

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/26/2216/0F1
2.	Proposed Development:	CONSTRUCTION OF A RETAINING WALL AND ERECTION OF OUTDOOR GAZEBO/SHED
3.	Location:	26 ELLIS GARDENS, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	See Report.
7.	Report: LOCATION This application relates to 26 Ellis Gardens a semi-detached property located on a modern housing estate within Cleator Moor. PROPOSAL Planning Permission is sought for the construction of a retaining wall along the rear boundary, and the construction of an outdoor gazebo/shed structure. The retaining wall will run the full length of the rear boundary, integrated with existing boundary fence line. It will be constructed from reinforced concrete with a smooth light grey finish. The proposed gazebo will be 4m in width and will span 7.8m in length and will be located along the rear boundary in front of the proposed retaining wall structure. It has been designed with a flat roof with an overall height of 2.5m. It will be finished with charcoal grey facing brick, black EPDM rubber membrane roof and upvc/composite anthracite windows and doors.	

RELEVANT PLANNING APPLICATION HISTORY

4/16/2315/001 OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT WITH FULL DETAILS OF PROPOSED ACCESS – Approve

4/20/2273/0R1 RESERVED MATTERS FOR PHASE 5 FOR 23 DWELLINGS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE) OF APPROVED OUTLINE APPLICATION 4/16/2315/001 - Approve

CONSULTATION RESPONSES

Cleator Moor Town Council

No objections.

Highways and LLFA

As this falls under our Service Level Agreement (SLA), this application does not need to be submitted to the Local Highway Authority or Lead Local Flood Authority; subject to the highway and drainage aspects of such applications being considered in accordance with the Agreement. The highway and drainage implications of this application can therefore be decided by the Local Planning Authority.

Public Representations

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

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 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

Cumberland Council continued the preparation of the Local Plan as commenced by Copeland Borough Council. The Local Plan 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:-

Policy DS4: Design and Development Standards

Policy H14: Domestic Extensions and Alterations

Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N3: Biodiversity Net Gain

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

ASSESSMENT

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

Principle of Development

The proposed application relates to a residential dwelling situated within Cleator Moor. The development would provide a boundary retaining wall and outdoor gazebo/storage structure for the existing dwelling.

Policy H14 of the Copeland Local Plan supports domestic extensions and alterations to residential properties subject to detailed criteria, which are considered below.

The principle of development is therefore accepted within the context of Policy H14 of the Copeland Local Plan.

Scale and Design

Policy H14 of the Copeland Local Plan indicates that developments within the curtilage of existing properties will be permitted, provided that they would not adversely alter the existing building or street scene, and they would retain an adequate provision of outdoor amenity space to serve the property.

Policy DS4 of the Copeland Local Plan indicates that all new development should meet high quality standards.

The retaining wall will run the full length of the rear boundary, integrated with existing boundary fence line. It will be constructed from reinforced concrete with a smooth light grey finish. Following a site visit, it is clear that these works are necessary to support the garden

given the steep drop beyond the existing rear boundary.

The proposed gazebo will 4m in width and will span 7.8m in length and will be located along the rear boundary in front of the retaining wall structure. It has been designed with a flat roof with an overall height of 2.5m. It includes a 1.8m x 4m section of enclosed storage space, with a 6m section remaining open.

The proposal will be suitably located in the rear garden. Whilst the structure will span the width of the rear garden, under current Permitted Development Rights, an outbuilding can be erected up to 2.5m in height within 2m of a boundary without the requirement for formal planning consent. This is a fall back position in the assessment of this application. The proposed scale, massing and siting of the extension is therefore considered acceptable and is not considered to adversely alter the existing building or street scene.

The outbuilding will be finished with charcoal grey facing brick, black EPDM rubber membrane roof and upvc/composite anthracite windows and doors. The use of modern matching materials ensures that the proposal compliments the existing property, and the wider residential area.

The proposal therefore complies with Policies DS4 and H14 of the Copeland Local Plan in this regard.

Residential Amenity

Policy DS4 of the Copeland Local Plan states that all new development should maintain high levels of amenity. Policy H14 of the Copeland Local Plan indicates that house extensions will be permitted provided that the development would not harm the amenity of the occupiers of the parent property or adjacent dwellings.

Whilst amenity issues between the proposed extension and the neighbouring properties were considered, the proposed extension would be suitably located within the site at the rear, along the boundary.

The host property's ground levels are located lower than the neighbouring property 25 Ellis Gardens, and a 1.8-2m high boundary fence exists here, and on the adjacent boundary with number 27 Ellis Gardens. In addition, there are no windows proposed on the side elevations of the structure – it is a solid sided, open fronted structure. It is considered that there would therefore be no additional overlooking or privacy issues arising from this development.

Taking into account the siting of the extension and the orientation of the existing property, the proposed extension design is acceptable, and it will not adversely harm the neighbouring amenity.

The proposal therefore complies with Policies DS4 and H14 of the Copeland Local Plan in this regard.

Ecology and Biodiversity

Policy N1 outlines how the Council will protect and enhance the biodiversity and geodiversity



Cumberland Council

	within the Borough and defines a mitigation hierarchy. Policy N3 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. 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 exempt from these BNG requirements. In this instance the development is considered exempt from BNG as the development falls within the definition of a householder application. On this basis, it is considered that the development complies with the requirements of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 and Policies N1 and N3 of the Copeland Local Plan and the provisions of the NPPF. <u>Planning Balance and Conclusion</u> The proposed development is of an appropriate scale and design for the site and locality, which would preserve the amenities of the parent property and wider residential area. The proposal is not subject to Biodiversity Net Gain. The proposal is therefore considered an acceptable form of development which complies with the policies of the adopted Local Plan and provisions of the NPPF.
8.	Recommendation: Approve (commence within 3 years)
9.	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: -

- Application Form, received 29th June 2026;
- Site Location Plan, scale 1:1250, received 29th June 2026;
- Proposed Block Plan, scale 1:1250, received 29th June 2026;
- Proposed Site Plan, received 29th June 2026;
- Gazebo Plans, received 29th June 2026;
- Retaining wall details, received 29th June 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.

Informative Notes

Development Low Risk Area – Standing Advice – Mining Remediation Authority

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 Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242 Further information is also available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

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 exemption: Householder development.



Cumberland Council

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: Demi Crawford

Date : 18/08/2026

Authorising Officer: N.J. Hayhurst

Date : 19/08/2026

Dedicated responses to:- N/A