

Local Planning Authority Statement of Case

Appeal By: Mr M Rigg

Appeal reference: 6015757

Local Planning Authority Reference: 4/26/2115/0F1

Proposal: Change of Use of Land to Residential Garden Area and Relocation of
Existing Pedestrian Route

Address: 20 Lingmell Crescent, Seascale, Cumbria, CA20 1JZ

1. Introduction:

1.1 The Application Site relates to land adjacent to 20 Lingmell Crescent which is located in a residential estate within the village of Seascale. The application site comprises of approximately 0.1 acres of open-plan grassed area between the host dwelling and the public highway, with a pedestrian access running through the site.

1.2 The proposal the subject of this appeal relates to the change of use of the adjacent land to form part of the host property's 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.

2. Decision of Local Planning Authority:

2.1 On the 2nd June 2026, planning application reference 4/26/2115/0F1 was refused under delegated powers by the Head of Planning and Place for Cumberland Council for the following reasons:

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 adopted Copeland Local Plan 2021-2039 and the guidance contained within the NPPF and the National Design Guide.

The Council made its decision on the basis of the following plans and documents which were submitted as part of the original planning application: -

- Application Form, received 7th April 2026;
- Site Location Plan, received 7th April 2026;
- Site Plan, scale 1:500, received 7th April 2026;
- Fence Details, received 7th April 2026;
- Planning and Design & Access Statement, received 7th April 2026;
- Biodiversity Net Gain (BNG) Exemption Statement (additional), received April 2026

3. Statement of Case:

3.1 The assessment of the proposal is detailed within the Delegated Planning Decision report.

3.2 A copy of the Delegated Planning Decision report is contained at Annex A to this Appeal Statement.

3.3 This Statement of Case outlines:

- The current Planning Policy position with regards to the proposal ; and
- The response of Cumberland Council to specific matters raised within the Appellant's Full Statement of Case.

4. Current Planning Policy Position

Development Plan

4.1 At the time of determining the planning application reference 4/26/2115/0F1 the adopted development plan for the geographic area of the sovereign Copeland Borough Councils area comprised:

- The Copeland Local Plan 2021 -2039 which was adopted by Cumberland Council on the 5th November 2024.

4.2 The policies of the Copeland Local Plan 2021 - 2039 considered applicable in this case comprise:

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

National Planning Policy Framework

4.3 On the 17th August 2026 a revised National Planning Policy Framework was published which replaced the previous version of the NPPF.

5.0 Response of Cumberland Council to specific matters raised within the Appellant's Full Statement of Case.

The Council wish to make the following comments in response to matters raised in the Appellants Statement of Case:-

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. The refusal of the Full Planning

Application has been justified and based on adopted development plan policies and material planning considerations applicable at the time that the decision was taken. The Council reached a legitimate planning judgment that the proposal would harm the character and appearance of the area and is fundamentally unacceptable.

- 5.2 The national policy position changed materially after the Council's decision. The National Planning Policy Framework published on 17 August 2026 replaces the December 2024 Framework. The appellant makes reference to Paragraph 3 of the NPPF which confirms that national decision-making policies are material considerations which are to be read alongside the development plan. Annex A, paragraph 1 confirms that the policies in the August 2026 Framework must be taken into account in decision-making from the day of publication. Whilst the appeal would now therefore be determined having regard to the August 2026 Framework, the Council do not consider that this would alter the position or the decision taken by The Council on 2nd June 2026.

- 5.3 The Appellant accepts in his statement of case that the surrounding estate is a planned, mid-to-late twentieth-century residential area of semi-detached, terraced and detached homes arranged around curved streets and cul-de-sacs. Its character includes grass verges and incidental green spaces, but also established private gardens bounded by hedges, low walls and fencing.

The Council does not therefore feel it has overstated both the function of this individual parcel and the degree of visual change. The land in question, although not a formally protected open space, is considered to add value to the overall estate. 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.

- 5.4 The Appellant claims that no evidence has been provided or cited by the Council that demonstrates this value to the community and that there were no objections to the proposed development from any person or stakeholder in the community, or no site-specific assessment of community use, recreational quality, deficiency, catchment or function that demonstrates this small parcel performs an important role.

The Appellant goes on to mention that the Parish Council response is neutral rather than evidence of a valued community facility and that there has been plenty of verbal support from Parish Council members and the local Ward Councillor.

There were 2 objections received to the planning application. A copy of these was submitted by the Council with the appeal questionnaire.

Notwithstanding this, it is irrelevant how many letters of objection/support are received to a planning application. The issues raised by the objectors have to be taken into account and fully considered as part of the assessment. They are a material planning consideration.

- 5.6 The original proposal showed a 1.8 metre fence around the outer boundary perimeter. Following the issue of the planning refusal by the Council, the Applicant and his Agent sought a Chartered Landscape Architect to review the site and thus prepared the 'Landscape Plan WW/L01 Revision A' document that has subsequently been submitted.

Whilst the revision retains the same site, proposed use and pedestrian-route alignment as the refusal, it also now proposes to limit the 1.8 metre screen fence to the private rear garden behind the principal elevation, returned to the outbuilding; keep the outer garden physically open, without a fence along the street or path edge; retain the existing Whitebeam and introduces two fruit trees; maintains the land as mown grass and preserves a verge between the route and highway; and allow the entire visible outer area to continue contributing to the green street scene.

This isn't a scheme that was put before The Council prior to refusal, or during the two previous planning applications that were submitted for the same site/scheme which were withdrawn following issues raised by the Council which correspond to the reasons for refusal quoted in this case.

- 5.7 The Appellant claims that the revised landscape-led arrangement directly responds to Policies DP3, N2 and TR4 of the NPPF 2026. However, the revised landscape scheme was not part of the determination of this application, nor would it have been considered under the new/revised policies of the NPPF which were not available to the Council at the time of the refusal being issued.

- 5.8 The Appellant claims that the Westwood assessment provides proportionate, site-specific evidence on the parcel's function and value, concluding that its recreational value is low because of its small scale and that nearby open spaces continue to provide adequate recreational and amenity value.

The parcel of land in question is one of many green open spaces within Seascale which are considered collectively to provide an attractive landscaped setting and a consistent, open character to the estate which overall is considered to makes a positive contribution to the visual amenity of the area. The proposal is largely out of character with the open plan feel of the street scene and wider residential area which was considered visually

intrusive on this prominent corner plot and was therefore considered to adversely alter the existing building and street scene. The appellant states that more substantial nearby open spaces continue to provide adequate recreational and amenity value, suggesting that the loss of this one is surplus to any meaningful value/recreational requirement. It is The Council's opinion that allowing this development would set an undesirable precedent for others to do the same which would result in the erosion of the established open plan layout which clearly defines the character of the estate.

5.9 Policy DP3 of the NPPF (2026) discusses the key principles for well-designed places. The Policy states that Development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets. This should not preclude innovation or change where appropriate, especially where an increased scale or density of development is justified in accordance with policies L2 and L3.

Within the 7 Principles (a-g) set out within Policy DP3, particular emphasis in this case is given to principle (e). 'Built Form' which states that development should use the pattern of buildings to define the arrangement of streets, squares and other spaces, promote compact forms of development to optimise the site's potential, distinguish between public and private areas, create focal points and, where appropriate, enhance views into and out of the scheme; and

Principle (g). 'Identity' which states that development should create visually attractive, distinctive and characterful development to establish or maintain a strong sense of place and pride, including through the use of a coherent palette of materials, design features and planting.

Development proposals should be refused if, without clear justification, they conflict with paragraph 1 of this policy or relevant aspects of the principles in paragraph 2, or with any explicit design standards set out in the development plan (including those in locally specific policies, guides, codes or masterplans). Substantial weight should be given to compliance with relevant development plan policies when assessing the design quality of proposals.

It was considered that a revision to the overall design to this proposal and/or the imposition of planning conditions would not alter the perceived impact. The Council clearly identified concerns during the application process before the determination of the planning application and communicated these to the Appellant. These were also previously communicated to the appellant by two other Planning Officers as part of the consideration of two previous applications for the same scheme which were submitted prior to this, both of which were formally withdrawn prior to determination due to the concerns raised. The applicant was therefore well aware of the issues prior to this third

submission, and as such the application was therefore recommended for refusal as the proposal was considered to be an inappropriate form of development which is in conflict with Policies DS4, N6, N12 of the adopted Local Plan and NPPF provisions.

- 5.10 Whilst it is accepted that each case should be dealt with on its merits, the Council requests that the Inspector considers a previous appeal decision Ref: APP/Z0923/W/18/3214573 relating to Black How, Access off Scawfell Crescent, Seascale. This site is located in close proximity to the Appeal Site and one of the issues considered by the Planning Inspector as part of their assessment was the impact of the proposed development on the character and appearance of the residential estate, particularly with regards to the loss of open space.

Although it is accepted that this appeal was determined on the basis of a decision made using the previously Adopted Copeland Local Plan, the issues identified by the Council and set out in the reason for refusal are relevant to this appeal, particularly as the Inspector determined that one of the main issues in that case was the effect of the proposed development with regard to the character and appearance of Scawfell Crescent in relation to open space. A copy of the appeal decision is attached at Appendix B.

- 5.11 The Appellant states that residential gardens are themselves part of green infrastructure under Policy N9 and that a change to garden use does not necessarily result in the visual loss of green space, particularly where the land remains grassed, open and planted.

The land in question is not currently residential garden – it is undeveloped open green space which is separated from the residential dwelling known as 20 Lingmell Crescent by a pedestrian footpath and small number of mature trees/established hedgerow and a boundary wall. This defines the established domestic curtilage of the dwelling.

6. Conclusions

- 6.1 The development is in conflict with the provisions of Policies DS4, N6 and N12 of the Copeland Local Plan 2021-2039 and the provisions of the NPPF.
- 6.2 The adverse impacts on existing residential and visual amenity, landscape and loss of open green space are sufficiently harmful to significantly and demonstrably outweigh the minor potential benefits of the development when assessed against the policies in the Development Plan when taken as a whole.
- 6.3 It is respectfully requested that this appeal is dismissed. If the Inspector is minded to approve the appeal then the Council would request that the planning conditions set out in Appendix C are attached to any decision.

List of Appendices

Appendix A – Delegated Planning Report

Appendix 2 – Appeal Decision reference APP/Z0923/W/18/3214573 - Black
How, Access off Scawfell Crescent, Seascale

Appendix 3 – List of suggested planning conditions