

**DEVELOPMENT CONTROL AND REGULATION COMMITTEE**  
**15 July 2022**

**A report by the Executive Director for Economy and Infrastructure**

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**Application Reference No. 4/22/9001**

Application Type: Full Planning Permission for Relevant Demolition in a Conservation Area

Proposal: Demolition of Buildings.

Location: Former Brackenthwaite Elderly Persons Home, Senhouse Street,  
Whitehaven, CA28 7ES

Applicant: Cumbria County Council

Date Valid: 14 April 2022

Reason for Committee Level Decision: Objection received from consultee and application made by Executive Director for Economy and Infrastructure

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**1.0 RECOMMENDATION**

1.1 That Planning Permission be granted subject to the conditions set out in Appendix 1 to this report.

**2.0 THE PROPOSAL**

1.2 Planning permission is sought to demolish the former Brackenthwaite Elderly Persons Home (EPH) which is situated within Whitehaven's Conservation Area. This EPH closed in 2019 after the completion of a modern replacement facility ('The Gables') in the Hensingham suburb of Whitehaven. It is proposed that the grubbed-up footprint of the buildings will be infilled with a crushed hardcore (derived from the demolition waste that has been crushed off-site) then graded and compacted before being topsoiled and tied into the neighbouring ground levels (thus following the existing gentle fall in land levels across the site). It is proposed this area would then be seeded with a grassland wildflower mix. It is proposed to leave the site unfenced and open until such a time that proposals for its redevelopment are brought forward.

1.3 The applicant reports that they have a strategic intention for this vacant town centre site to be redeveloped to provide Extra-Care Housing (ECH) to cater for known demand within Whitehaven and North Copeland. The applicant divulges that feedback from soft market testing with specialist Housing Associations and developers within the Extra Care Sector over the past three years has been that the empty building is not suitable for adaptation or reuse for a scheme of this nature. They report that the proposed demolition represents a key step in de-risking the delivery of ECH on this site. Further to this they add that holding costs associated with the ongoing retention of this obsolete structure represent a significant financial burden.

1.4 In terms of the demolition process all asbestos containing material would be removed prior to a soft strip of all electrical and mechanical fixtures and other fixtures and furnishings. Roof structures of the buildings would then be removed

and mechanical excavators utilised to demolish the walls inwards always from the site boundary and remove the concrete floor and grub-it up. No trees are proposed to be removed in association with the demolition works. It is proposed that demolition works would be limited to take place between 8am and 6pm Monday to Friday and 8am to 12pm on Saturdays and that dust suppression measures shall be utilised during work.

### **3.0 SITE DESCRIPTION**

- 3.1 The former Brackenthwaite Elderly Persons Home (EPH) is situated at the corner of George Street (A5094) and Church Street with access and car-parking off Senhouse Street. It occupies an approximately 0.3ha site. It is located within the Whitehaven Town Centre Conservation area and is situated at the northern edge of the town centre.
- 3.2 The Brackenthwaite site comprises two separate blocks of buildings. A single storey day-centre element and then the main block which is predominantly three storeys but has some three and half, two storey and single storey elements. The two storey element is at the northern side of the building where ground levels are higher near George Street. The main block has a loosely “L” shaped footprint. The buildings are thought to have been constructed in the 1970s. All elements of the buildings are pitched roofed. External walls are mostly finished with a mixture of brick and render, although some have tiled feature walls. The majority of windows are white upvc although some timber frame windows are also present. A number of mature, semi-mature and early-mature trees are present within the grounds of the site (comprising mainly Cherries but also with an Alder, Beech, Maple, and Yucca).
- 3.3 The site is immediately bounded to its north-east by George Street (A5094) with a three storey 1960s block of council house flats present on the opposite side of the road. Trees, shrubs, and a grassed amenity space lie between the buildings and the sites south-eastern boundary which directly abuts Church Street. On the opposite side of Church Street are three storey terraced dwellings all of which are Grade II Listed. To the south-west the site is bounded by public car parking. Beyond this car park is the rear of a number of terraced shop/retail units which front Duke Street and are mostly three story in size. To the north-west the building is set-back from Senhouse Street by 13.5m to 10m, with a mixture of amenity grass, trees, and on-site car-parking present in between. On the opposite side of Senhouse Street to the site is another public car park.

### **4.0 SITE PLANNING HISTORY**

- 4.1 There is no planning record for the construction of this building. This is likely because it predates local government reorganisation in 1974. The County Council granted planning permission for refacing walls and a new pitched roof element in January 1986 (*Ref. 4/85/1092*). Copeland Borough Council granted planning permission for the single storey day centre in August 2001 (*Ref. 4/01/0492/0*).
- 4.2 Since 2016 Copeland Borough Council has approved a number of applications for various tree works to trees situated within the site (*Refs. 4/16/2150/TPO, 4/18/2190/TPO, 4/20/2169/TPO*). In April 2022 the applicant lodged a further application for proposed tree works at the site to Copeland Borough Council (*Ref. 4/22/2178/TPO*). This proposes crown raising four cherry trees and some crown reduction to two of these trees to provide a 1.5m clearance from buildings. It is

also proposed to remove the maple situated on the corner of George Street and Church Walk. This semi-mature maple tree is proposed to be removed because of past limb failure which has led to significant cracking at its unions. Copeland Borough Council approved these tree works on 1 June 2022.

## **5.0 CONSULTATIONS AND REPRESENTATIONS**

- 5.1 Copeland Borough Council Planning Department: No objection subject to the imposition of conditions securing appropriate measures to control the impacts of the demolition and the restoration of the site post demolition. Notes that the demand for the services formerly provided by this elderly persons home are met by the new replacement home in Hensingham. Consider that the application documentation originally submitted provides limited information in relation to the efforts undertaken to secure an alternative interim or longer-term use for the building or application site and justification of the proposed demolition. Notes the site is situated within the Whitehaven Town Centre Conservation Area. Recounts that the application site was previously excluded from the Whitehaven Town Centre Conservation Area; however, was included following a review of the boundaries of the Whitehaven Town Centre Conservation Area and High Street Conservation Area which recommended the extension and the merger of the existing conservation areas. Considers that the buildings are of limited architectural interest and are not of historical or cultural significance and that given their form and layout do not complement or reinforce the special interest features of this part of the conservation area. Judge that the buildings do not make a positive contribution to the character of the conservation area and that their demolition would not impact the grid iron pattern of streets for which this element of the conservation area is designated. Notwithstanding this, given the location of the application site at the entrance of the gridiron streets, they surmise that it is arguable that the presence of a building is preferable to the presence of a further open/gap site, which in combination with the existing car parks and gap sites would extend to 0.6ha. However, they consider that this harm would be outweighed by the benefits of the development. Consider that greater detail should be provided in respect of trees present and measures to protect them. Consider that the surfacing of the land with topsoil and wildflower planting would deliver significant betterment over the use of exposed crushed hardcore and should be appropriately secured.
- 5.2 Whitehaven Town Council: Object to the demolition “without there being a full investigation of all alternative uses to serve the community and for Cumbria County Council to justify this decision”. Further to this response the applicant provided an updated supporting statement to provide some further background and information behind their decision to demolish this existing building and their current strategic intention in respect of this site/land. Whitehaven Town Council were notified of this but provided no further response.
- 5.3 Copeland Borough Council Environmental Health Department: No objection. Consider the Demolition Method Statement submitted to be broadly acceptable. State that no on-site crushing of demolition materials should be carried out in order to avoid excessive dust creation and that dust suppression measures must be carried out during all works and that demolition works should be avoided during strong winds that are likely to spread dust.
- 5.4 Cumbria County Council (CCC) as Local Highway Authority: No objection. Recommend that a condition is imposed to secure a Demolition Traffic Management Plan to ensure the undertaking of the development does not

adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety.

- 5.5 CCC Historic Environment Officer: No objection.
- 5.6 CCC Ecological Consultant: No objection. Its content that the submitted bat survey report provides a robust and reasonable assessment of the building and its likelihood of supporting roosting bats and considers that no further bat surveys are required, and no clerk of works is needed. Notes that gulls were present and that bird nesting by species such as gull should not be overlooked (although sometimes considered a nuisance, gulls are nonetheless afforded legal protection). Advises that if the council is minded to grant planning permission that an informative is provided to ensure the applicant is cognisant of the legally protected status of nesting birds.
- 5.7 Cumbria Constabulary Crime Prevention Design Advisor: No observations or comments.
- 5.8 Cumbria Fire and Rescue Service: No response received.
- 5.9 Electricity Northwest: Note that the works are adjacent to or affect their electricity distribution assets and that great care should be taken at all times to protect both the electrical apparatus and any personnel working in its vicinity.
- 5.10 Northern Gas Networks: No objection. Report that there may be apparatus in the area that may be at risk during works, and should the planning application be approved, then they require the promoter of these works to contact them directly to discuss their requirements in detail.
- 5.11 United Utilities Water Ltd PLC: No response received
- 5.12 The application site falls within the County Council electoral division of Bransty. The Councillor representing this division, Mr Graham Roberts, has been notified of this application.
- 5.13 The application site also falls in close proximity to the County Council electoral division of Kells & Sandwith. The Councillor representing this division, Mr Graham Roberts, has been notified of this application, Ms Emma Williamson, has also been notified of this application.
- 5.14 One representation has been received from the occupiers of a nearby dwelling. The representation states that they have no objection to the demolition. They note that all the trees on site are proposed to be protected and retained with the exception of a damaged maple. State that they support this and that strongly urge that the cherry trees and others which offer such a pleasant aspect to this approach into town are retained. Consider that noise and dust from demolition will be considerable. In light of the residential nature of the area they request that no work starts before 8.30am each day and that none continues after 6pm each day.

## **6.0 PLANNING POLICY**

- 6.1 [Section 38\(6\)](#) of the [Planning & Compulsory Purchase Act 2004](#) provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a

material consideration that must be given appropriate weight in the decision making process.

6.2 The relevant adopted local development plan documents (DPDs) currently comprises of:

- [Copeland Local Plan 2013-2029 - Core Strategy and Development Management Policies DPD \(CLP-CS&DMP\) - adopted 5 December 2013.](#)
- The saved policies of the [Copeland Local Plan 2001-2016](#) – adopted June 2006

6.3 The key policies from these relevant to the determination of this planning application are considered to be:

- ST1 - Strategic Development Principles
- ER8 - Whitehaven Town Centre
- SS4 - Community and Cultural Facilities and Services;
- ENV3 - Biodiversity and Geodiversity
- ENV4 - Heritage Assets
- DM10 - Achieving Quality of Place;
- DM11 - Sustainable Development Standards;
- DM21 - Protecting Community Facilities;
- DM22 - Accessible Developments;
- DM26 - Landscaping;
- DM27 - Built Heritage and Archaeology;
- DM28 - Protection of Trees

6.4 It is noted that the Proposals Map published as part of the CLP-CS&DMP DPD does not apply any specific designation to the application site other than placing it within Whitehaven's Town Centre.

6.5 Copeland Borough Council (CBC) is progressing a new Local Plan to cover 2021-2038. A consultation on a [Regulation 19 Final "Publication Draft"](#) of the plan took place between January and March 2022. The following draft policies from this are considered relevant to this proposed development:

- DS1PU - Presumption in favour of Sustainable Development
- DS2PU - Reducing the impacts of development on Climate Change
- DS6PU - Design and Development Standards
- DS7PU - Hard and Soft Landscaping
- DS11PU - Protecting Air Quality
- R9PU - Non-Retail Development in Town Centres
- SC5PU - Community and Cultural Facilities
- BE1PU - Heritage Assets
- BE2PU - Designated Heritage Assets
- N1PU - Conserving and Enhancing Biodiversity and Geodiversity
- N3PU - Biodiversity Net Gain;
- N13PU - Woodlands, Trees and Hedgerows

6.6 Given the stage of development of the emerging plan, it is considered that the above policies can be attributed some limited weight.

- 6.7 Neighbourhood Plans also form part of the statutory development plan once they have been made (brought into legal force) by the Local Planning Authority. There is no neighbourhood plan in place covering Whitehaven. Nor are any understood to be in the process of being developed.
- 6.8 [The National Planning Policy Framework](#) (NPPF) was published in a revised and updated form on 20 July 2021. The national online [Planning Practice Guidance](#) (PPG) suite was launched in March 2014 and is continually updated. Both are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF are considered to be relevant to the determination of this application:
- Section 2 - Achieving sustainable development: Paragraphs 7, 8, 9, 10 & 11.
  - Section 4 - Decision making: Paragraphs 38 & 55.
  - Section 8 - Promoting healthy communities: Paragraphs 92 & 93.
  - Section 9 - Promoting sustainable transport: Paragraph 111.
  - Section 11 - Making effective use of land: Paragraphs 119, 120 and 123.
  - Section 12 - Achieving well-designed places: Paragraphs 126, 130, 131, 132 & 134.
  - Section 15 - Conserving and enhancing the natural environment: Paragraphs 174, 185 and 188.
  - Section 16 - Conserving and Enhancing the Historic Environment: Paragraphs 189, 206 and 207.

## 7.0 PLANNING ASSESSMENT

- 7.1 The key planning issues relevant to this application proposal are considered to be whether the proposed demolition of these buildings is sufficiently justified and acceptable in terms of planning policy and the effect of this proposal upon the character and appearance of the Whitehaven Conservation Area. Other material considerations relevant to the consideration of this application are biodiversity, highways, residential amenity, and trees.

### **Have alternatives to the demolition of these buildings been properly explored and is the loss of this community facility acceptable?**

- 7.2 Policy ST1 seeks proposals to reuse existing buildings wherever possible in the interests of environmental sustainability. Similarly, paragraph 152 of the NPPF encourages the reuse of existing resources including the conversion of existing buildings. Policy SS4 seeks to protect community facilities and services. Paragraph 5.5.2, which precedes this policy, defines “community facilities and services”. This definition includes social services for the elderly. Part C of Policy SS4 seeks to guard against the loss of land or buildings belonging to existing facilities by “i) wherever possible ensuring sites are retained for other forms of community use; ii) ensuring that satisfactory alternative provision is made where proposals for development will result in the justifiable loss of an existing service or facility, in accordance with Policy DM21”. Policy DM21 states that “Development or change of use which would result in the loss of an existing social, community, cultural or sports facility will be resisted where there is evidence that there is a demand for that facility that is unlikely to be met elsewhere”. Emerging Policy SC5PU seeks to prevent the loss of existing community facilities unless one of the various exception criteria is met.
- 7.3 The social demand for the care of elderly persons that this facility used to cater

for has been locally met by the modern replacement facility ('The Gables') in Hensingham. Consequently, this proposal is judged to comply with the criteria of Policies DM21 and SS4-Cii. It therefore follows that this proposal also accords with exception sub-criteria b and c of emerging policy SC5PU – that is to say there is sufficient elderly person care home facilities in the area with the recently constructed facility at Hensingham providing a better quality modern facility.

- 7.4 Following the consultation responses received from Copeland Borough Council's Planning Department and Whitehaven Town Council the applicant's Commercial Development Lead Officer advised as follows:

*“CCC has a strategic intention for this vacant town centre site to provide Extra-Care Housing ('ECH') to cater for known demand within Whitehaven and North Copeland. The site has been soft market tested with specialist Housing Associations and Developers within the Extra Care Sector over the past three years. Feedback has been that the empty building is not suitable for a scheme of this nature. Delivery would require clearance of the site to facilitate construction of a specifically designed new building. The proposed demolition represents a key step in de-risking the delivery of ECH on this site. Furthermore, holding costs associated with the ongoing retention of this obsolete structure represent a significant financial burden to CCC.*

*It should also be noted that CCC received an enquiry in May 2021 from North Cumbria Integrated Care ('NCIC') for the use of the existing building as overseas nurses' accommodation. Following further investigation by NCIC it was deemed that the building was not suitable for this use and the inquiry came to nothing.”*

- 7.5 I am satisfied that the above demonstrates that reasonable effort has been undertaken to re-use and repurpose the building for a community use over a not insubstantial period of time. I note that existing bedroom sizes\*, dated electrical and mechanical building infrastructure and the presence of asbestos bound material would not be conducive to simple refurbishment and repurposing of the main block. \*Brackenthwaite has 30 bedrooms which range in size from 7.56m<sup>2</sup> to 9.49m<sup>2</sup>, with the majority measuring circa 8m<sup>2</sup>. I note that national minimum standards require single bedrooms in new care homes to have a minimum of 12m<sup>2</sup> usable floor-space (excluding mandatory en-suite facilities). It is disappointing from a carbon reduction and sustainability perspective that the building is not suitable for simple refurbishment and repurposing/re-use; however, it is accepted that significant intervention would likely be required and that the number of rooms achieved from amalgamating existing rooms would likely make this facility uneconomic. It is noted that the applicant's agent is also of the view that the retention of this building in an unoccupied state represents a health and safety risk and could potentially attract vandalism. Further to this, the current unoccupied situation is also, ultimately, an inefficient use of land in a town centre location.
- 7.6 In light of the above I consider that the proposed demolition of these buildings is compliant with policies SS4, DM21 and emerging policy SC5PU and is therefore acceptable in principle and that sufficient information has been provided to justify the proposed demolition.

**Heritage: Would the proposed demolition of these buildings adversely affect the character and appearance of the Whitehaven Town Centre Conservation Area?**

- 7.7 Conservation Areas are defined by statute as areas 'of special architectural or historic interest'. [Section 72](#) of the Planning (Listed Buildings and Conservation Areas) Act 1990 [the PLB&CA Act] imposes a general duty on Local Planning Authorities (LPAs) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. This statutory duty is engaged by this application proposal. Policy ENV4 seeks to maximise the value of the Borough's heritage assets. Part C of Policy DM27 stipulates that 'development within Conservation Areas will only be permitted where it preserves or enhances the character or appearance of the area and, where appropriate, views in and out of the area'. Further to this paragraph 206 of the NPPF directs that LPAs should look for opportunities within conservation areas to enhance or better reveal their significance, and states that proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. Paragraph 207 acknowledges that not all elements of a Conservation Area will necessarily contribute to its significance.
- 7.8 The Whitehaven Town Centre and High Street Conservation Areas Character Appraisal published in April 2009 notes that whilst the area in which the application site is located is currently dominated by 1960s/1970s residential blocks, "this area is intrinsically linked to the rapid and deliberately planned settlement which developed in Whitehaven during the seventeenth and eighteenth centuries as it historically formed the western limit of the Lowther family's grid-iron pattern of streets. As such, although individual buildings within this area are of little or no historic or architectural interest, the area is still very much part of Whitehaven's townscape. The inclusion of this area will not dilute the conservation area's special character – rather it will give additional statutory protection to the historic street pattern and the adjacent historic buildings as any future redevelopment of the area will be subject to stringent design guidelines."
- 7.9 The buildings on the application site are of limited architectural and aesthetic interest in light of their form and materials; and have negligible historical or cultural significance. As such they do not complement or reinforce the special interest features for which this part of the conservation area was designated. That is to say, the existing buildings do little to reinforce the historic grid iron pattern of streets for which this element of the conservation area is designated and I do not believe that their removal would weaken the ability of the grid-iron pattern to be appreciated. Moreover, I do not consider that the buildings make a positive aesthetic contribution to the character or appearance of the conservation area. I note the contention made by Copeland Borough District Council's planning department that the situation of the site and its building at the entrance of the grid-iron streets is preferable to an open-gap site. Whilst not an unreasonable view or contention, I consider the proposed removal of the main L-shaped building would better reveal the significance of the grid iron pattern of the remaining historic built environment in the intervening period before the site is eventually redeveloped. It would also enhance the setting of the terraced listed buildings that do reinforce the grid-iron pattern and thus contributes to reinforcing their significance. I consider that the proposed loss of these existing buildings would not harm the character or appearance of the conservation area or the setting of any listed buildings. The establishment of wildflower grassland over the building footprints would result in a change in character to this parcel of land and its immediate surrounds over the short to medium term (until proposals for redevelopment of the site are brought forward and eventually delivered). A wildflower grassland would represent an enhanced expansion of the already



notable area of grassed and treed amenity space on site and be consistent with the wider open character of the immediate area that also hosts public car-parking facilities. I also note that the proposal would not necessitate the loss of any existing mature trees that make a positive contribution to the character of this parcel of land and the wider area. As such I am satisfied that this proposal would not detract from existing heritage assets and would serve to remove a building that does not reinforce the historic or architectural character of the area. Moreover, I am satisfied that the proposed restoration of the site would ultimately serve to preserve and enhance the character and appearance of the conservation area in the short to medium term and as such comply with the LPAs statutory section 72 duty and Policy DM27.

### **Other Material Considerations**

- 7.10 **Biodiversity & Protected Species:** The proposal would not adversely affect existing biodiversity assets. The buildings have been appropriately surveyed for bats and no evidence of bats roosting was found and the professional ecological input concurs that there is negligible potential for use of the site by bats. The creation of a grassed wildflower area over the building footprint would increase the biodiversity value of the site in the interim until proposals for its future redevelopment come forward. As such the proposal would provide for a net-gain for biodiversity and thus positively align with paragraph 180 of the NPPF.
- 7.11 **Highways:** The completed development would not have any affect upon the local highway network. The construction phase will result in some additional HGV movements within the town centre. I consider that a condition should be imposed to secure a Demolition Traffic Management Plan in the interests of reducing the potential impacts of undertaking the development on the highway network and local amenity.
- 7.12 **Residential Amenity:** Policy DM10 (Achieving Quality of Place) sets out that development proposals will be required to create and maintain reasonable standards of general amenity. All healthy existing trees would be retained and the establishment of wildflower grassland in the interim would represent a positive addition to existing levels of visual amenity.
- 7.13 During demolition works a 2.4m high plywood boarded timber temporary fence and gates are proposed to be erected to visually contain the majority of activities and thereby minimise fugitive emissions of dust and noise from the site. The applicant sets out that their appointed contractor will be required to deploy dust suppression equipment on site and that demolition works would only take place between the hours of 8.00am and 6.00pm Monday to Friday and 8.00am to noon on Saturday; with there being no Sunday or Bank Holiday working. I note that the representee requests that such operations do not start before 8.30am. I consider that 8.00am represents a reasonable and acceptable start time for such operations in a town-centre location and would also help reduce vehicle movements on the local highway network during its peak hours. In order to reduce the traffic impact of the proposal on local amenity a condition is proposed to limit HGV movements during the core muster hours of St James Primary School which lies a block or so away from the site. Conditions are also proposed to prohibit the crushing of demolition materials on site and ensure dust suppression measures are employed so as to address Copeland Borough Council's Environmental Health Department's response.
- 7.14 **Safe & Secure Environment:** The removal of the disused building would reduce

potential for vandalism on site. The removal of the building would also open-up greater opportunity for passive surveillance of the surrounding streets and land-uses from said streets and residential properties on Church Street and George Street which should reduce opportunities for crime or antisocial behaviour. As such it is considered the proposal complies with sub-point D of Policy DM10.

- 7.15 **Trees:** A separate application for tree works to remove the semi-mature maple tree on site due to past limb failure and its subsequent poor health/condition and to crown raise and reduce a number of the semi-mature cherries on site that are in proximity to the main building was approved by Copeland Borough Council in June 2022. In line with Policy DM28 an Arboricultural Assessment has been submitted in support of this application. This proposes some additional localised pruning to three additional cherries (identified as T3, T4 and T10 in the Arboricultural Method Statement), a beech (T10) and a pair of Italian Alder (G1), if required, to increase separation from the building to 2m and remove potential for crown damage. This additional pruning work is considered reasonable and proportionate. The Arboricultural Method Statement provides for suitably specified protective measures (fencing and ground protection) to ensure that the trees worthy of retention would not be damaged or lost. A condition is proposed to ensure that these protective measures are implemented.

### **Other Matters**

- 7.16 In 2011 the Court of Appeal ruled that building demolition works constitute development and can constitute an urban development project as defined by Part 10(b) of schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations. The site is not within nor is it in close proximity to an environmentally sensitive area as defined by the 2017 EIA regulations. The nearest such area is St Bees Head Site of Special Scientific Interest (SSSI) which lies over 1.4km south-west of the site. The application site measures just below 0.3ha and is therefore below the 0.5ha threshold at which an EIA Screening Opinion is required to be undertaken.

## **8.0 CONCLUSION**

- 8.1 I am satisfied that the proposed demolition of these former care-home buildings has been adequately justified and is acceptable in terms of planning policy principle as adequate modern replacement provision has already been provided for elsewhere in Whitehaven. I do not believe that the loss of these buildings would harm the character and appearance of the Conservation Area. Indeed, I consider that, on the whole, the proposed establishment of a grassed wildflower area over the building footprint would ultimately serve to preserve and enhance the character and appearance of the Conservation Area in the short to medium term in line with Section 72 of the PLB&CA Act and Policy DM27. Moreover, it would make a valuable contribution to local amenity and biodiversity in the interim period prior to any future development of the site. With the conditions proposed the potential short-term impacts of the undertaking of the demolition works upon local residential amenity would be reduced to an acceptable level.
- 8.2 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise than in accordance with the plan and with the planning conditions proposed, any potential harm would reasonably be mitigated. It is therefore recommended that this application be granted subject to conditions.

### **Human Rights**

8.3 Given the nature and purpose of the proposed development no Convention Rights as set out in the Human Rights Act 1998 would be affected.

**Angela Jones**

**Executive Director for Economy and Infrastructure**

**Contact:** Mr Edward Page

**Electoral Division Identification:** Bransty – Cllr Graham Roberts

Development Control and Regulation Committee – 15 July 2022

**Appendix 1 - PROPOSED PLANNING CONDITIONS**

**Time Limit for Implementation of Permission**

1. The development hereby permitted shall be begun 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 Section 51 of the Planning and Compulsory Purchase Act 2004.*

**Approved Scheme**

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:
  - a. The submitted Application Form – dated 6 April 2022;
  - b. Method Statement for Demolition – Rev.0 – dated March 2022 by A L Daines & Partners LLP;
  - c. Supporting Statement as revised and updated 22 June 2022;
  - d. Site Plan with Outline of Buildings to be Demolished Marked-Up – Drawing No.001;
  - e. Arboricultural Method Statement for the Demolition Phase (including its associated appendices) – dated 22 June 2022
  - f. Demolition Footprint and Restoration Area Drawing No. 5312/158-04
  - g. Site Sections – Existing and Proposed showing Restoration Levels – Drawing No. 5312/158-002
  - h. The details or schemes approved in accordance with the conditions attached to this permission.

*Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.*

**Demolition Traffic Management Plan**

3. No demolition works shall commence until a Demolition Traffic Management Plan (DTMP) has been submitted to and approved in writing by the Local Planning Authority. The DTMP shall include details of:
  - pre-demolition road conditions around the site established by a detailed survey for accommodation works within the highway boundary conducted with a Local Highway Authority representative and agreement that any post-demolition highway repairs necessary to redress any damage caused to the fabric of the highway around the site will be carried out to the satisfaction of the Local Highway Authority at the applicants expense;
  - proposed vehicular crossings of pavements and the highway verge;
  - retained areas for vehicle parking, manoeuvring, loading, and unloading for their specific purpose during the demolition;
  - cleaning of site entrances and the adjacent public highway;
  - details of proposed wheel washing facilities;
  - measures to ensure the sheeting of all HGVs taking spoil to/from the site to

- prevent spillage or deposit of any materials on the highway;
- routing of all vehicles required to undertake the demolition and removal of demolition waste from the site;
- measures for management of junctions to and crossings of the public highway and other public rights of way/footway;
- Details of any proposed temporary access points (vehicular / pedestrian);
- surface water management details during the demolition phase;
  - measures to ensure that deliveries and movement of equipment and demolition waste on the road network surrounding the site do not take place between the hours of 8.30am and 9.30am and 14:50 to 15:30 on Mondays to Fridays during school term times.

Once approved the DTMP shall be implemented in full.

*Reason: To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety.*

### **Tree Works**

4. No demolition work or temporary compound set-up shall take place on site until the tree works allowed for by *Tree Works Consent Ref. 4/22/2178/TPO* and those specified within the *Arboricultural Method Statement for the Demolition Phase* have been undertaken as required by a suitably qualified tree surgeon or arborist.

*Reason: To ensure appropriate management and protection of existing mature trees that positively contribute to the character and appearance of the conservation area from damage/harm as a result of the development hereby permitted in line with Policies DM27 and DM28 of the [Copeland Local Plan 2013-2029 - Core Strategy and Development Management Policies DPD](#) (CLP-CS&DMP).*

### **Tree Protection Measures**

5. No demolition work or temporary compound set-up shall take place on site until the tree protection measures shown and specified within the *Arboricultural Method Statement for the Demolition Phase* and its associated appendices (in particular appendices 2, 4 and 5) have been implemented in full.

The tree protection measures shall be maintained and retained in place until demolition works have been completed, all demolition waste has been removed from the site and the footprint of the buildings grubbed-up and top-soiled. The tree protection measures shall thereafter be removed from site.

*Reason: To protect existing trees that positively contribute to the character and appearance of the conservation area from damage/harm as a result of the development hereby permitted in line with Policies DM27 and DM28 of the CLP-CS&DMP.*

### **Wildflower Grassland Specification, Establishment and Management**

6. No demolition operations shall take place until details of the Specification, Cultivation and Management of the proposed Wildflower Grassland have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the following details shall be included:

- a) the wildflower grassland seed mix proposed and reasons for its selection;
- b) application rate and method of application of the seed mix (including any soil preparation);
- c) any interventions to promote cultivation;
- d) a timetable for review of vegetation establishment;
- e) provision for spot re-seeding of bare earth areas after set times;
- f) frequency of mows/cuts per year;
- g) frequency of visits per year to remove noxious weeds.

The approved details shall be implemented in full and the land subsequently managed in line with the approved details.

*Reason: In the interests of visual amenity within a Conservation Area and in order to promote greater biodiversity on the site until any future development comes forward.*

### **Demolition Works – Prohibition of Crushing**

7. No crushing of any demolition waste shall take place on site.

*Reason: In order to protect residential amenity from excessive levels of noise and dust during the undertaking of the demolition operations hereby permitted.*

### **Demolition Works – Monitoring and Control of Dust**

8. Dust suppression measures shall be made available on site at all times during the undertaking of demolition and ground restoration works. During these times dust levels shall be actively monitored by those undertaking these operations and the dust suppression measures employed so as to prevent emissions of dust outside of the site boundary.

No operations likely to generate fugitive dust emissions shall take place when the wind speed measured at the site equals or exceeds 28 knots.

*Reason: To reduce impacts of dust disturbance and in order to protect residential amenity during the undertaking of the operations hereby permitted.*

### **Hours of Demolition Work**

9. The demolition operations hereby permitted, and the associated transport of demolition waste arising on site, shall not take place outside the following times:
  - 08.00 to 18.00 hours Monday to Friday (excluding Bank & Public Holidays);
  - 08.00 to 12.00 hours on Saturdays.

For the avoidance of doubt, no demolition operations or transport of demolition waste off the site shall be carried out on Sundays or public and/or bank holidays.

*Reason: In order to protect residential amenity during the undertaking of the demolition operations hereby permitted.*

### **Site Restoration**

10. The footprint of the buildings shall be topsoiled and sown with the agreed wildflower grassland mix (as approved in connection with Condition 6) within six months of completion of demolition operations.

*Reason: In the interests of visual amenity within a Conservation Area and in order to promote greater biodiversity on the site until any future development comes forward.*

## **Informatives**

### **Breeding Birds**

The applicant is reminded that under British Law (the Wildlife and Countryside Act 1981, as amended) that it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built or to otherwise act to displace birds from a nest. Planning permission for a development does not provide a defence against prosecution under this Act.

All works on site must be timed/undertaken to avoid causing harm to nesting birds. All wild birds (including seagulls), their nests and eggs are protected by law and it is thus an offence (with certain exceptions) to:

- Intentionally kill, injure, or take any wild bird.
- Intentionally take, damage, or destroy the nest of any wild bird while it is in use or being built.
- Intentionally take or destroy the egg of any wild bird.
- Have in one's possession or control any wild bird, dead or alive, or any part of a wild bird, which has been taken in contravention of the Act.
- Have in one's possession or control any egg or part of an egg which has been taken in contravention of the Act.
- Use traps or similar items to kill, injure or take wild birds.
- Have in one's possession or control any bird of a species occurring on Schedule 4 of the Act unless registered, and in most cases ringed, in accordance with the Secretary of State's regulations
- Intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

Please refer to the legislation (*The Wildlife and Countryside Act 1981 (as amended)*) for precise wording - the above is a brief summary only.

The bird nesting season generally runs from 1 March and 31 July inclusive. In the event that breeding birds are suspected or uncovered then work shall cease in this area until a qualified ecologist has checked for breeding birds in accordance with Natural England's Guidance and, if appropriate, an exclusion zone set up. No work shall be undertaken within the exclusion zone until nesting birds have been confirmed absent by a qualified ecologist.

### **Environmental Health**

The applicant and their contractor's attention is drawn to sections 60 & 61 of the Control of Pollution Act 1974 and to BS5228; 2009 and A1:2014 Code of Practice for Noise & Vibration Control on Construction Sites.

### **Highways Matters**

The applicant will need to contact the Local Highway Authority's Streetworks and traffic management teams for any permits, traffic management and road/footway closures that may be required in association with the undertaking of the proposed demolition works. Any works within or near the highway must be authorised by Cumbria County Council and no works shall be permitted or carried out on any part of the Highway, until you are in receipt of an appropriate permit (e.g., Section 184 Agreement) allowing such works. Enquiries should be made to Cumbria County Councils Street Work's team - [streetworks.central@cumbria.gov.uk](mailto:streetworks.central@cumbria.gov.uk)

General information in respect of works requiring highways authorisations can be found at: [Cumbria.gov.uk/roads-transport/highways-pavements/highways/highwaypermitsandlicencesNew.asp](http://Cumbria.gov.uk/roads-transport/highways-pavements/highways/highwaypermitsandlicencesNew.asp)

Details of application fees for highways permits can be found at: [Cumbria.gov.uk/roads-transport/fees.asp](http://Cumbria.gov.uk/roads-transport/fees.asp)

Please be advised that the highway outside and/or adjacent to the proposal must be kept clear and accessible at all times unless otherwise authorised by the Local Highway Authority.

Appendix 2 - PLAN OF SITE LOCATION/EXTENT

