

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/26/2166/0F1
2.	Proposed Development:	CONVERSION OF SECOND FLOOR TO FORM THREE RESIDENTIAL FLATS
3.	Location:	74 MARKET PLACE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC Adverts - ASC;Adverts, Conservation Area - Conservation Area, Flood Area - Flood Zone 3, Coal - Standing Advice - Data Subject To Change, Main River Consultation Area - Main River Consultation Area
6.	Publicity Representations & Policy	Neighbour Notification Letter: YES Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION This application relates to 74 Market Place, a large end of terraced property situated within the Whitehaven Town Centre and within the Whitehaven Conservation Area. The ground and first floors of the building are used by various retail stores whilst the second floor is currently vacant. The building does not benefit from any private amenity space or	

dedicated off street parking.

PROPOSAL

Planning Permission is sought for the change of use and conversion of the second floor of the premises to create three residential flats. The proposal does not include any external alterations to the building and relies on the use of existing window openings.

Internally the space will be partitioned to include 2 x 2 bedroomed flats and 1 x 1 bedroomed flat.

Access to the flats will be from an existing internal staircase which opens out onto the street.

RELEVANT PLANNING APPLICATION HISTORY

Demolish existing building and erect three storey bank/offices, approved in April 1992, application reference 4/91/0968/0 relates;

Demolition of existing structure and erection of 3 storey building providing shops and offices, approved in December 1993, application reference 4/93/0688/0 relates;

Beauty Salon, approved in December 2002, application reference 4/02/1209/0 relates.

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Highways and Local Lead Flood Authority

1st response

The Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) can confirm as follows:

The Highway Authority request the applicant submit the existing and proposed parking plans showing where the 3 parking spaces would be.

The applicant needs to consider the Standing Advice for vulnerable developments in flood zone 2 & 3 regarding floor levels, extra flood resistance and resilience measures, access and escape and surface water management.

Upon receiving this information we will be better placed to comment on the application.

2nd response

The Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) can confirm as



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follows:

It is noted that there is currently no on-site parking provision for the building, a matter the Local Planning Authority may wish to take into account when determining this application. However, this has always been the case and, given the existing use of the premises, the proposal is unlikely to adversely affect the on-street parking situation. It should also be noted that residential/on-street parking permits are no longer issued to occupants of new developments, and therefore guests will be responsible for making their own parking arrangements.

Bearing in mind the existing use of the premises, the proposal is not expected to result in an increase in vehicular movements to and from the site. Accordingly, the Highway Authority raises no objection to the proposal.

3rd response

The LLFA has reviewed the revised Flood Risk Assessment and is satisfied that it is proportionate to the nature and scale of the development. It is accepted that the proposal would be safe from flood risk and would not increase flood risk elsewhere.

No objections have been raised to the proposal.

Conservation Officer

Description: 74 Market Place is a three-story corner building on Market Place, constructed in a Victorian style in the late 20th century.

Conclusion: No objection

Assessment:

- Conversion of vacant upper floors to residential units is to be supported.
- The building is not a heritage asset, although makes a positive contribution to the character and appearance of the conservation area.
- The external appearance of the building is unchanged by the proposal. There is therefore no impact on any heritage assets.

Environmental Health

1st response

There are no objections in principle to this proposed development from Environmental Health but we would like to raise several issues with the application.

We note that the two bedroom doors of flat 3 open directly in to an open plan living room / dining area / kitchen and this potentially poses a risk of entrapment in the event of a fire from the kitchen (higher risk area) given that the flats are located at height of more than 4.5 m from ground level. Can the hallway of flat 3 be extended to enclose both bedroom door openings and a fire-protected partition wall and fire door be provided to open in to the open plan area?

The proposed three flats are also to be constructed above two floors of commercial / retail use. Given that the dwellings are within an older property (pre-1919 construction) with poor sound insulation, we would request that an improved standard of sound insulation is provided to the floor between the three flats at second floor level and the non-residential use of the first floor below. Whilst the Building Regulations provide for a minimum standard of sound insulation, we are of the opinion that an improved standard is required in this instance to protect the amenity of the occupants to a reasonable degree.

In terms of noise disturbance from any construction activities, we would also request a limit on working hours.

The indicative Radon Map UK shows the site to be within a 1 km grid square of elevated radon potential, with a maximum potential of 10 – 30%. This would indicate that full radon protection measures should be included within the conversion. Alternatively the applicant can conduct a definitive property search or carry out a 3 month radon test inside the property to determine the presence of radon inside the property, see UKradon - Introduction

The following conditions are therefore requested to any approval that may be granted:

- Sound insulation – Submission of scheme and retention thereafter No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of noise insulation measures for residential accommodation. In addition to mandatory Building Regulations standards on noise insulation, the scheme shall demonstrate that the following criteria will be achieved between the floor of the three second floor flats and the level below on the first floor level:

Minimum airborne sound insulation (between floor of each respective flat) – 56 dB DnT, w
Impact sound transmission (between floor of each respective flat) – 56 dB L'nt, w

Reason: In order to safeguard the amenities of the occupiers and the details are needed prior to the start of work so that the measures can be included in to the build.

- Noise from construction works Following approval of the development, construction activities that are audible at the site boundary shall be carried out only between the following hours Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holiday. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning Authority.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

2nd response

Thank you for sending the agent's response to our initial comments of 23.06.26. These are noted. In respect of the point about the 1990s internal construction of the property, please note that Part E of the Building Regulations was introduced in 2003. However we do not wish to unnecessarily delay the development and therefore we would accept the agent's response.



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If the commercial property is used in a manner so as to affect the amenity of the residential premises above, the statutory nuisance provisions of the Environmental Protection Act 1990 may potentially provide redress. This may also include an upgrade to sound insulation if necessary. It is an unfortunate fact that residents in England can expect a lower standard of sound insulation in new and converted dwellings than those resident in Scotland.

Environment Agency

1st response

The planning application is accompanied by a 1-page document title Flood Risk Assessment (FRA) author and date unknown.

We have reviewed the FRA in so far as it relates to our remit, and we would advise the FRA is extremely poor and limited in its content and presentation of flood risk and clearly and evidently fails to meet the minimum standards in line with the guidance.

Environment Agency position

In the absence of an acceptable flood risk assessment (FRA), we object to this application and recommend that planning permission is refused.

Reason(s)

The application site lies within Flood Zone 3 which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (paragraph 173, footnote 59) states that an FRA must be submitted when development is proposed in such locations.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown. This is sufficient reason for refusing planning permission.

It is acknowledged the habitable floor levels may themselves be above any predicted flood levels, however access and egress during time of flood may be compromised and there is potential for residents to be exposed to flood hazards that have not been identified in the submitted document.

Overcoming our objection

To overcome our objection, the applicant should submit an FRA which demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

2nd response

Environment Agency Position

We withdraw our objection to the proposed development and wish to make the following

comments:

In our letter dated 12th June 2026 and referenced 4/26/2166/0F1, we objected to the development as proposed due to the submission of an inadequate Flood Risk Assessment (FRA).

A revised FRA has now been submitted (author and date unknown).

We have reviewed the FRA in so far as it relates to our remit, and we consider that it is appropriate to the nature and scale of the development. We are therefore satisfied that the proposed development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

The applicant, as owners of the existing property, will be aware of the potential flood risk and frequency. The applicant should be satisfied that the impact of any flooding will not adversely affect their proposals.

Ecology

Due to the heavily lit and urbanised location of this modern building, the Councils Ecologist amends the suggested planning conditions.

Suggested Planning Conditions

Breeding Birds

Works should be completed outside of the breeding bird period (March – August inclusive). If this is not possible a breeding bird check should be carried out no more than 48 hours prior to the planned development to ensure no birds and their nests are present within habitat/buildings that may be directly or indirectly impacted. If active nests are discovered an appropriate buffer zone should be established and works within that area ceased until the young have naturally fledged.

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued 5 no. properties.

Two objections were received to the proposal raising the following concerns:

- Noise from local businesses would affect residential amenity;
- There is no parking for the flats;
- The ownership document has not been signed correctly;
- There is no space for bin storage.

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

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited the local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

Copeland Local Plan 2021-2039 (LP):

Cumberland Council continued the preparation of the LP as commenced by Copeland Borough Council.

The LP was adopted by Cumberland Council on the 5th of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2001-2016.

The policies relevant to this application are as follows:

Strategic Policy DS1: Settlement Hierarchy

Strategic Policy DS2: Settlement Boundaries

Policy DS4 - Design and Development Standards

Strategic Policy DS6 – Reducing Flood Risk

Policy DS7 – Sustainable Drainage

Strategic Policy R4: The Key Service Centres

Strategic Policy H1 - Improving the Housing Offer

Strategic Policy H2 - Housing Requirement

Strategic Policy H3 - Housing delivery

Strategic Policy H4 - Distribution of Housing

Strategic Policy H5 - Housing Allocations

Policy H6 - New Housing Development

Policy H7 - Housing Density and Mix Strategic

Policy H13: Conversion and sub-division of buildings to residential uses including large HMO's

Strategic Policy BE1 – Heritage Assets

Policy BE2 – Designated Heritage Assets

Policy CO7 – Parking Standards and Electric Vehicle Charging Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning (Listed Building and Conservation Areas) Act 1990

Conservation Area Design Guide SPD (Adopted December 2017)

Cumbria Development Design Guide (CDDG)

National Planning Practice Guidance (PPG)

ASSESSMENT

Principle of Development

The existing building is located within the development boundary for Whitehaven as defined in Policy DS2 of the Local Plan. Whitehaven is classed under Policy DS1 as Copeland's Principal Town where the conversion of existing buildings to residential use is acceptable within the confines of the settlement boundary.

The principle of new housing is supported in the Copeland Local Plan through policies H1 and H6. These policies seek to promote sustainable development to meet the needs and aspirations of the boroughs housing market.

The building is surrounded by a mix of uses including other residential units and lies within walking distance of services required for day to day living. The principle of development is considered to be acceptable.

Design

Policy DS4 of the LP promotes good design and the aspiration that new dwellings will respond positively to their surroundings.

The proposed alterations deemed necessary to convert the second floor of the building to accommodate three residential flats are limited to internal works only. The proposed units are of a suitable size for a comfortable living.

Housing Need

The principle of new housing is supported in the Copeland Local Plan through policy H1. This policy seeks to promote sustainable development to meet the needs and aspirations of the boroughs housing market, as well as having consideration for the requirements of smaller settlements within the borough which respect their scale and function.

Policy H13 of the LP relates specifically to the conversion of buildings to residential use.

The following criteria are required to be met for the development to be considered to be acceptable:

- a) The development does not result in unacceptable levels of harm to residential amenity



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- (noise and disturbance) for occupiers of the converted property and/or those occupying neighbouring properties;
- b) Future residents have adequate levels of natural lighting and privacy;
 - c) The development does not have an adverse impact upon the privacy of neighbouring residents through direct overlooking;
 - d) Off street parking is provided or sufficient parking is available within close proximity of the site;
 - e) Adequate external amenity space is provided, including for waste and recycling bin storage without harming the visual amenity of the area where possible;
 - f) Cycle space is provided, where possible;
 - g) Safe access is available from both the front and rear of the property, where possible; and
 - h) The development does not result in an over-concentration of HMOs, taking into account the cumulative impacts of HMOs and subdivided properties within the vicinity of the site.

There is a demonstrable need for affordable flats within Whitehaven. Overall, the repurposing of the building to provide residential accommodation on the upper floor is considered to be acceptable in this location.

Residential Amenity

The property is located within the central area of Whitehaven where higher levels of general noise and activity exist. There are currently a number of other residential properties within the locality.

The Environmental Health team initially raised concerns regarding the application but did not raise an objection. Their concerns relating to fire risk and entrapment will be considered at the Building Regulations stage and are not considered to be a planning matter. Improved sound insulation was requested and a condition recommended, however, the Agent responded that the building was designed and constructed in the 1990s and is therefore not pre 1919 construction. Environmental Health agreed that this matter could also be dealt with under the Building Regulations.

A standard condition was requested to ensure that noise from construction works is reduced by limiting the hours of work.

Bin storage has been confirmed to be feasible within the building and without blocking the fire escape route.

Impact on the Conservation Area

The site lies within the Whitehaven Conservation Area.

Policies BE1 and BE2 of the LP seek to protect and enhance Heritage Assets including the Conservation Area. Policy BE2 sets out that any harm to the significance of a designated

heritage asset will require clear and convincing justification.

Policy DS4 of the LP requires good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

Section 72 requires that: 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance' of a conservation area.

The National Planning Policy Framework requires that proposed changes to the historic environment are based on a clear understanding of significance of any heritage asset and their setting that are affected, providing information so that the likely impact of proposals can be assessed.

The National Planning Policy Framework requires consideration of whether the harm to heritage asset is outweighed by the benefits of the proposal.

The submitted Heritage Statement clarifies that there will be no detrimental harm to the buildings fabric and that the proposal will bring the second floor of the building back into a practical use.

The Conservation Officer has confirmed that he is supportive of the principle of the proposal, which aims to give the building a viable new use.

The building is not considered to be a heritage asset but does makes a positive contribution to the character and appearance of the Conservation Area. As the external appearance of the building is unchanged by the proposal, there will no impact on any heritage assets.

Highway Safety/Parking

Policy CO4 promotes sustainable forms of transport.

Policy CO7 sets out the parking standards for new development.

Whilst objections were received with regards to the lack of parking, this has been fully considered, and advice has been taken from statutory consultees.

The premises lie within the town centre of Whitehaven and occupy the full land parcel which prevents the provision of any car parking to serve the building.

Given its town centre location there are extensive sustainable transport options available in addition to a number of public car parks which are within easy walking distance of the site.

The Highway Authority has raised no objections and does not consider that the proposal will



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have a material effect on existing highway conditions.

Biodiversity Net Gain

Policy N3 of the LP requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1 above. This is in addition to any compensatory habitat provided under Policy N1. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

In England, BNG is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Applications must now deliver a Biodiversity Net Gain of 10%, resulting in more or better-quality natural habitat than there was before the development. Some developments are however except from these BNG requirements.

Based on the information available this application is not considered to be one which will require the approval of a Biodiversity Gain plan before development is begun. It relates to the conversion of an existing building and will not have any impact on a priority habitat and therefore the proposal falls within the list of developments except from providing Biodiversity Net Gain (De Minimis).

Flood Risk

Policies DS6 and DS7 of the Copeland Local Plan ensure that flood risk is reduced and mitigated and that sustainable drainage options are utilised where possible.

The site lies within Flood Zone 3, where there is a high risk of flooding and a Flood Risk Assessment is required to be submitted for any development. Further to comments from the Environment Agency, a Flood Risk Assessment and Flood Emergency Plan were submitted as part of the application. These concluded that the second floor is set at a higher level than the areas likely to flood and that should evacuation be necessary, a plan will be in place for any occupants.

The Environment Agency confirmed that the FRA is appropriate to the nature and scale of the development and that they were satisfied that the proposed development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

On this basis the proposal is considered to comply with Policies DS6 and DS7 of the Copeland Local Plan.

Procedural Issues

Further to comments received from a neighbouring property, the ownership documents were reviewed and amended to represent the current situation. This is considered to satisfy these concerns.

	Planning Balance and Conclusion The building is located within the centre of Whitehaven, which is designated as the Principal Town within the Borough where residential development is encouraged. The provision of flats within a sustainable location would provide a positive benefit in terms of housing provision and would secure a viable use for the second floor of the building. This is considered to carry great weight within the planning balance. Although no dedicated car parking provision is available to serve the building there are alternative car parking options nearby and the town centre location offers other sustainable transport options. This is considered to be neutral within the planning balance. The re-use and refurbishment of the building is a positive benefit of the development. In applying the statutory duties of the LBCA and the relevant provisions of the NPPF and the Development Plan, it is considered that the development proposed will result in a neutral impact upon the special interest of Whitehaven Conservation Area. Subject to appropriate management, adverse impacts upon the residential amenity of occupants, both within this building and the surrounding areas, should not occur. On overall balance this is considered to be an acceptable form of development which will be consistent with the details set out in national and local policy with the benefits of the proposal outweighing any adverse impacts.
8.	Recommendation: Approve (commence within 3 years)
9.	Conditions: 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. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: - Application form, received 1st June 2026 and 15th June 2026; Site Location Plan, scale 1:1250, drawing number 01001 01, received 1st June 2026; Block Plan, scale 1:100, drawing number 01002 01, received 1st June 2026;



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Proposed Second Floor Plan, scale 1:100, drawing number 04003 01, received 1st June 2026;
Heritage Statement and BNG Statement, received 1st June 2026;
Design and Access Statement, received 1st June 2026;
Flood Risk Assessment, received 27th July 2026;
Flood Emergency Plan, received 27th July 2026.

Reason

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

3. Following approval of the development, construction activities that are audible at the site boundary must be carried out only between the following hours:-

Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holiday.

Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning Authority.

Reason

In the interests of the amenities of surrounding occupiers during the construction of the development and in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

Biodiversity Net Gain – Exemption Applies

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the local planning authority, and
- (b) the local planning authority has approved the plan.

The planning authority, for the purposes of the Biodiversity Gain Plan is Cumberland Council.

Based on the information available this permission is considered to be one which will not

	require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply. Applicable exemptions: De Minimis development 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: Sarah Papaleo		Date : 08/09/2026
Authorising Officer: N.J. Hayhurst		Date : 10/09/2026
Dedicated responses to:- N/A		