

**Allerdale Borough Council**

**Planning Application VAR/2021/0001**

**Development Panel Report**

**Reference Number:** VAR/2021/0001  
**Valid Date:** 13/01/2021  
**Location:** Plot 1, Land Adjacent to Northscape, Eaglesfield  
**Applicant:** Mr J Burlinson  
**Proposal:** Variation of condition 2 for a new design and condition 3 relating to surface water discharge into the sewer on application 2/2018/0164

**RECOMMENDATION**

**Approve subject to conditions**

**1. Summary**

<b><u>Issue</u></b>	<b><u>Conclusion</u></b>
Principle of Development	Principle of residential development has been accepted. The application varies the approved permission.
Design/Scale	Scale, design and massing considered acceptable in relation to its setting.
Drainage	Foul to main sewer and surface water to rainwater harvesting system is acceptable in compliance with policy S29 of ALP1.
Residential Amenity	No significant harm to nearby properties
Access and parking	Access and parking are considered to be satisfactory

**2. Introduction**

- 2.1. Members will recollect that the application was deferred at the development panel on 31 August 2021 to allow further information to be gathered in relation to surface water drainage issues.
- 2.2. The application was called in to be considered before development panel by Councillor Marion Fitzgerald.

- 2.3. The site has permission (2/2018/0164) for the construction of a single dwelling; however, the development has not been built in accordance with the approved plans; however, the exterior shell of the dwelling has been completed. This application seeks to regularise the changes to the approved scheme.
- 2.4. A temporary stop notice has been served for a period of 28 days which required the cessation of all activities on site for the period up to 6 August 2021 which has been complied with. The notice was served to ensure that the construction of the approved development does not result in an unacceptable level of harm and to achieve a satisfactory level of development with accurate plans which makes adequate provision for satisfactory levels and gradients on site and the acceptable discharge of surface water drainage.

### **3. Proposal**

- 3.1. The Plans for consideration are:-

223-04020 Rev 01 Proposed Ground Floor Plan

223-04021 Rev 01 Proposed First Floor Plan

Dwg No 18.18 - Location Plan – Amended plan received 7 April 2021

GRAF Rainwater Harvesting Solutions – The Platin Flat Tank System– Amended plan received 20 April 2021

Email from Richard Lindsay dated 20 April 2021 – Amended plan received 20 April 2021

DWG No 21.24.ELE - Elevations – Amended Plan received 30 July 2021

EAG-001-005 – Site Levels – Amended Plan received 30 July 2021

Dwg No 21.24.Site – Site Plan – Amended plan received 30 July 2021

Dwg No. 18.18.RW – Section through Retaining Wall – approved under CON1/2020/0027

21-406r001 - Drainage Report – Amended plan received 7 September 2020

### **4. Site**

- 4.1. The site is located within a prominent position, centrally located within the village of Eaglesfield on an elevated site. The site historically has been used as a small paddock area in connection with the existing single storey dwelling, Northscape. There are public highways and residential properties on both sides of the site.
- 4.2. The Grade II listed Croft Foot Farmhouse and adjoining barn are to the southeast of the site on the opposite side of the highway.

### **5. Relevant Planning History**

- 5.1. 2/2018/0164 – Full planning permission was granted for a single dwelling on 21 June 2018. The permitted dwelling externally had the appearance of a bungalow albeit with first floor accommodation served by rooflights within the roof planes. There were no dormers or windows set within projecting gables at first floor level.
- 5.2. CON1/2020/0027 – Discharge of conditions - Approved

## **6. Representations**

### **Dean Parish Council**

- 6.1. Dean PC accepts that the building as it is at present will have less visual impact than what was approved in 2018 however comment that the site levels have been reduced and retaining walls are required on 3 sides and they seek assurances regarding the stability of the walls adjacent to the 'main' road and that next to the original bungalow North Scape.
- 6.2. The change to include extensive stone work is not in keeping with surrounding properties and listed buildings. No objections are made to the change to enclose the veranda however new windows have been added to the gable,
- 6.3. There is no mention of the Rainwater Harvesting system on the Variation application nor the correspondence/emails from the agent. Dean PC trust this system will be incorporated as per the original application and subsequent approval.
- 6.4. A further objection has been raised by Dean Parish Council recommending that the application is refused as the application does not have the necessary drainage details and United Utilities have stated that the application is unacceptable.
- 6.5. They indicate that the revised application is no better than previous application and also the resubmitted drawings do not reflect what has already been built. The builders have clearly flouted permission given at the start. The building has been dug into the site too low. They do not have permission for a full wall of stone cladding. They do not have permission for two gable end windows. They do not have permission for an additional roof light on the south side.
- 6.6. A topographical survey was to be commissioned regarding the retaining walls. We have concerns about the stability of these after one between the site and the existing dwelling fell over. One retaining wall is close to the main road through Eaglesfield. We understood an earlier variation was going to be referred to the Planning Panel and we trust this is still the case. We urge you to make a site inspection.

### **ABC Environmental Health**

### **Cumbria County Highways/Lead Local Flood Authority**

- 6.7. Providing that the access to the proposed dwelling is as previously approved under application 2/2018/0164, the Highway Authority have no comments to make in regards to this condition. The retaining wall to the rear boundary of the property will support the highway verge, this will require the wall to be designed and built to Cumbria CC's Technical Approval Procedure for Developers Structures and works should not commence, or allow any person to perform

works, on any part of the highway until receipt of an appropriate permit allowing such works.

- 6.8. The applicant has stated in their application form that the ground on the site is not suitable for soakaway drainage that was previously agreed. To provide further comment on this condition we would need to see evidence of BRE tests carried out on the site as well as their alternative drainage proposal.
- 6.9. Further to the information submitted by the agent that states that infiltration will not a suitable means of surface water drainage for this site, they now need to fully consider the hierarchy. There is an ordinary watercourse opposite to the site that they could connect to should they receive the correct permissions. If this is not achievable, they will then need to investigate whether or not they can connect to the highway drainage network. These steps need to be considered fully before it would be acceptable to join the combined sewer network. The LLFA are not yet in a position where we would recommend that this condition can be discharged.
- 6.10. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:
1. into the ground (infiltration);
  2. to a surface water body;
  3. to a surface water sewer, highway drain, or another drainage system;
  4. to a combined sewer

### **Fire Service**

- 6.11. No objections

### **United Utilities**

- 6.12. In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.
- 6.13. Further to our review of the submitted drainage documents; Drainage Strategy, the plans are not acceptable to United Utilities because our record shows that there is a ditch opposite to the site.
- 6.14. Therefore, we have not seen robust site evidence (including a ground condition report with soil infiltration testing under BRE365) that the drainage hierarchy has been thoroughly investigated and the proposals are not in line with the Non-Statutory Technical Standards for Sustainable Drainage Systems.
- 6.15. United Utilities recommend a condition, "investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and  
(iii) A timetable for its implementation.”

United Utilities have confirmed no objection to the recent amended drainage report as they consider sufficient evidence has been submitted under the sequential test.

The application has been advertised by site notice and neighbour letter.

6.16. There has been 7 letters of objection which relate to the following points:-

- There is no reference to the rainwater harvesting system
- The ground is not suitably for a soakaway
- There is water runoff from the site onto the highway
- There are sewage issues in the village
- No details of materials of the driveway
- Where is the driveway going to drain to
- Connecting to the public sewers is a cost saving measure
- Water and proximity to the main road has the potential to undermine the main road
- The surface water should drain into the Beck
- Reference is made to previous sewage pollution incidents in 2001, 2005, 2013 and 2014 arising following heavy continuous rain. The addition of an additional property to the system which is inadequate is unacceptable. (United utilities were reported to on all the former incidents). They therefore oppose the proposed amendments.

## **7. Environmental Impact Assessment**

- 7.1. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- 7.2. The development does not within Schedule 1 nor 2 and, as such, is not EIA development.

## **8. Duties**

- 8.1. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

## **9. Development Plan Policies**

### **9.1. Allerdale Local Plan (Part 1)**

S1 Presumption in Favour of Development  
S2 Sustainable Development  
S3 Spatial Strategy and Growth

S4 Design Principles  
S5 – Development Principles  
S7 - A mixed and balanced housing market  
S27 Heritage assets  
S29 - Flood Risk and Surface Water Drainage  
S32 - Safeguarding amenity  
S33 - Landscape  
S35 - Protecting and enhancing biodiversity and geodiversity  
DM14 - Standards of Good Design

## 9.2. **Allerdale Local Plan (Part 2)**

The site is located within the defined settlement limits as defined by Policy SA2 The proposal falls below the modified thresholds for enhanced Buildings Regulations' Part M accessibility (policy SA5) and broadband (policy SA33).

## 10. **Other material considerations**

### 10.1. **National Planning Policy Framework (NPPF) (2021)**

### 10.2. **Allerdale Borough Council Plan 2019-2023:**

Strengthening our economy - Supporting the development of new homes where they are needed.

## 11. **Policy weighting**

11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan (Part 1) 2014 and the Allerdale Borough Local Plan (Part 2) 2020 policies have primacy.

## 12. **Assessment:**

### **Principle of development**

12.1. The principle of the development has been considered under application 2/20018/0164 with the permission being extant given development has commenced within the appropriate timescales. As the development is not being built in accordance with the approved plan an application to vary the existing scheme is considered acceptable to regularise the development as built.

### **Heritage**

12.2. The listing for Croft Foot Farmhouse and adjoining barn are described in the listing as follows:-

“Farmhouse and barn. Dated 1705 over entrance, with C19 alterations. Painted

roughcast walls, under graduated greenslate roof with cement rendered chimney stacks. 2 storeys, 3 bays with long right barn under common roof. Top-glazed 6-panel door in painted stone surround. Sash windows with glazing bars, those on ground floor in enlarged C19 painted stone surrounds; upper ones in original chamfered surrounds. Barn has projecting large double plank doors and right casement window in plain reveals. Left extension now Sycamore House, is not of interest.

Listing NGR: NY0962828115.”

- 12.3. When considering the amendments to the current design which has lowered the site levels from that approved, the scheme in this context is considered to have a lesser impact on the setting of the listed building than the approved scheme when considered against Policy S27 and the duty under section 66 of the Listed Buildings Act 1990.

### **Massing, Design and Landscape**

- 12.4. The site is elevated from the dwelling known as Beckside with the finished floor level being 2m higher; this is a reduction in levels of approximately 1m from the approved scheme. The use of the roof space rather than a full two storey dwelling is still retained as this was deemed necessary given this juxtaposition and responds to this constraint. The proposal is set marginally further forward into the site than the adjacent dwelling and would be higher. The dwelling would now have a ridgeline similar to the adjacent dwelling Northscape.
- 12.5. The footprint of the dwelling would remain similar to that approved without any detriment to the surrounding area.
- 12.6. The site is prominent within the centre of the village and currently open in character. This prominence is accentuated by the location flanked by roads and the openness is characterised by the lack of landscaping or buildings. The roads are sensitive visual receptors. Officers consider that the amended scheme to be an improvement and that the amended design and scale of the development would comply with policies S4 and DM14 of the Allerdale Local Plan in terms of design, massing and fenestration arrangements and reduces the impact visually when approaching the site from the east.
- 12.7. The introduction of additional stone elevations is not considered to detract from the appearance of the property or surrounding area the remaining materials are the same as previously approved. Solar panels have been introduced to the scheme without any negative effect visual effect on the dwelling or its surroundings.

### **Drainage**

- 12.8. The foul water would be drained to the main sewer with the applicant initially indicating that all surface water would be to the main sewer under this application. The original application indicated that any overflow from the system

from the rainwater harvesting tank would enter into a crated system within the garden area.

- 12.9. Further clarification has been sought during the course of the current application to demonstrate that the drainage hierarchy has been examined; the applicant has now reverted back to the surface water draining to a rainwater harvesting system which was considered acceptable under the original submission. The size of the system has been recalculated to a larger tank to ensure there is sufficient capacity from any drainage from the hard landscaped areas in addition to the dwelling.
- 12.10. United Utilities had initially indicated that there was still insufficient information that the appropriate examination of the hierarchy has been undertaken. Although the percolation tests provided were not considered to be to the appropriate BRE365 standards, there is evidence of standing water within trenches on the site, officers consider if the appropriate percolation test were undertaken it would demonstrate that the ground isn't suitable. The watercourse within close proximity to the site is located within private gardens and there does not appear to be any close connection points accessible on public or highway land within a reasonable distance from the development.
- 12.11. Although this issue is outstanding officers are confident that the amended drainage scheme can be achieved and this could be controlled by condition (as per the original consent) with the submission of the details given this is for the overflow from the rainwater harvest tank and would be likely a low discharge. United Utilities also had been satisfied with the development and had previously suggested a condition in relation to the examination of the drainage hierarchy. Officers had therefore formerly suggested that the full details of the drainage hierarchy were conditionally submitted within two months of the approval date. However members at the former panel meeting alternatively sought these details to be verified prior to determining any decision.
- 12.12. Drainage update –Further to the former panel meeting the applicant has provided a further detailed assessment of the drainage on site and United Utilities and the Lead Local Flood Authority have been consulted. United Utilities have been asked to provide any details in relation to know drainage issues in the area and in particular at Beckside.
- 12.13. The submitted report updates the drainage arrangement, contesting that ground conditions and percolation tests undertaken indicate poor natural percolation which will prevent natural discharge to ground on the site. A SuDs system was proposed comprising of a harvesting tank (from the rooves to be suitable for toilet flushing), permeable paving and sub-surface storage. Drainage and storage modelling was calculated for the site to include a crated system to account for storm events and a hydrobrake to limit the flow to no more than current greenfield runoff rates, with the proposal indicating that the runoff would be no more than 2ls.
- 12.14. United Utilities raise no objections to the amended drainage report i.e. the sequential drainage test has been addressed. The views of the LLFA are still



awaited. Clarification is also awaited from United Utilities on the foul drainage problems referred to at the last panel meeting.

- 12.15. Comments have been received that the rainwater harvesting tank has been installed incorrectly and water is pooling within the excavated hole. The tank at present has been delivered to the site is a different specification; the applicant has been advised that although the tank has approval under the original application the previous agent changed the specifications and these have been incorporated into the documents considered by United Utilities. The present agent has advised the applicant of this and has indicated that the tank would not be installed. Any installation of the rainwater harvesting tank would need to be covered by building regulation approvals.

### **Highway Issues**

- 12.16. The site access point would remain unchanged from the original onto the unclassified road which serves a number of residential properties. The visibility splays were previously approved crossing the garden area of the adjacent dwelling Northscape; however the application site has been purchased and is no longer in the same ownership as Northscape. Officers consider that there is sufficient visibility from the access given the low speeds and number of vehicles using this point of the highway. It is considered that sufficient visibility can be achieved to the extremity of the site frontage within the highway verge and can be conditioned accordingly.
- 12.17. The access and parking would allow for turning so cars can enter and leave the site in a forward gear and the amended plans show that an acceptable gradient can be achieved for the parking and turning area which is in accordance with the Cumbria design guide. As previously approved an Aco drain is to be installed to the access point to prevent water discharging onto the highway.
- 12.18. The highways authority have indicated that they have no highways objections subject to there being no alterations to the access point.
- 12.19. The only amendment to the scheme in terms of the highway arrangement is the introduction of a low wall to the site frontage. This is below 1m and is not considered to compromise highway safety significantly or severely as advised by the NPPF where maximum speeds achievable are proportionally low. The highways authority has not raised any objections to the amended plans.

### **Ecology**

- 12.20. The development is not considered to raise any new ecological impacts.

### **Residential Amenity**

- 12.21. The scheme as amended would not have any detrimental impacts on nearby residential properties.

## **Other issues**

12.22. The parish council indicate that a topographical survey was to be submitted relating to the retaining walls. The topographical survey was limited to the site levels as the applicant was asked to demonstrate the gradient of the drive was acceptable and the correct levels of the dwelling in relation to the original site levels and surrounding land. The topographical survey did not include the details of the retaining walls. The details of the retaining wall adjacent to Northscape were approved as part of the earlier discharge of condition application and the applicant has been advised to liaise with the highways authority regarding any alterations that could affect the highway.

## **12.23. Local Financial Considerations**

Having regard to S70 (2) of the Town and Country Planning Act the proposal will have financial implications arising from New Homes Bonus and Council Tax Revenue.

## **13. Conclusions**

13.1. Officers consider that subject to confirmation of all the drainage authorities that the drainage amendments are acceptable (enforced by condition) the merits of the revised house type is acceptable.

## **14. RECOMMENDATION**

Grant subject to conditions.

## Annex 1

### CONDITIONS

- 1. The development hereby permitted shall be carried out solely in accordance with the following plans:**  
**223-04020 Rev 01 Proposed Ground Floor Plan**  
**223-04021 Rev 01 Proposed First Floor Plan**  
**Dwg No 18.18 - Location Plan – Amended plan received 7 April 2021**  
**GRAF Rainwater Harvesting Solutions – The Platin Flat Tank System– Amended plan received 20 April 2021**  
**Email from Richard Lindsay dated 20 April 2021 – Amended plan received 20 April 2021**  
**DWG No 21.24.ELE - Elevations – Amended Plan received 30 July 2021**  
**EAG-001-005 – Site Levels – Amended Plan received 30 July 2021**  
**Dwg No 21.24.Site – Site Plan – Amended plan received 30 July 2021**  
**Dwg No. 18.18.RW – Section through Retaining Wall – approved under CON1/2020/0027**  
**21-406r001 - Drainage Report – Amended plan received 7 September 2020**  
Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

#### Post-commencement/Pre use commencing conditions:

- 2. The development shall not be brought into use until visibility splays providing clear visibility to the extremity of the frontage x 2.4 metres measured down the centre of the access road and the nearside channel line of the major road have been provided at the junction of the access road with the county highway. Any existing planting within the visibility splay shall be reduced to a height not exceeding 1.0m above the carriageway level of the adjacent highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, or object of any kind shall be erected or placed and no trees, bushes or other plants which exceed 1m in height shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays.**  
Reason: To ensure an acceptable standard of highway access during the construction and operational use of the site, in compliance with the National Planning Policy Framework and Policy S2 and S22 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 3. Prior to the occupation of the dwelling the works to the proposed crossing of the highway verge and surfacing and/or footway; surfacing in porous bituminous or cement bound materials; access drive gradient and measures to prevent surface water discharging onto or off the highway; shall be carried out in accordance with approved plans and shall be maintained operational at all times thereafter.**  
Reason: To ensure a suitable standard of verge crossing and that the verge is properly reinstated before the development is brought into use, to ensure that

pedestrians can negotiate road junctions in relative safety, minimise the risk of flooding and in the interests of highway safety.

4. **The approved scheme shall must be in accordance with the approved amended drainage report dated 7<sup>th</sup> September and with the Non-Statutory technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority. The development shall be completed prior to occupation of the dwellinghouse hereby approved and thereafter maintained and managed in accordance with the approved details.**

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in compliance with policy S29 of the Allerdale local plan (Part 1).

#### **Other**

5. **Foul and surface water shall be drained on separate systems (unless agreed under condition 4 of this consent).**

Reason: To ensure a sustainable means of drainage from the site and minimise the risk of water pollution to the local water environment, in compliance with the National Planning Policy Framework and Policy S2 of the Allerdale Local Plan (Part 1), Adopted July 2014.

6. **There shall be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning Authority.**

Reason: In the interests of highway safety and environmental management

7. **Access gates, if provided, shall be hung to open inwards only away from the highway.**

Reason: In the interests of highway safety.

8. **The dwelling/land use hereby approved shall not be occupied until the vehicular access, parking and turning requirements have been constructed in accordance with the approved plan and have been brought into use. The vehicular access, parking and turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local Planning Authority.**

Reason: To ensure a minimum standard of access, parking and turning provision when the development is brought into use.

9. **All means of enclosure shown on Dwg No 21.24.Site – Site Plan – Amended plan received 30 July 2021 shall be constructed and retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.**

Reason: To ensure a satisfactory standard of development which is compatible with the character of the area.

### **Advisory Note**

The applicant should contact the Cumbria County Council in relation to the retaining wall to the rear boundary of the property as, this will require the wall to be designed and built to Cumbria CC's Technical Approval Procedure for Developers Structures. Enquiries should be made to Cumbria Highways, Highways Depot, Joseph Noble Road, Lillyhall Industrial Estate, Workington, CA14 4JH, Tel: 01946 506550

