

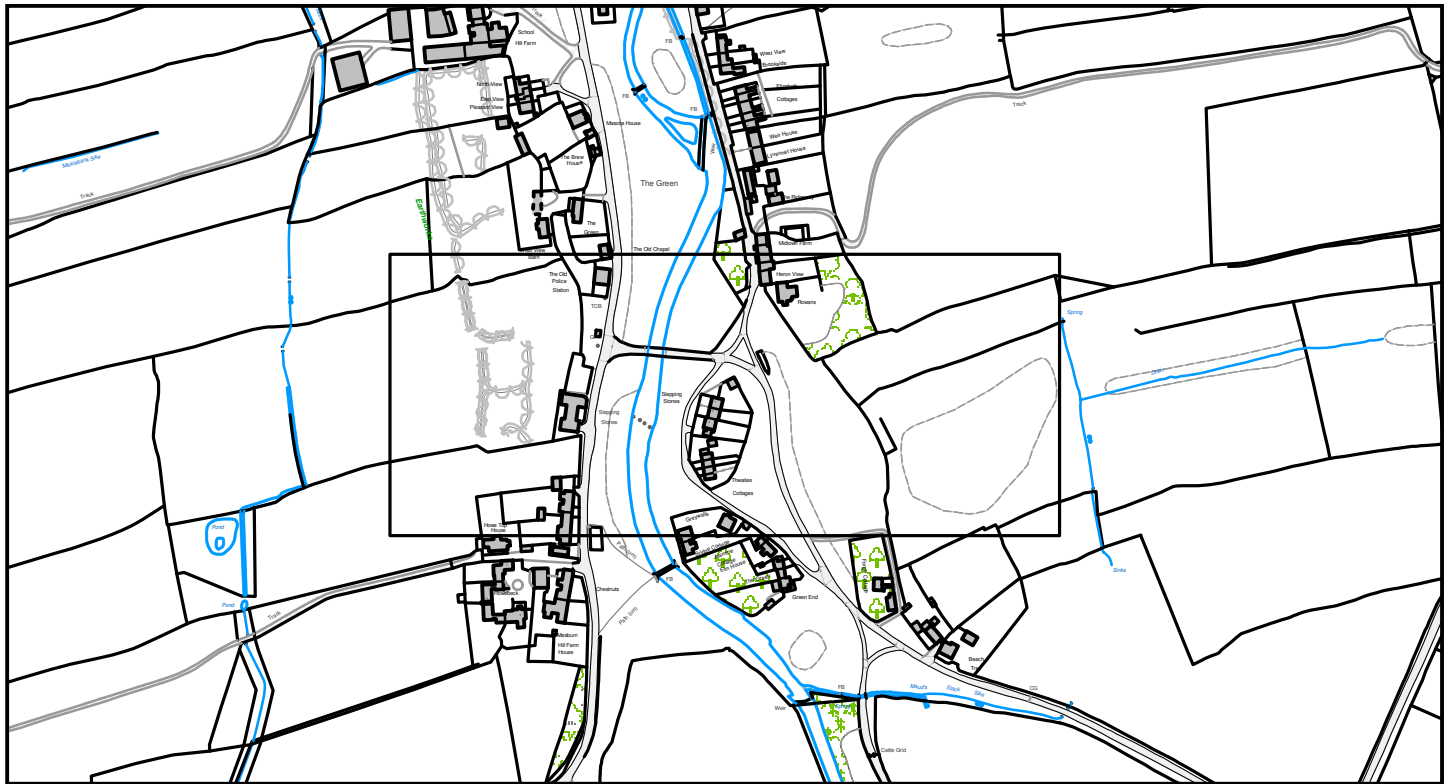
Yorkshire Dales National Park Authority

Application Code: E/03/40

Committee Date: 13/08/2019

Location: 1 Stepping Stones, Maulds Meaburn

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Application No:	E/03/40	
District:	Eden	
Parish:	Crosby Ravensworth	
Applicant's Name:	Mr M Archer,	
Grid Ref:	NY62611620	
Received by YDNP:	10/06/2019	Officer: Paul Martinson

PROPOSAL: Section 73 application to vary Condition 2 (plans) and Condition 6 (Flood Risk Assessment) of 15/0457 (full planning permission for demolition of existing garage and log cabin, and erection of a dwelling)

LOCATION: 1 Stepping Stones, Maulds Meaburn

CONSULTEES

Crosby Ravensworth PC

It was agreed by councillors that the format in which the application was presented was confusing and difficult to understand. The applicant was present and explained that the reason all the original documentation had been resubmitted with E/03/401 was to remove all reference to the proposed 'causeway' which had been intended to provide a means of escape in the event of flooding and thereby to mitigate the risks of building in a flood risk area.

The applicant gave a categorical assurance that the new application E/03/401 removed any reference to construction on the green and this was the sole reason that all the plans had been resubmitted and, that this was the only variation between this application and the approval given as 15/0457. He stated that in all other respects the application was unchanged.

The applicant stated that he had consulted a Yorkshire Dales Planning Officer over the application. The applicant reported that the officer had advised him that planning condition 6 regarding a proposed causeway to be constructed on the green itself was unenforceable because the applicant did not own the land and had not procured a permission to construct a causeway on it.

The applicant stated that the purpose of the current application was to regularize that position by removing all reference to the causeway and construction on the green from the new application (E/03/401) and to secure the proposed development going forward. It had been established and agreed by all parties that the council as owner did not have powers to permit the

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construction of a causeway or any other structure on common land/registered village green.

A Councillor stated that there was 'a discrepancy' between Land Registry documents (copy title to 1 Stepping Stones) in their possession and which was shown in the meeting and the boundary area of the development shown on the plans. He suspected that the development, as it was proposed, was partly situated on land in the ownership of Crosby Ravensworth Parish Council as sole trustee of Maulds Meaburn Village Green. He felt that this discrepancy should be clarified.

A Councillor spoke against the principle of the development. In their view it was inappropriate for any development to take place in a flood zone.

The applicant placed on record his frustration with the council's process which he found 'obstructive' and 'frustrating' given that the purpose of the application was to comply with the council's position that it would not permit the construction of a causeway on Maulds Meaburn Village Green.

It was decided that the council would 'not object to the removal of the conditions'. Four Councillors were in favour of the proposal and one abstained. The Chairman's vote was not cast.

The Highway Authority has no objection to the proposed variation of conditions. The applicant may wish to contact the Environment Agency in regards to the Flood Risk Assessment submitted.

No response received.

No comment about the variation of conditions 2 and 6.

No objection to the variation of condition 6 to omit an emergency exit over the village green as detailed in question 5 of the application form, or the updating of condition 2 to reflect the variation of condition 6.

The applicant and LPA should be aware that EA do not comment on or approve the adequacy of Flood Warning & Evacuation Plans (FWEPs) or equivalent procedures accompanying development proposals, as we do not carry out these roles during a flood. The involvement with most developments during an emergency will be limited to delivering flood warnings to occupants/users.

It is up to the local planning authority (LPA) to determine whether the FWEP or equivalent procedures are sufficient or not.

No response received.

No response received.

**Cumbria County
Council Highways**

**CTO - Eden
Natural England
Environment Agency -
for All areas**

**Eden District Council
United Utilities Water
Ltd**

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Wildlife Conservation Officer No objections.

PUBLIC RESPONSES

The occupiers of the neighbouring properties were notified in writing and a site notice was posted at the site. 15 letters of objection have been received the content of which are summarised below:

- 1) The application should be reconsidered as the site is now within a National Park.
- 2) The application site is in a flood risk area and therefore safety provisions should not be lifted.
- 3) The application should be allowed to expire and the applicant should be forced to re-apply.
- 4) No houses should be built in flood areas.
- 5) The proposed house would harm the character of the village and Conservation Area.
- 6) The proposal will lead to parking and access difficulties.
- 7) The proposed house would be out of scale with surrounding properties and would be too large.
- 8) The proposal would use the village green for parking.
- 9) There is no public housing benefit.
- 10) The proposed house would reduce light levels to neighbouring dwellings.

RELEVANT PLANNING POLICIES

DEV1 (E) - General Approach to New Development

DEV2 (E) - Water Management and Flood Risk

OFFICER OBSERVATIONS

REASON FOR COMMITTEE CONSIDERATION

This application is brought to the Planning Committee at the request of National Park Member Sandy Lancaster who considers that it is in the public interest to determine the application at Planning Committee due to the building being partly located on the village green, the concerns of the local residents and due to the previous application being determined by Eden District Council shortly before the area was designated a National Park.

APPLICATION SITE

The application site relates to garden land associated with 1 Stepping Stones, Maulds Meaburn. The site at present contains a log cabin and detached garage building and is adjacent to the village green. 1 Stepping Stones is the northern most dwelling of a terrace of 3 properties angled towards the River Lyvennet which is on the opposite side of the lane that serves these dwellings beyond a portion of village green.

PROPOSAL

This is an application under s.73 of the Town and Country Planning Act 1990 to vary planning conditions 2 (approved details) and 6 (flood risk assessment).

The conditions are currently worded as follows:

- 2) The development hereby granted shall be carried out in accordance with the amended site plans, elevations and floor layout drawings hereby approved, Plan Drawings Refs Nos 1 & 2, and supporting detail as dated received by the Local Planning Authority on the 19th

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October 2015 and shall not be varied other than by the prior agreement in writing of the Council as the Local Planning Authority.

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

6) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 16/11/15 and the following mitigation measures in the FRA:

1. Identification and provision of a safe route(s) into and out of the site to an appropriate safe haven as outlined in section 4 of the FRA.
2. Finished floor levels are set no lower than 193.93m above Ordnance Datum (AOD) as identified in section 2 of the FRA.
3. Mitigation measures as per section 3 are incorporated into the final design for construction.

Reason: To ensure safe access and egress from and to the site.

The identified safe route into and out of the site involved the creation of a 'causeway' on the village green immediately to the east of the rear boundaries of the 1-3 Stepping Stones to link the rear gardens with the level of the road. The village green at this point is uneven but slopes steadily down from the level of the road towards the rear boundaries for a distance of around 15-20m. The safe route involved the creation of a levelled area measuring around 4m wide that was around 0.6m higher than the surrounding ground levels. This new raised area would exceed the heights of the 1 in 100 flooding event level even when factoring in a 20% increase in levels for climate change thus always allowing dry safe access. The floodwater would be able to travel beneath the causeway in a pipe that had been installed below.

The applicant is seeking to vary condition 6 to omit the reference to the causeway as the Parish Council will not permit these works to the village green.

The applicant also seeks to vary condition 2 as the FRA forms part of the supporting details referred to in that condition. The applicant has provided new sets of plans and elevations which are identical to those approved apart from including more details of the drainage. They do not show the causeway.

RELEVANT PLANNING HISTORY

15/0457 – Demolition of existing garage and log cabin and erection of a dwelling. Approved 22 Jul 2016.

14/0130 – Demolition of existing garage and log cabin and erection of a dwelling. Withdrawn 30 June 2014.

KEY ISSUES:

- principle
- flood risk
- neighbour comments
- conservation area

PRINCIPLE

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This is an application under s.73 of the Town and Country Planning Act 1990. S.73 allows applications to be made for permission to carry out a development without complying with a condition previously imposed on a planning permission. The Local Planning Authority can grant such a permission without a condition or with the original condition 'varied' or altered. In this case the applicant seeks to vary condition 2 and 6 of 15/0457 to remove reference to the causeway originally proposed as part of the Flood Risk Assessment.

The applicant has commenced the development approved by 15/0457 following the discharge of pre-commencement condition. As the current application is an application to vary conditions, despite the concerns expressed by those objecting to the application, the principle of the development cannot be reconsidered under this procedure.

The only issues that can be considered as part of this application relates to the effect of the removal of the proposed causeway from the proposals.

FLOOD RISK

Being located close to the River Lyvennet, the application site is located within the Environment Agency's floodzones 2 and 3. The original application required the provision of a Flood Risk Assessment (FRA) which included mitigation to manage flood risk. This FRA was considered to be acceptable by the Environment Agency and condition 6 was included in the decision notice to ensure the development met the requirements contained within it. However as condition 6 requires development to be carried out on land over which the applicant/developer has no control, i.e. village green, it is not enforceable.

The applicant has amended the FRA so that this now omits the reference to the creation of the causeway. All other measures such as the height of internal floor levels and non-return valves to existing and proposed drains would be retained.

The Environment Agency has raised no objections to the amended FRA as the provision of the causeway exceeded the requirements for a single dwelling such as this. As the causeway was only proposed to ease the escape of occupants of the proposed dwelling in an extreme event, its removal would not contribute to an increase in flooding nor would it lead to an increase in surface water run-off.

It is therefore considered that the variation of condition 6 to omit reference to the causeway would comply with policy DEV2 of the Eden Local Plan (2014-2032).

NEIGHBOUR COMMENTS

The majority of the neighbour comments wish to see the principle of the development reconsidered as the site now lies within a National Park. However for the reasons outlined above this is not possible.

One of the concerns raised was that the site was constructed over the village green. This is because some of the plans referred to installing "grasscrete" over a section of village green. The plans have since been amended to remove this reference and now show the same development that was approved in 2016 by Eden District Council.

IMPACT ON CONSERVATION AREA

The application site lies within the Maulds Meaburn Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on planning authorities insofar as "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" when it considers proposals for

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development in the conservation area.

The removal of the causeway from condition 6 does not involve any new development and therefore there would be no adverse impact on the character or appearance of the Conservation Area through its variation. It is considered that there would be an overall benefit to the character and appearance through the omission of this rather artificial alteration to the landscape of the village green from the scheme.

ANALYSIS OF MATERIAL CONSIDERATIONS

The variation of condition 2 and condition 6 to remove the causeway from the proposal would not result in an increase in flood risk and their removal would ensure that the relevant conditions are enforceable. The proposal would comply with policy DEV2 of the Eden Local Plan (2014-2032) in this respect.

RECOMMENDATION

It is recommended that condition 2 is varied to the following:

2) The development shall be carried out in accordance with the following plans and information:

-Parking facilities;
received 19 October 2015.

-Site location plan;
-Elevations & plans;
-Amended Flood Risk Assessment;
received 10 June 2019.

-Site plan for flooding and highways visibility;
-Site plan, surface run-off and foul system to UU I/C;
received 30 July 2019.

Reason: To define the plans relating to this permission.

It is recommended that condition 6 is varied to the following:

6) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) received 10 June 2019 and the following mitigation measures in the FRA:

1. Finished floor levels are set no lower than 193.93m above Ordnance Datum (AOD) as identified in section 2 of the FRA.
2. Mitigation measures as per section 3 are incorporated into the final design for construction.

Reason: To ensure safe access and egress from and to the site.