

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/26/2115/0F1
2.	Proposed Development:	CHANGE OF USE OF LAND TO RESIDENTIAL GARDEN AREA AND RELOCATION OF EXISTING PEDESTRIAN ROUTE
3.	Location:	20 LINGMELL CRESCENT, SEASCALE
4.	Parish:	Seascale
5.	Constraints:	ASC Adverts - ASC;Adverts, Safeguard Zone - Safeguard Zone, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads, DEPZ Zone - DEPZ Zone, Outer Consultation Zone - Drigg 3KM, Outer Consultation Zone - Sellafield 10KM
6.	Publicity Representations &Policy	See Report.
7.	Report: SITE AND LOCATION The application site relates to land adjacent to 20 Lingmell Crescent. The application site comprises a 0.1 acres (approx.) open-plan grassed area between the host dwelling and the public highway, with a pedestrian access running through the site. The main dwelling is set back from the roadside and is situated on a street of similar semi-detached dwelling houses. The estate is largely characterised by scattered areas of open green space and open-plan frontages. PROPOSAL Planning permission is sought for the change of use of the adjacent land to form part of the host properties domestic curtilage and extended residential garden area.	

The proposal involves the erection of a 1.8m high close boarded fence around the perimeter of the open space, and the relocation of the existing pedestrian route through the associated land to the edge of the Highway.

RELEVANT PLANNING APPLICATION HISTORY

4/25/2313/0F1 CHANGE OF USE OF AMENITY LAND TO DOMESTIC USE, ERECTION OF A FENCE AROUND ITS PERIMETER AND RELOCATION OF EXISTING PEDESTRIAN ROUTE – Withdrawn

4/25/2235/0F1 ERECTION OF A 1.8 METRE HIGH GARDEN FENCE - Withdrawn

CONSULTATION RESPONSES

Seascale Parish Council

Discussed at PC meeting 6/5/26. Planners are asked to note the previous comments made by the parish council.

Summary of response: Neutral

Cumberland Council Ecologist

The County Ecologist accepts that this application is exempt from the Biodiversity Gain.

Highways & LLFA

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

The proposed new footpath will need to be created and constructed before the fence is erected and the existing footpath closed off and removed. With the fence being set back from the carriageway edge by 3.1m the visibility from the junction will not be affected. I can confirm that we have no objections to the proposal, subject to the following recommended conditions being included in any Notice of Consent which may be issued:

Condition:

The fence as detailed on the site plan provided, shall not be constructed until a means of pedestrian access (new footway) has been constructed in accordance with the above approved plans.

Reason:

To ensure a suitable standard of pedestrian access in the interests of highway safety.

Condition:

No development shall commence, including the erection of any fencing, until detailed specifications for the construction of the approved footway have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include: Construction materials and surfacing specifications; Drainage provisions to ensure effective

surface water management; Details of any necessary alterations to existing infrastructure, including kerbs, utilities, or adjacent land levels. The footway shall be constructed in full accordance with the approved details and made available for public use prior to the installation of any fencing. The footway shall thereafter be retained and maintained in accordance with the approved scheme.

Reason:

To ensure the footway is constructed to an appropriate standard with adequate drainage and integration with existing infrastructure, in the interests of pedestrian safety and accessibility

Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 12 no. properties – 2 objections and 19 letters of support were received as part of the consultation process, which are summarised below.

Letters of support summarised:

- The planning statement clearly demonstrates that the land is not designated as protected open space and therefore does not conflict with policies and no clear evidence of community value, the proposal to be reasonable and policy-compliant
- Clear justification has been provided.
- The proposal retains a pedestrian route through the site, repositioned closer to the highway, which maintains accessibility and safety and is more convenient
- footway is on the applicant's land and is willing to fund the relocation.
- Will tidy the area up.
- Relocation of the existing pedestrian route would fit better with the aesthetic of the rest of the village.
- The proposal is located within the settlement boundary and does not result in any harm to residential amenity, ecology, or visual character. It aligns with the presumption in favour of sustainable development and relevant local plan policies.
- It allows the applicant to utilise the land that he owns aside his house.
- The new proposed footpath is in a much-improved position that it continues adjacent to the carriageway instead of through the over grown area. This parcel of land like a number of others in these estates were left unmaintained, there have been a number now been incorporated in to gardens which have been a great improvement.

Letters of objection summarised:

- The application states that there are no trees on the land in question for change of use, this is not factually correct, there is a tree that looks to be within 3.1m of the curb that will need to be removed and this would change character if the landscape.
- Foul sewage is ticked yes on the application, yet no information is supplied in the plans for how this will be managed

- The plan does not indicate the width of the path to be installed and could clash with a telegraph pole that is already on the parcel of land supplying services to adjacent properties.
- The application states that conditions will be put in place for the parcel of land preventing erection of structures and buildings including hard standings- I would like to know how this would be controlled for the future.
- Section 4.2 of the fellpath report states that under policy N11,12,13 the land is not a protected space. There are many other parcels of land on the estate that are visually the same and permitting a 1.8 m high fence would set a precedence for others to do the same changing the visual aspects of the estate over time.
- Section 4.5 of the fellpath report states that the applicant has received support of a local ward member already, this is actually a conflict of interest as the ward member is a personal friend of Mr Rigg. The member has arranged for cutting of the grass on the parcel of land (August 2025) with community equipment supplied by the parish council, surely indicating and providing evidence this a piece of community amenity land.
- Section 4.6 of the fellpath report makes reference to DM1. This proposal creates material harm to the visual amenity due to the overbearing presence to neighbours and the community due to the height of the fence at 1.8m. DM10- this proposal does not preserve the spatial quality of the surrounding residential area, it has an adverse impact on the character and appearance of the estate and neighbouring properties failing to respect the development pattern and breaking the established street scene by reception of a 1.8m high fence by design.
- The proposal is not sympathetic to the local suburban character of the estate and does not improve the quality of the street scene, there are no fence of this kind opposite or adjacent to the property. Where there are fences/ walls they are all less than 1m. A more suitable option would be a 1m fence or shrubs/ bushes to create the fence line, similar to what is on the current boundary of the property.
- While the current property boundary (visible from Hallsenna Road) is a hedge which although taller than the proposed fence, is at least green and in keeping with the general look of the street and largely obscures the house from view - the proposal is not clear on whether this will be removed once the fence is erected and the land is taken into residential use.
- The existing streetlight sighted near 25 Hallsenna Road is not mentioned so it is unclear whether this will still be helpful for the new pathway or is impacted by the proposal and the position of the proposed new fence.
- While the proposal may have received 'support' from a ward member, I would hope opinions of the people who live with this area in sight, would bear more weight than someone who does not have to live with it every day. We have been given to understand by neighbours that the 'ward member' who has supported the proposal is a friend of the applicant which would appear to be a conflict of interest.

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 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:-

Strategic Policy DS1: Settlement Hierarchy

Strategic Policy DS2: Settlement Boundaries

DS4: Design and Development Standards

DS5: Hard and Soft Landscaping

Policy N1: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N3: Biodiversity Net Gain

Strategic Policy N12: Protected Open Spaces

Strategic Policy N6: Landscape Protection

Strategic Policy N9 : Green Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

National Design Guide

ASSESSMENT

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

Principle of Development

Seascale is identified in Strategic Policy DS1 of the Copeland Local Plan as one of the Local Centres which have a supporting role to Copeland's towns containing a broad range of services. These settlements also operate independently from the main towns to meet day to day needs or as a well-connected cluster, linked to a neighbouring town or village of a similar scale by a frequent public transport service and/or safe pedestrian routes a mile or less in length. It is stated that the focus for development in Local Centres will be to support the retention and small-scale growth of existing services and businesses, with development focused on existing employment allocations, moderate housing allocations, and windfall and infill developments.

The settlement boundary for Seascale is defined under Strategic Policy DS2. It is stated that development within the defined settlement boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise.

The application site is located within the defined settlement boundary for Seascale where development is supported under Policy DS1 and DS2 of the Copeland Local Plan.

The change of use of this site for residential purposes and the relocation of the existing footpath will be reviewed in the latter stages of this assessment.

Scale, Design and Impacts on Landscape & Amenity

Section 12 of the National Planning Policy Framework and the National Design Guide clearly sets out that one of the key principles of the planning system is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings. Developments should add to the overall quality of the area, should be sympathetic to the local character, and should establish and maintain a strong sense of place. Developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Paragraph 135 of the NPPF states that planning decisions should ensure that developments: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and

transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future.

Paragraph 139 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. It is not considered that a revision to the overall design to this proposal would alter the impact and the application is therefore recommended for refusal as the proposal is considered to be an inappropriate form of development which is in conflict with Policies DS4, N6, N12 of the adopted Local Plan.

The National Design Guide also sets out ten characteristics to reflect the Government's priorities for well-designed places. This guidance is a material planning consideration that carries significant weight in the planning balance.

The proposed scale, appearance, use and impacts on amenity are therefore the main considerations/concerns raised by this proposal

These aims are reflected in the adopted Copeland Local Plan, particularly within policy DS4. Policy DS4 sets out relevant criteria on which this proposal has been assessed.

Policy DS4 of the Copeland Local Plan seeks to create high-quality developments which respond positively to the character of the site and the wider setting and states that all new development should maintain high levels of amenity.

Strategic Policy N6 of the Copeland Local Plan aims to protect all landscapes from inappropriate change by ensuring that development conserves and enhances the distinctive characteristics of that particular area in a manner commensurate with their statutory status and value.

The application site lies within a predominantly residential area within the settlement boundary of Seascale. The host dwelling is located on the corner of a residential cul de sac on Lingmell Crescent, which adjoins Hallsenna Road. The application site comprises an open-plan grassed area between the host dwelling and the public highway, with a pedestrian access running through the open space. The site is visible from neighbouring properties and the surrounding roads/footpaths.

The application seeks planning permission for a change of use of the approximately 0.1 acres of a small triangular parcel of open green space located between the host property and the highway adjacent to the applicants property to form part of the domestic curtilage of number 20 Lingmell Crescent. The change of use includes the erection of a 1.8m close boarded fence around the site, and relocation of the existing pedestrian route that currently runs through the site to the edge of the highway. The proposed boundary fence will be set back 3.1m from the roadside and will be 47m in length.

Paragraph 104 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land

to be surplus to requirements; the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Paragraph 188 of the NPPF states that plans should take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure.

The NPPF describes Green infrastructure as a network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.

Whilst Strategic Policy N12 of the Copeland Local Plan states that the loss of protected open spaces will be resisted unless equivalent replacement provision of the same or better quality is provided within the same settlement, it also states that proposals to develop other open spaces, including play areas and allotments that are not identified on the proposals map should also comply with this policy where there is evidence that they are of value to the community.

The application site is not designated /protected green space as per the proposals map within the adopted Copeland Local Plan, however, the neighbouring estates to the South 'Fell View Road' and 'Scawfell Crescent' are, and the host estate (and most of Seascale in general) is largely characterised by scattered areas of open green space/verges that are considered to be of high quality and value which are open-plan without boundary treatments to their frontages. This is illustrated on the map below with the application site marked by a red cross.

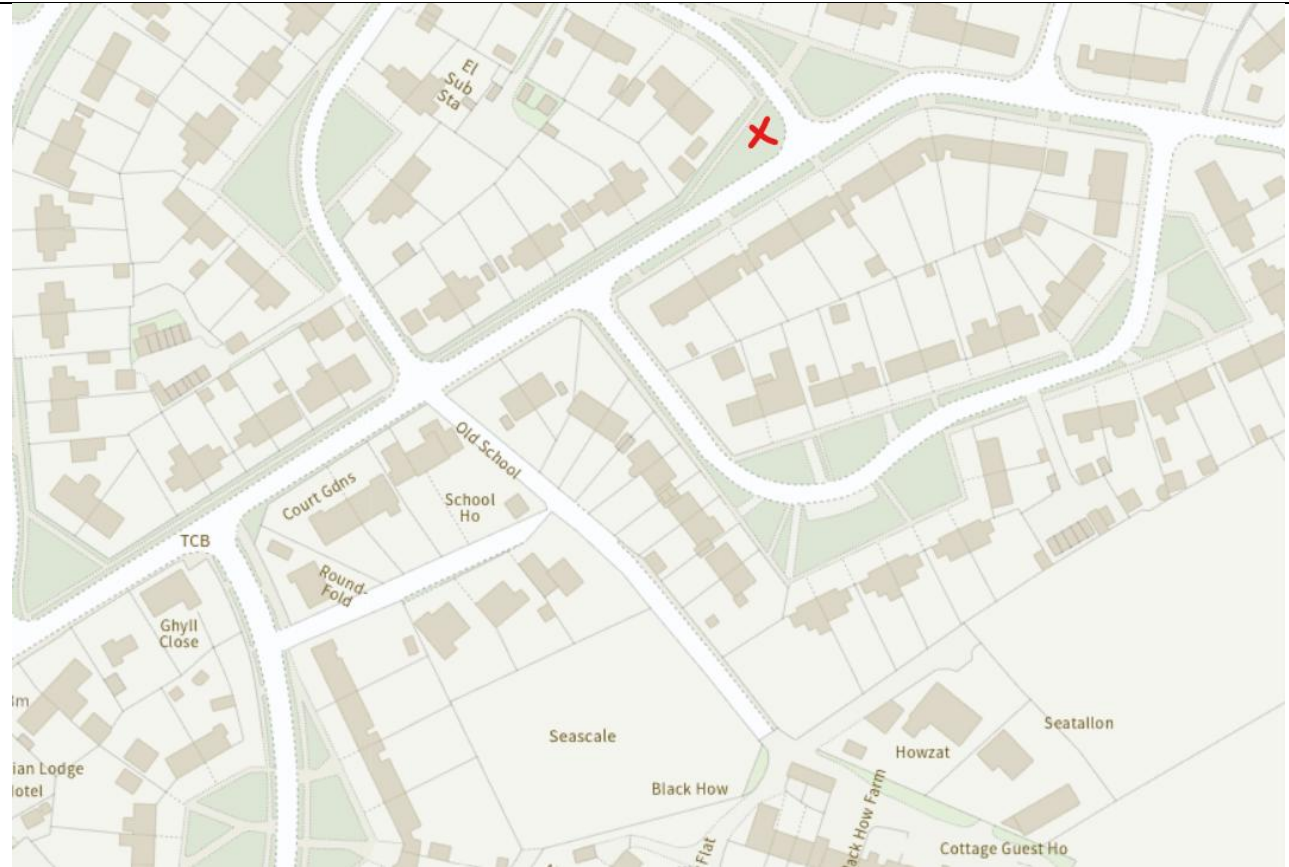


Figure 1: Site Location Plan with the application site marked with red X

These verges and open spaces adjoin the roads with pedestrian paths running through them, separate from the vehicular carriageways. This layout provides an attractive landscaped setting and a consistent, open character to the estate which overall is considered to make a positive contribution to the visual amenity of the area. The supporting statement submitted with the application also confirms that the layout creates a modest sense of openness typical of suburban housing estates.

Whilst it is noted that some driveways have been created across some of the areas of open space, thus fragmenting the open landscaped character of the estate to some degree, where such areas do exist, they are generally intermittent and of relatively limited width. They are also interspersed by lengths of open grass verge which immediately adjoin the carriageway edge.

The proposed change of use, particularly the siting, scale and design of the 1.8m high close boarded boundary fence surrounding the site would create an enclosure which is not considered to be acceptable and is largely out of character with the open plan feel of the street scene and wider residential area. It is considered that its height and close boarded design within this location is visually intrusive on this prominent corner plot and is therefore

considered to adversely alter the existing building and street scene. This will set an undesirable precedent for others to do the same which would result in the established open-plan layout which clearly defines the character of the estate being eroded.

As part of the application, it is also proposed to reposition the existing footpath that runs through the site closer to the highway edge. Whilst this would still maintain pedestrian access, the relocation of the footpath is considered to be related directly to the benefit of the applicant in order to facilitate his proposal, as opposed to improving the overall connectivity/pedestrian access and amenity to this section of the estate.

Whilst some letters of support believe that the reroute would fit better with the aesthetic of the rest of the village and would tidy up the area, a site visit confirmed that the area itself was not overgrown or neglected and was already well maintained. The current alignment of the footpath through the site is also functional. Whilst the footpath would be retained, there has been insufficient evidence or justification provided that its relocation would result in any benefit, and the relocation is not considered necessary in this instance.

Although the application has received a large number of letters in support, it is considered that the perceived benefits do not outweigh the harm caused by granting permission for the enclosure of the land, and subsequent loss of an important established open space within Seascale.

The proposal is therefore considered to have an unacceptable and adverse effect on the character and appearance of Lingmell Crescent, and the wider residential area with regards to open space which does not comply with Policies DS4 and N12 of the Copeland Local Plan and provisions of the NPPF in this regard.

Highway Safety

Policy DS4 of the Copeland Local Plan sets out that developments must not give rise to severe impacts on highways safety and/ or a severe impact on the capacity of the highway network.

As part of the application, it is also proposed to reposition the existing footpath that runs through the site closer to the highway edge. The Highways Authority has advised that the proposed new footpath would need to be created and constructed before the fence is erected and the existing footpath closed off and removed. With the fence being set back from the carriageway edge by 3.1m, the visibility from the junction will not be affected and that there were no objections to the proposal, subject to the imposition of 2 planning conditions, one which requires the applicant to have completed the reposition of the footpath before constructing the proposed fence, and one which requires the applicant to submit and have discharged detailed specifications for the construction of the footway prior to works beginning.

On the basis of the above, the proposal is not considered to have detrimental impact on Highway Safety.

Biodiversity Net Gain

Policy N1 outlines how the Council will protect and enhance the biodiversity and geodiversity 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 under the de minimus rule.

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.

Planning Balance and Conclusion

The proposal due to its overall scale, design, and appearance would result in an incongruous form of development which would have an unacceptable adverse impact on the character and appearance of the application site and the visual amenity and character of the wider area. In particular, the design and scale of the closed boarded fence design is out of keeping with the character and appearance of the existing property and wider residential area, which would add to this impact within a residential area which benefits from a sympathetic, open-plan built form.

The proposal would therefore not respond positively to the character of the site and fails to relate in a coherent manner to its surroundings and would not enhance local distinctiveness or allow retention of an important green open space.

The NPPF and the National Design Guide place significant emphasis on high quality designs and therefore carry significant weight in the planning balance. The proposal is considered to produce an incongruous form of development that has a detrimental impact on the character and appearance of the property and the visual amenity of the wider residential area, contrary to the defined design priorities.

Paragraph 139 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. It is not considered that a revision to the overall design to this proposal would alter the impact and the application is therefore recommended for refusal as the proposal is considered to be

	an inappropriate form of development which is in conflict with Policies DS4, N6, N12 of the adopted Local Plan. Any perceived benefits indicated by the letters of support received are not considered to outweigh the adverse harm identified to the character of the existing residential estate and the visual amenity of the immediate locality.
8.	Recommendation: Refuse
9.	Reasons for refusal: 1. The development would result in the loss of an important area of open space which would significantly erode the character of this residential estate and result in an unsympathetic form of development that would be detrimental to the landscape and the visual amenity of the immediate locality and wider residential area. As a consequence, this application would be contrary to Policies DS4, N6 and N12 of the Copeland Local Plan 2021-2039 and the guidance contained within the NPPF and the National Design Guide. Informative Notes 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: De Minimus development. Highways



Cumberland Council

Any works within or near the Highway must be authorised by the Council and no works shall be permitted or carried out on any part of the Highway including Verges, until you are in receipt of an appropriate permit from the LHA Streetworks team.

<https://www.cumberland.gov.uk/parking-roads-and-transport/streets-roads-and-pavements/street-licences-and-permits/street-permit-and-licence-fees-and-charges>

Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

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: D. Crawford

Date : 02/06/2026

Authorising Officer: N.J. Hayhurst

Date : 02/06/2026

Dedicated responses to:-