

**CUMBERLAND COUNCIL  
DELEGATED PLANNING DECISION**

1.	<b>Reference No:</b>	4/26/2088/0F1
2.	<b>Proposed Development:</b>	CHANGE OF USE OF LAND TO RESIDENTIAL TO EXTEND THE DOMESTIC CURTILAGE AND ERECTION OF A GARDEN ROOM (PART RETROSPECTIVE)
3.	<b>Location:</b>	CRAG BROW, THE HILL, MILLOM
4.	<b>Parish:</b>	Millom Without
5.	<b>Constraints:</b>	ASC Adverts - ASC;Adverts, Coal - Off Coalfield - Data Subject To Change, Key Species - Potential areas for Natterjack Toads
6.	<b>Publicity Representations &amp; Policy</b>	See Report.
7.	<b>Report:</b>	<p><b>Site and Location</b></p> <p>This application relates to land to Crag Brow, a detached property located on The Hill, to the North of Millom Town Centre.</p> <p>The site relates to a parcel of land located to the side/rear of the main dwelling which is separated by an access road to Cragg Bank. The parcel of land contains a large garden room that has already been constructed, and a partially finished garden area.</p> <p><b>Proposal</b></p> <p>The application seeks part retrospective planning permission to retain the garden room that has already been constructed, and to change the use of the land to formalise the use as a domestic garden. The applicant lives immediately adjacent to the site and wishes to utilise this land as an extension to their existing amenity space.</p> <p>The application site covers an area of approx 617 square metres. The garden room is located in the North East corner of the plot and measures 7.58m x 4.82m. There is also an overhang</p>

on the front elevation to provide a covered patio area which projects an additional 2m.

The structure has been designed with a dual pitched roof with an eaves height of 2.4m and an overall height of 4m. There is a 2.3m x 3m patio to the front constructed from Elterwater green slate, and solar panels on the roof slope of the front elevation.

The structure has been rendered with pebble dash externally, with Elterwater green slate on the front elevation, interlocking roof tiles and anthracite grey windows and doors.

### **Relevant Planning History**

None relevant.

### **Consultation Responses**

#### Millom Without Parish Council

No comments received

#### Highways & LLFA

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

#### Cumberland Council Ecologist

The County Ecologist accepts that this development is exempt from BNG and has no further comments.

#### Public Representation

This application has been advertised by way of neighbour notification letters issued to 5 properties. No objections have been received as a result of this consultation.

### **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



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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:-

DS4: Design and Development Standards

Policy H14: Domestic Extensions and Alterations

Policy N1 – Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy N3: Biodiversity Net Gain

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Cumbria Development Design Guide

Wildlife and Countryside Act 1981

The Conservation of Habitats and Species Regulations 2017 (CHSR)

### **Assessment**

The key issues raised by this application relate to the principle of the development; scale, design impact of the development and Biodiversity Net Gain.

#### Principle of the Development

The proposed application relates to a detached property located within a residential area of The Hill, just North of Millom.

Policy H14 supports extensions and alterations to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable, and the extension satisfies Policy HS14 of the Copeland Local Plan and the National Planning Policy Framework.

#### Scale, Design and Impacts on Amenity

Policy DS4 and section 12 of the NPPF seek to promote high quality designs.

Policy H14 and section 12 of the NPPF seek to safeguard good levels of residential amenity. Policy H14 supports extensions where the scale, design and materials of the proposed development would not adversely alter the character or appearance of the existing building, street scene or wider surrounding area.

There are two different aspects that have been assessed as part of this submission - The change of use of the land to a domestic residential garden for the property Crag Brow, and the construction of the garden room that has already been constructed on this plot.

The plot is located to the side/rear (North East) of the parent property. Whilst the land is separated from the parent property by an access road for the property Cragg Bank, the land is understood to be wholly within the ownership of and used by the applicant. The applicant has also provided a supporting document which states that the site has been historically used informally as a garden for over 20 years by the previous owners, to the applicant's knowledge.

The proposed change of use of the adjacent area of land is considered to be modest in overall scale and the additional area to form a domestic residential garden does not materially change the situation for the host property or the neighbouring properties which is confirmed by the supporting statement that outlines its continuous use. It is therefore considered that the granting of permission for this land would be in the best interests of both the applicant and the wider residential area to ensure that amenity of the land can continue to be maintained appropriately. The change of use of the land to a domestic garden is therefore acceptable in principle.

In addition, the application seeks retrospective permission to retain the garden room that has already been constructed to the North East of the plot. The structure measures 7.58m x 4.82m. There is also an overhang on the front elevation to provide a covered patio area which projects an additional 2m which brings the total width of the structure 6.82m. The structure has been designed with a dual pitched roof with an eaves height of 2.4m and an overall height of 4m. There is a 2.3m x 3m patio to the front constructed from Elterwater green slate, and solar panels on the front elevation roof slope.

The structure has been rendered with pebble dash externally, with Elterwater green slate on the front elevation, interlocking roof tiles and anthracite grey windows and doors to complement the host property and the surrounding area. It is therefore considered that the proposal would not impact upon the character and appearance of the existing property itself, nor would it impact upon the character of the wider residential area.

Whilst the structure is considered to be larger in overall scale than is typical for a garden room, particularly with the addition of the overhang, log burning flue and solar panels, it has been located so far as practicable to reduce the impact on neighbouring properties. A site visit confirmed that you can only partially see the side of the structure when looking uphill, and it is well screened by a large number of mature trees and hedgerow, and the addition of wooden fence that has already been erected along part of the boundary with Hodgson



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Terrace and White Horse. The lack of windows on either of these elevations also mitigates its impact upon the residential amenities of the adjoining properties or result in loss of light or privacy.

The Design and Access Statement submitted alongside the application states that the justification for both the change of use and the construction of the garden room are based on positive health and wellbeing benefits for the applicants and the use is ancillary to the normal residential use of the host property. Given the large scale of the structure, and the fact that its location is not directly attached to the host property rear garden, a planning condition will be imposed which will prevent the structure from being sold or let as a separate dwelling or for holiday use.

Furthermore, in order to ensure that residential amenity is further protected, a second appropriately worded Planning condition is attached to the decision notice to remove the permitted development rights relating to any alterations/additions or the erection of any extensions/buildings to the garden room or garden area without prior written consent from the Local Planning Authority to ensure any proposed uses are controlled and to further safeguard the character and appearance of the development in the interests of residential amenity.

As part of the consultation process, no objections have been received from neighbouring properties.

On this basis, given the planning conditions proposed, there are no detrimental residential amenity issues considered as part of this proposal; therefore, the proposal is considered to satisfy Policy H14 and the NPPF.

### Biodiversity Net Gain

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 except from these BNG requirements.

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 the application meets the De Minimis threshold and is part retrospective and therefore the proposal falls within the list of developments except from providing Biodiversity Net Gain. In addition, the development is considered to have a de minimis impact on onsite habitat.

	<p>The application site is also identified as a potential area for natterjack toads. However as the application site is not located within 200m of a watercourse (as indicated within the ALGE trigger list), is within an existing built-up area and the site has already been cleared it is considered that this is not a habitat that is likely to contain natterjack toads and so it would not be necessary to seek an ecological survey for this application.</p> <p>Based on the above, 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 Policy N1 and N3 of the Copeland Local Plan and the provisions of the NPPF.</p> <p><u>Planning Balance and Conclusion</u></p> <p>On balance, the proposed development is of an appropriate scale and design for the site and locality. Planning conditions can be imposed to control the site and its use.</p> <p>The development is not considered that the proposal would have a negative impact on residential amenity.</p> <p>The proposal is not subject to Biodiversity Net Gain or Ecology details.</p> <p>The proposal is therefore considered an acceptable form of development which complies with the policies of the adopted Local Plan and provisions of the NPPF.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. 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: - <ul style="list-style-type: none"> <li>- Application Form, received 11<sup>th</sup> March 2026;</li> <li>- Site Location Plan, scale 1:1250, received 11<sup>th</sup> March 2026;</li> <li>- Site Plan, scale 1:500, received 11<sup>th</sup> March 2026;</li> <li>- Elevation Drawings A-D, scale 1:50, received 11<sup>th</sup> March 2026;</li> <li>- Floor Plan, Drawing E, scale 1:50, received 11<sup>th</sup> March 2026;</li> <li>- Drainage Plan, Drawing F, received 11<sup>th</sup> March 2026;</li> <li>- Design &amp; Access Statement, received 11<sup>th</sup> March 2026;</li> <li>- BNG Exemption Statement, received 11<sup>th</sup> March 2026;</li> </ul> </li> </ol> <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>



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2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no external alterations (including replacement windows and doors) or extensions, conservatories, dormer, or enlargement shall be carried out to the Garden Room, nor shall any detached building, enclosure, domestic fuel containers, pool or hardstandings be constructed within the curtilage other than those expressly authorised by this permission.

### Reason

To safeguard the character and appearance of the development in the interests of visual amenity in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

3. The Garden Room hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Crag Brow and shall not be let or sold as a separate permanent dwelling.

### Reason

The Garden Room is not considered appropriate for use as a separate residential unit.

## 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 Minimis

### 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.
<b>Case Officer: Demi Crawford</b>	<b>Date : 05/05/2026</b>
<b>Authorising Officer: N.J. Hayhurst</b>	<b>Date : 06/05/2026</b>
<b>Dedicated responses to:- N/A</b>	