

COPELAND BOROUGH COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2253/OF1
2.	Proposed Development:	EXCAVATE GROUND 4M BACK OF REAR OF PROPERTY TO CREATE A SPLIT LEVEL GARDEN - RETAINING WALL ERECTED TO SUPPORT THE UPPER LEVEL; WALL ERECTED AROUND UPPER LEVEL (RETROSPECTIVE)
3.	Location:	40 TOMLIN AVENUE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION This application relates to 40 Tomlin Avenue, a semi-detached property situated on an existing housing estate within Whitehaven. The site benefits from a large rear garden which is bound by two neighbouring properties and an area of green open space to the rear. PROPOSAL Retrospective Planning Permission is sought for the excavation of the rear garden to create a split-level garden. The works include a retaining wall to support the upper level, a small 0.86-metre-high wall around the upper level and access steps. The excavation has created an upper garden level of 1.23 metres in height from the lower ground level. The upper level is accessed by 5 steps and the new retaining wall will be finished in render to match the existing house.	

RELEVANT PLANNING APPLICATION HISTORY

There have been no previous planning applications at this property.

CONSULTATION RESPONSES

Consultees

Whitehaven Town Council – No objections.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 2 no. properties - No objections have been received as a result of this consultation process.

PLANNING POLICIES

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

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principle

Policy ST2 – Spatial Development Strategy

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Emerging Copeland Local Plan (ELP):

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

The following policies are relevant to this proposal:

Policy DS1PU – Presumption in favour of Sustainable Development

Policy DS6PU – Design and Development Standards

Policy H14PU – Domestic Extensions and Alterations

ASSESSMENT

The key issues raised by this proposal are the principle of development, its scale and design and the potential impacts on residential amenity.

Principle of Development

The proposed application relates to a residential dwelling on an existing housing estate within Whitehaven and it will provide a raised garden area in the rear garden. Policy DM18 supports extensions and alterations to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable and the extension satisfies Policies ST2, DM18 and the NPPF guidance.

Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

The proposed garden alterations are appropriately located to the rear of the property and the scale is relatively modest. Supporting photos of the garden have been provided to show the previously sloping site and the currently excavated garden to create two flat garden levels. The ground level has not been significantly increased at the upper level.

The excavated lower level has created a drop off of 1.23 metres and due to this significant change in level and in the interest of safety, a handrail and balustrade has been requested. Although safety is not a specific planning issue, it is considered reasonable to control the appearance of balustrade. These details can be secured by the use of a planning condition prior to installation.

The design of the development is considered to be suitable for its use and the applicant has confirmed that the retaining walls will be finished in render to match the existing dwelling. This will ensure the rear garden is finished to a suitable standard and external finishes can also be secured by the use of a planning condition within six months of the approval.

On this basis, the proposed garden alterations are considered to meet Policies DM10 and DM18(A) from the Local plan and NPPF guidance.

Residential Amenity

	Policy ST1, Policy DM18 and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings. Whilst amenity concerns must be considered, the proposal is considered to be relatively modest in scale and the ground level has not been significantly increased at the upper level. The existing boundary to the adjoining neighbour is a 1-metre-high open wire fence and therefore this element of existing overlooking is considered. As a result of the excavated land, the potential overlooking from the upper garden level is not considered to be materially different to the previous position. No concerns were raised as a result of the neighbour consultation and therefore potential amenity concerns to the neighbours are minimal. In addition, the installation of a boundary wall along the upper garden level is considered to be suitable in scale to provide a retaining wall and it will not be excessively overbearing. On this basis, it is considered that the proposal will not cause a detrimental loss of amenity to the existing property or the surrounding properties and therefore the proposal is considered to comply with Policy DM18 and the NPPF guidance. <u>Planning Balance and Conclusion</u> This application seeks retrospective planning permission for the excavation of the rear garden to create a split-level garden. The main issues raised by the application were the height of the upper garden level compared to the excavated lower level in relation to safety considerations and the potential impact on neighbouring amenity. Due to the supporting photos which showed the previous sloping garden and the existing 1-metre-high open wire fence, the garden levels are considered to be appropriate for its use. The handrail and balustrade installation and the external finish of the retaining wall to match the existing property can both be secured by the use of a planning condition. On this basis, the proposal is therefore considered to be acceptable in terms of scale and design and the impacts on neighbouring amenity. On balance, the application is considered to be acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.
8.	Recommendation: Approve (commence within 3 years)
9.	Conditions: This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: - Location Plan, scale 1:1250, received 8th June 2022;

Site Block Plan, scale 1:200, received 8th June 2022;
Site Plan, scale 1:50, received 8th June 2022;
Sketch Plan, Item 1, received 8th June 2022;
Photograph of Garden Previously, received 8th June 2022;
Photograph of Garden Currently, received 8th June 2022;
Email confirming rendered finish of retaining wall, received 28th July 2022.

Reason

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

2. Within six months of the date of this permission, the retaining walls must be finished in dashed render to match the existing dwelling, in accordance with the details confirmed by the applicant in an email received by the Local Planning Authority on the 28th July 2022.

Reason

To ensure satisfactory appearance of the development in accordance with Policy DM18 of the Copeland Local Plan.

3. Prior to the erection of any balustrade or handrail on the edge of the upper level of the rear garden the details of its design must be submitted to and approved in writing by the Local Planning Authority. Once installed the balustrade or handrail must be retained at all times thereafter.

Reason

To ensure satisfactory appearance of the development in accordance with Policy DM18 of the Copeland Local Plan.

Informative Note

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

	Statement The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.
Case Officer: C. Unsworth	Date : 11/08/2022
Authorising Officer: N.J. Hayhurst	Date : 12/08/2022
Dedicated responses to:- N/A	