authority for consideration and approved in writing. The scheme must be informed by the results of intrusive site investigations and must include details of the proposed treatment of recorded mine entry 297516-023 and any treatment works required in respect of past shallow coal mining activity. Following approval, the remedial works must be implemented on site in accordance with the approved details.

#### Reason

In order to ensure that any historical mine workings have been considered and mitigated and in accordance with Policy ST1 of the Copeland Local Plan.

15. No development hereby approved must commence until a scheme in accordance with BS 5837: 2005 for the management of existing trees on the site and for their protection during construction as well as for replacement tree planting, including species and sizes with a proposed timetable for planting and a maintenance regime, has been submitted to and approved in writing by the Local Planning Authority. The development must be completed in accordance with the approved details.

Reason

To strengthen and improve the existing tree cover on the site and in accordance with Policy DM28 of the Copeland Local Plan.

16. No development hereby approved must commence until full details of both hard and soft landscape works, including any trees or hedgerows which are to be retained have been submitted to and approved in writing by the Local Planning Authority. The approved works must be carried out prior to the occupation of any part of the development or in accordance with a program of works as agreed in writing by the Local Planning Authority.

Reason

To ensure a satisfactory form of landscaping in the interests of the visual appearance and character of the area and in accordance with Policy DM28 of the Copeland Local Plan.

**Pre-occupation conditions**

17. No dwellings shall be occupied until the estate road including footways and to serve such dwellings has 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.

Reason

In the interests of highway safety and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

18. No dwelling must be occupied until its access and parking facilities have been constructed in accordance with the approved plans. These facilities shall be retained capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local Planning Authority.

Reason

To ensure a minimum standard of access provision when the development is brought into use and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

19. Prior to occupation of the dwellings the developer must prepare and submit to the Local Planning Authority for their approval a Travel Plan which must identify the measures that will be undertaken by the developer to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes. The measures identified in the Travel Plan must be implemented by the developer within the 12 months following the reviews.

Reason

To aid in the delivery of sustainable transport objectives and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

20. Following the implementation and completion of the approved remediation scheme and prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing.

Reason

In order to ensure that any historical mine workings have been considered and mitigated and in accordance with Policy ST1 of the Copeland Local Plan.

21. Before any of the superstructure is erected representative samples of the materials to be used on the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and so maintained thereafter.

Reason

To ensure a satisfactory appearance of the development in the interests of visual amenity and in accordance with Policy DM10 of the Copeland Local Plan.

22. Full details of the proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment to all individual plots shall be installed in accordance with the approved details before that unit is first occupied and shall be maintained thereafter.

Reason

To ensure satisfactory boundary treatments in the interests of visual amenity and in accordance with Policy DM26 of the Copeland Local Plan.

**Other conditions**

23. An annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures must be prepared by the developer/occupier and submitted to the Local Planning Authority for approval.

Reason

To aid in the delivery of sustainable transport objectives and in accordance with Policies ST1 and DM22 of the Copeland Local Plan.

24. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment and Drainage Strategy, ref: K36110/01/FRA/CA dated 25/11/2020 proposing surface water discharging into watercourse via existing highway drain and new surface water sewer. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.

Reason

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

25. Foul and surface water shall be drained on separate systems.

Reason

To secure proper drainage and to manage the risk of flooding and pollution and in accordance with Policies ENV1 and DM24 of the Copeland Local Plan.

26. The development shall implement all of the mitigation and compensation measures set out in the Ecological Appraisal, prepared by Envirotech, dated 19 September 2014, and submitted as part of the planning application.

Reason

To protect the ecological interests evident on the site and secure enhancements to the biodiversity and landscape within the locality and in accordance with Policies ENV3 and DM25 of the Copeland Local Plan.

27. Any trees or other plants, which die, are removed or become seriously damaged or diseased within the first five years following planting shall be replaced during the next planting season with others of similar size or species unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure that an acceptable form of landscaping is maintained on the site in the interests of the visual appearance and amenity of the area and in accordance with policies DM26 and DM28 of the Copeland Local Plan.

### **Informatives**

- 1) The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstances where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal

mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

- 2) Prior to any work commencing on the watercourse the applicant should contact the Lead Local Flood Authority on tel: 01228 221331 or email: [LFRM.consent@cumbria.gov.uk](mailto:LFRM.consent@cumbria.gov.uk) to confirm if an Ordinary Watercourse Flood Defence Consent is required. If it is confirmed that consent is required it should be noted that a fee of £50 will be required and that it can take up to two months to determine.

### **Statement**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.