

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2119/0F1
2.	<b>Proposed Development:</b>	Variation of condition 2 (plans) to increase roof pitch and ridge height to accommodate double roman smooth concrete interlocking tiles to match existing property in lieu of anthracite grey steel profile sheet roof cladding of planning application 4/23/2263/0F1 – Construction of detached garage.
3.	<b>Location:</b>	9 Cumberland Close, Millom
4.	<b>Parish:</b>	Millom
5.	<b>Constraints:</b>	ASC Adverts Coal – Off Coalfield Key Species – Potential areas for Natterjack Toads
6.	<b>Publicity Representations &amp; Policy</b>	See Report
7.	<b>Report:</b>  <b>SITE AND LOCATION</b>  <p>This application site relates to 9 Cumberland Close, a semi-detached bungalow located on an existing residential cul-de-sac within Millom. The site benefits from a large front garden laid to both lawn and gravel with a separate detached garage and outbuilding. The proposed garage is part-way built within the site.</p>  <b>PROPOSAL</b>  <p>Planning permission was granted for the erection of a detached garage at this site in 2023 under application reference 4/23/2263/0F1. The garage was approved with a roof covering of anthracite grey steel profile sheeting.</p>	

This application seeks to vary condition 2 (plans) of this permission to allow the use of an alternative roof covering. It is now proposed to use double roman smooth concrete interlocking tiles to match existing property.

The variation in roofing materials will require a minor increase in the roof height of the garage. It is proposed to raise the eaves level from 2.75m to 2.87m, giving a total ridge height of 4.2m. This amounts to an increase by 0.7m in total. The overall length and width of the proposed garage will remain the same.

### **RELEVANT PLANNING APPLICATION HISTORY**

4/25/2119/0F1 – Construction of detached garage - Approve

### **CONSULTATION RESPONSES**

#### Millom Town Council

No objections.

#### Highways Authority

As this site falls under our Service Level Agreement, 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 LPA.

#### Public Representations

The application has been advertised by way of 4 neighbour consultations being sent – 2 letters of representations have been received as a result of this consultation process. The main concerns raised relate to the potential for future residential development, drainage, use as commercial use, loss of light and impact upon visual amenities

### **PLANNING POLICY**

Planning law requires that 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 LP as commenced by Copeland Borough Council.

The LP was adopted by Cumberland Council on the 5<sup>th</sup> of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2021-2016.

The policies relevant to this application are as follows:-

Policy DS1 – Development Strategy

Policy DS4 – Design and Development Standards

Policy H14 – Domestic Extensions and Alterations

Policy N1 – Conserving and Enhancing Biodiversity and Geodiversity

**Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

Wildlife and Countryside Act 1981

The Planning Practice Guidance (NPPG):

This web based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG).

This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be

used to vary the time limit for implementation this condition must remain unchanged from the original permission.

## **ASSESSMENT**

Section 73(2) of the 1990 Act states that “the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted.”

The options open to this Authority are:-

A. If it is decided that permission should be granted subject to different conditions to those previously imposed or it should be granted unconditionally, then permission should be granted accordingly.

B. If it is decided that permission should be granted subject to the same conditions as previously imposed, then the s73 application should be refused.

The principle of the development itself is not in question.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. Given that a new permission is being considered, then the determination must be made in the context of current development plan policies and material considerations.

This application seeks to vary condition 2 of planning reference 4/23/2263/0F1 which seeks to amend the overall height of the proposed detached garage. The proposal seeks to increase the height by 0.7m in total. This constitutes a minor change which is not considered to be significant and will result in an improvement in the proposed roofing materials which will be consistent with the appearance of the existing dwelling.

### Issues Raised by Local Residents.

Representations have been received from neighbouring properties in which they raise concerns in relation to potential for future residential development, drainage, potential for commercial use, loss of light and impact upon visual amenities.

The principle of the development has already been established by the previous planning permission which was granted for the garage under reference 4/23/2263/0F1. On this basis this application has to be assessed in terms of whether the proposed increase in height raises any material planning considerations. The proposed increase in height of 0.7 metres is minor and it is not considered that this increase in height would result in overbearing development to the neighbouring properties over and above what already exists. The proposal is considered to have a reasonable separation distance between the adjoining properties.

The 0.7m increase in height is also not considered to impact upon the visual amenities of the locality and therefore the proposal would not impact upon the character of the area.

	<p>Concerns were also raised in relation to the use for commercial purposes and future residential development. The condition restricting the use of the garage to domestic purposes that was imposed on the original permission is repeated to ensure that the amenities of adjoining residential properties is protected. Any future use would have to be considered at that time.</p> <p>Overall, the minor revision to the roof height is considered to be acceptable and will result in a better external appearance that is consistent with the hoist dwelling.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve amendment of condition</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. –</li> <li>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: <p>Application Form, received 31/03/2025; Drawing No 1252/01 – Proposed Plans Rev B, Scale 1:50, 1:200, 1:1250, received 31/03/2025.</p> <p>Reason</p> <p>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.</p> </li> <li>3. The garage must be used for the parking of private vehicles and storage of domestic equipment only in association with the residential property known as “9 Cumberland Close” and for no commercial or business purposes whatsoever. <p>Reason</p> <p>To ensure that non-conforming uses are not introduced into the area.</p> </li> </ol> <p><b>Statement</b></p>

	The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against, primarily, the development plan policies, any duties applicable and also all material considerations, including Local Plan policy, the National Planning Policy Framework and any stakeholder representations that may have been received. It has subsequently determined to grant planning permission.	
<b>Case Officer: K. Bamford</b>		<b>Date : 01/05/2025</b>
<b>Authorising Officer: N.J. Hayhurst</b>		<b>Date : 02/05/2025</b>
<b>Dedicated responses to:- N/A</b>		