

## SCHEDULE A: Applications with Recommendation

17/0815

Item No: 05

Date of Committee: 24/11/2017

**Appn Ref No:**  
17/0815

**Applicant:**  
Mr & Mrs M Hart

**Parish:**  
Irthington

**Agent:**  
Bob Taylor Planning

**Ward:**  
Stanwix Rural

**Location:** Land at Bankhead, Newby East, Wetheral, Carlisle, CA4 8RA

**Proposal:** Erection Of 2no. Dwellings (Outline)

**Date of Receipt:**  
02/10/2017

**Statutory Expiry Date**  
01/01/2018

**26 Week Determination**  
02/04/2018

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### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

- 1.1 It is recommended that this application is refused.

#### 2. Main Issues

- 2.1 Whether The Proposal Would Be Acceptable In Principle
- 2.2 Whether The Scale And Design Would Be Acceptable
- 2.3 Whether Suitable Living Conditions Would Be Created For Future Occupiers
- 2.4 Impact Of The Proposal On Trees
- 2.5 Impact Of The Proposal On Biodiversity
- 2.6 Highway Matters
- 2.7 Drainage Issues
- 2.8 Whether There Are Any Other Material Considerations
- 2.9 Planning Balance

#### 3. Application Details

##### The Site

- 3.1 The application site, which covers an area of 0.56ha, is currently woodland, associated with the dwelling Bankhead which lies to the south west. The woodland contains a series of paths and an adventure playground. The

applicants walk their dogs in the woodland each day and consider it to be part of their garden.

## **The Proposal**

- 3.2 The proposal is seeking outline planning permission for the erection of two dwellings on the site. Approval is being sought for the scale of the dwellings, with all other matters (access, appearance, landscaping and layout) reserved for subsequent approval.
- 3.3 The illustrative layout plan that has been submitted with the application shows two large detached properties with detached garages set within the woodland. One of the dwellings is shown as facing north with the other facing west. The Planning Statement makes reference to high quality, energy efficient executive houses. The Pre-development Arboricultural Report makes reference to 'green' roof forms and the dwellings being uncluttered by walls and fences. A single access would serve both dwellings.
- 3.4 The application is accompanied by a Planning Statement which makes the following points:
- the adopted Local Plan significantly increases the housing targets from 450 p.a. to a minimum average of 478 net between 2013 and 2020 and a minimum average of 626 between 2020 and 2030;
  - the adopted Local Plan abandons the concept of settlement limits for villages;
  - the adopted Local Plan introduces a policy for housing development in villages based upon satisfying various criteria (Policy HO2);
  - the adopted Local Plan introduces a permissive policy for housing development in residential gardens (Policy HO3);
  - Policy HO3 provides no guidance as to its spatial applicability and is permissive of housing development in existing residential gardens;
  - Policy HO3 sets out no restriction in respect of gardens in rural locations be they hamlets, small groups of housing or isolated locations in open countryside;
  - the site is a well established woodland garden with a long history of being used in a manner incidental to the adjoining dwelling;
  - case law stresses the importance of judging the use to which land is put on the basis of the factual position;
  - Policy SP2 (Strategic Growth and Distribution) supports development in rural settlements and in the open countryside assesses development against need;
  - Policy HO2 (Windfall Housing Development) recognises that new housing development will be acceptable in villages provided that criteria are satisfied;
  - the Local Plan contains no definition as to what constitutes a village;
  - in April 1994, outline planning permission was granted for the erection of two detached dwellings in a nearby paddock - the committee report recognised that the development lay within a small cluster of development situated approximately 0.5 miles north-east of Newby

East - the proposal was seen to be compatible with the low-density loose knit character of the existing development. The report concluded that whilst the site was remote from the settlement of Newby East it was part of an established pocket of development;

- the area around Bankhead is perceived by its residents to be part of the village of Newby East to which it is closely related;
- the site is in reasonably close proximity to Warwick Bridge, Crosby-on-Eden and Irthington such that the development would help to support services in all of those settlements (as required by Para 55 of the NPPF and Policy HO2);
- Policy HO2 of the Local Plan anticipates that there will be some intrusion into the open countryside - the key test is one of acceptability;
- views into and out of the site are largely contained by substantial landscape material in the form of existing trees;
- given the history of the site as a woodland garden incidental to the existing dwelling it is impossible to accept that the site is properly regarded as open countryside and it is not isolated;
- the proposal accords with Policies HO2 and HO3 of the adopted Local Plan;
- the provision of two dwellings on the site is compliant with the NPPF's objective to 'boost significantly the supply of housing';
- the intention to provide high quality, energy efficient executive houses close to the developing employment hub at the airport would be compatible with policy objectives and characteristic of the existing adjoining properties;
- the visual and landscape impact will be minimal as the housing sites would be integrated into the existing woodland garden;
- there are no material considerations that suggest that the supportive policy approach to development in residential gardens (Policy HO3) should not be followed;
- the extent of any harm should be weighed against the policy support in favour of the provision of appropriate new good quality sustainable dwellings in rural areas;
- the benefits of the proposal are significant and a balanced assessment establishes that planning permission should be forthcoming.

- 3.5 The application is also accompanied by a Pre-development Arboricultural Report. This recommends that two existing trees, a beech and an oak which are of poor quality, would need to be removed to make way for the development. The proposed driveway encroaches into the Root Protection Areas of three beech, three oak and one birch tree. Two of these trees (an oak and a beech) are of moderate to high quality. Using suitable ground protection measures these trees can be retained as part of the development.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of site and press notices as well as notification letters sent to five neighbouring properties. In response

one letter of objection and one letter of comment have been received.

4.2 The letter of objection makes the following points:

- the site is a wooded area which has largely been undisturbed for over forty years - although in private ownership the woodland area is valued highly by the local community for its visual and environmental contribution;
- the woodland supports a wide variety of wildlife and provides suitable habitats for a number of animals and birds;
- the intrusion of this development will inevitably disturb this rich mix of wildlife to its detriment;
- the site has only occasionally been visited by members of the owner's family and their pets - the establishment of two dwellings in the woodland represents a major disruption to the habitat and will lead to a significant loss of wildlife;
- the proposed access is located near to a blind bend which has been the scene of a number of accidents - vehicles emerging from the access will cause a danger;
- this speculative development does not address any identified local need and may lead to more extensive future development in the woodland.

4.3 The letter of comment makes the following points:

- the proposal will lead to two new families living in the area which would have a positive impact on the area;
- the site is on a bus route to William Howard School and on route to local primary schools;
- there are two local pubs within walking distance that could benefit from 2 extra families visiting;
- the entrance is on a straight section of a country road and an acceptable access could be formed;
- there would be no detriment to wildlife;
- the development would be in keeping with the area;
- the Councils should support the proposal as it complies with Government guidelines to support more homes.

## 5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objections, subject to conditions;

Irthington Parish Council: - no comments received;

Historic England - North West Office: - no objections;

Northern Gas Networks: - no objections.

## 6. Officer's Report

### Assessment

6.1 The relevant planning policies against which the application is required to be

assessed are Policies SP1, SP2, SP6, HO2, HO3, IP2, IP3, IP5, IP6, CC4, CC5, CM4, GI3 and GI6 of the Carlisle District Local Plan 2015-2030.

6.2 The proposal raises the following planning issues:

1. Whether The Proposal Is Acceptable In Principle

6.3 Policy SP2 (Strategic Growth and Distribution) of the adopted Local Plan states that within the open countryside, development will be assessed against the need to be in the location specified. Policy HO2 (Windfall Housing Development) states that new housing development on sites other than those allocated will be acceptable within or on the edge of villages within the rural area provided that the development will not prejudice the delivery of the spatial strategy of the Local Plan.

6.4 The proposal is seeking to erect two new dwellings in an area of woodland that lies to the north-east of Bankhead. Bankhead lies within a group of eight dwellings, which lie approximately 0.42 miles (675m) from the edge of Newby East. Six of the dwellings are located to the east of the C1013, with five lying in a group and the sixth being separated from this group by a woodland, part of which forms the application site, and part of a field. Two dwellings lie to the west of the C1013 and these are separated from each other by part of a field. The dwellings, which do not form a continuous development, are not part of a village/ settlement and are surrounded by open fields to all sides. There are no services within walking distance of the site and the dwellings would not, therefore, be sited in a sustainable location. The proposal to erect new dwellings in this location would, therefore, be contrary to Policies SP2 and HO2 of the Carlisle District Local Plan 2015-2030.

6.5 Para 55 of the National Planning Policy Framework (NPPF) states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. It also states that Local Planning Authorities should avoid new isolated homes in the countryside, unless there are special circumstances. No special circumstances have been put forward by the applicant to justify the erection of new dwellings in this location and the proposal would, therefore, be contrary to Para 55 of the NPPF.

6.6 It is acknowledged that two detached dwellings were allowed in a paddock to the west of Bankhead in 1994. This was, however, 23 years ago and Planning Policy has changed significantly since these dwellings were permitted. The NPPF was published in March 2012 with the Carlisle District Local Plan being adopted in November 2016. The erection of dwellings in this location would be contrary to policies in both of these documents.

6.7 The Planning Statement considers that the application site forms part of a woodland garden and that Policy HO3 (Housing in Residential Gardens) of the adopted Local Plan permits new development in existing residential gardens in rural locations, be they hamlets, small groups of housing or isolated locations in the open countryside.

- 6.8 Officers do not share this view and consider that the application site lies within an area of woodland. It is acknowledged that the woodland contains paths and is used by the applicant on a daily basis but this does not make it part of the garden of Bank Head.
- 6.9 Regardless of this, even if it was accepted that the woodland did form part of the garden to Bankhead, the erection of new dwellings in this location would not be acceptable given that the site does not lie within, or adjacent to, a village/ settlement and lies in an unsustainable location.
- 6.10 The Planning Statement states that the area around Bankhead is perceived by its residents to be part of village of Newby East to which it is closely related. It goes on to state that the site is in reasonably close proximity to Warwick Bridge, Crosby-on-Eden and Irthington such that the development would help to support services in all of these settlements (as required by Para 55 of the NPPF and Policy HO2).
- 6.11 The site is 0.42 miles (675m) from the edge of Newby East. Whilst it lies within a group of eight dwellings, these are not continuous, with fields and woodland lying opposite and between the dwellings. Recent appeals at Fenton Lane End (which sought planning permission for the erection of one dwelling in a garden of a dwelling that lay within a group of nine dwellings) and Burnhill, Scaleby (which sought planning permission for the erection of two dwellings within the garden of a dwelling that lay within a group of seven dwellings) have been dismissed by inspectors as they constituted unsustainable forms of development within the countryside, with limited access to services and facilities.
- 6.12 The Inspector at the Fenton Lane End appeal (15/0127) noted that in terms of proximity to services, the nearest village of Faugh, some 500 metres to the south, only has a public house and there would be a need to travel further afield in order to access a full range of basic services. There is an absence of roadside footpaths and street lighting on any of the routes leading away from the site and because of the distance involved it would be unrealistic to expect that future occupiers could conveniently and safely gain access to essential services on foot. For the above reasons, he considered the site to be remote from essential services. Whilst he recognised that there is generally a greater reliance on the private car in more remote rural areas, it remains the case that there would be a lack of sustainable transport choices available to enable future residents to conveniently access such facilities. There would be a lack of relationship between the site and the nearest settlements able to provide basic services and in this respect the dwelling would be functionally isolated.
- 6.13 The inspector at the Burnhill appeal (13/0822) noted that the site was set within a small cluster of dwellings in the open countryside, with the proposed development located in an isolated position with comparatively poor access to services, facilities and public transport, which given the distances to surrounding settlements would consequently foster a reliance on the private car. This reliance would be exacerbated by the lack of a safe pedestrian

environment on the roads and lanes between the appeal site and nearby settlements. He acknowledged that paragraph 55 of the Framework advocates that where there are groups of smaller settlements that development in one village may support services in a village nearby, but this would not result in an automatic presumption in favour of the development of additional dwellings in the countryside, and given the distance to nearby settlements with available services and facilities, would not be applicable in this case.

- 6.14 There are a number of parallels between the two appeal decisions referred to above and the current application site, which lies within a small cluster of dwellings in the open countryside with poor access to services and facilities.

## 2. Whether The Scale And Design Would Be Acceptable

- 6.15 The application is seeking outline planning permission for erection of two dwellings on the site, with approval only be sought for the scale of the dwellings (the layout and appearance are reserved for subsequent approval).

- 6.16 The illustrative site plan that has been submitted with the application shows two large detached dwellings with detached garages. The scale of the dwellings, which would be commensurate with the scale of dwellings in the vicinity, would be acceptable. The layout and appearance of the dwellings would be determined through a subsequent Reserved Matters application.

## 3. Whether Suitable Living Conditions Would Be Created For Future Occupiers

- 6.17 The site is an area of woodland and trees would lie in close proximity to the proposed dwellings. A number of the trees would cause a loss of light to the dwellings and garden areas and the living conditions of future occupiers of the dwellings would be compromised to an unacceptable level by these trees. The proposal is, therefore, contrary to criterion 7 of Policy SP6 of the Carlisle District Local Plan 2015-2030 and the Supplementary Planning Document Trees and Development.

## 4. Impact Of The Proposal On Trees

- 6.18 The proposal would only lead to the removal of two existing trees, a beech and an oak, both of which are of poor quality. The remaining trees that are to be retained would need to be protected by Tree Protection Fencing during construction works and this could be secured by condition.
- 6.19 The proposed driveway encroaches into the Root Protection Areas of seven trees (three beech, three oak and one birch) and two of these trees (an oak and a beech) are of moderate to high quality. Through the use of suitable ground protection measures, which could be secured by condition, these trees could be retained as part of the development.

## 5. Impact Of The Proposal On Biodiversity

- 6.20 The application site is currently an area of woodland that makes a positive contribution to biodiversity. It is acknowledged that the applicants walk through the woods on a daily basis. However, the erection of two dwellings in the woodland and the increased level of activity that this would generate (both during the construction phase and once the dwellings are occupied) would have an adverse impact on biodiversity. The proposal would, therefore, be contrary to Policy GI3 (Biodiversity and Geodiversity) of the Carlisle District Local Plan 2015-2030.

## 6. Highway Matters

- 6.21 The illustrative layout plan that has been submitted with the application shows a single access from the C1013 which would serve both dwellings. The Local Highway Authority has been consulted on the application and considers that the slight increase in vehicular use that the proposal would generate is unlikely to have a significant material effect on existing highway conditions. The Local Highway Authority, therefore, has no objections to the proposal, subject to the imposition of conditions (provision of visibility splay, surfacing of access road, reduction in height of any existing highway fence/ wall boundary).

## 7. Drainage Issues

- 6.22 Foul drainage would be connected to a package treatment plant, with surface water being disposed of via a sustainable drainage system. The Lead Local Flood Authority has been consulted on the application and has raised no objections to the proposal. It has advised that a plan showing a suitable on site drainage scheme should be submitted with any Reserved Matters application and this should show how surface water within the site would be treated and not drained on to the highway network. It would be advantageous to incorporate a SUDs scheme within the design.

## 8. Whether There Are Any Other Material Considerations

- 6.23 The proposal would provide two large detached dwellings. The additional housing would provide employment during the construction phase, the New Homes Bonus, Council Tax income, and the occupiers might support local services in nearby villages. All of the above are material considerations which should be taken into account in the determination of the application.

## 9. Planning Balance

- 6.24 Whilst the proposal would provide some benefits, which are outlined in paragraph 6.23 above, these would not outweigh the harm that the proposal would create given that the site lies in an area of woodland that is located outside a settlement/ village in an unsustainable location with poor access to services and facilities.

## Conclusion



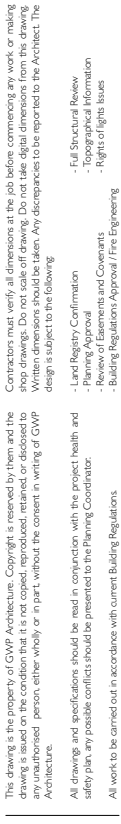
- 6.25 The proposal to erect new dwellings in this location would be contrary to Policies SP2, HO2, SP6 and GI3 of the Carlisle District Local Plan 2015-2030, Para 55 of the NPPF and the SPD Trees and Development.

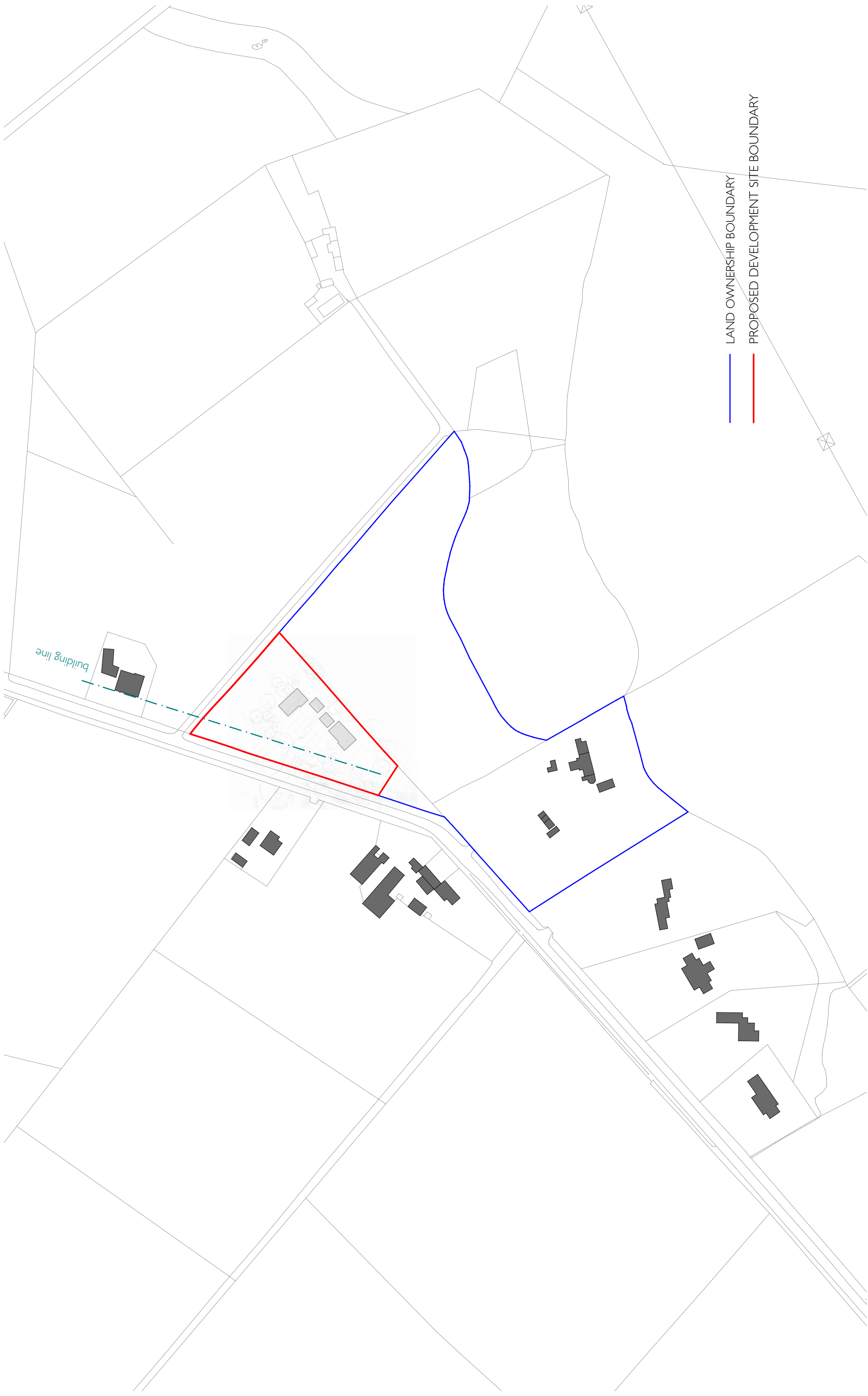
## **7. Planning History**

- 7.1 There is no planning history relating to this site.

## **8. Recommendation: Refuse Permission**

1. **Reason:** The dwellings do not form part of a village/ settlement and are surrounded by open fields to all sides. There are no services within walking distance of the site and the dwellings would not, therefore, be sited in a sustainable location. The National Planning Policy Framework (NPPF) states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances. No special circumstances have put been forward by the applicant that would justify a new dwelling in this location. The proposal to erect new dwellings in this location would, therefore, be contrary to Policies SP2 and HO2 of the Carlisle District Local Plan 2015-2030 and Para 55 of the NPPF.
  2. **Reason:** The site is an area of woodland and trees would lie in close proximity to the proposed dwellings. A number of trees would cause loss of light to the dwellings and garden areas. The living conditions of future occupiers of the dwellings would be compromised to an unacceptable level by these trees. The proposal is, therefore, contrary to criterion 7 of Policy SP6 of the Carlisle District Local Plan 2015-2030 and the Supplementary Planning Document Trees and Development.
  3. **Reason:** The application site is currently an area of woodland that makes a positive contribution to biodiversity. The erection of two dwellings in the woodland and the increased level of activity that this would generate (both during the construction phase and once the dwellings are occupied) would have an adverse impact on biodiversity. The proposal would, therefore, be contrary to Policy GI3 (Biodiversity and Geodiversity) of the Carlisle District Local Plan 2015-2030.
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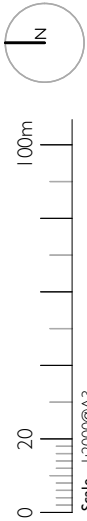
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- Land Registry Confirmation
- Review of Easements and Covenants
- Building Regulations Approval / Fire Engineering

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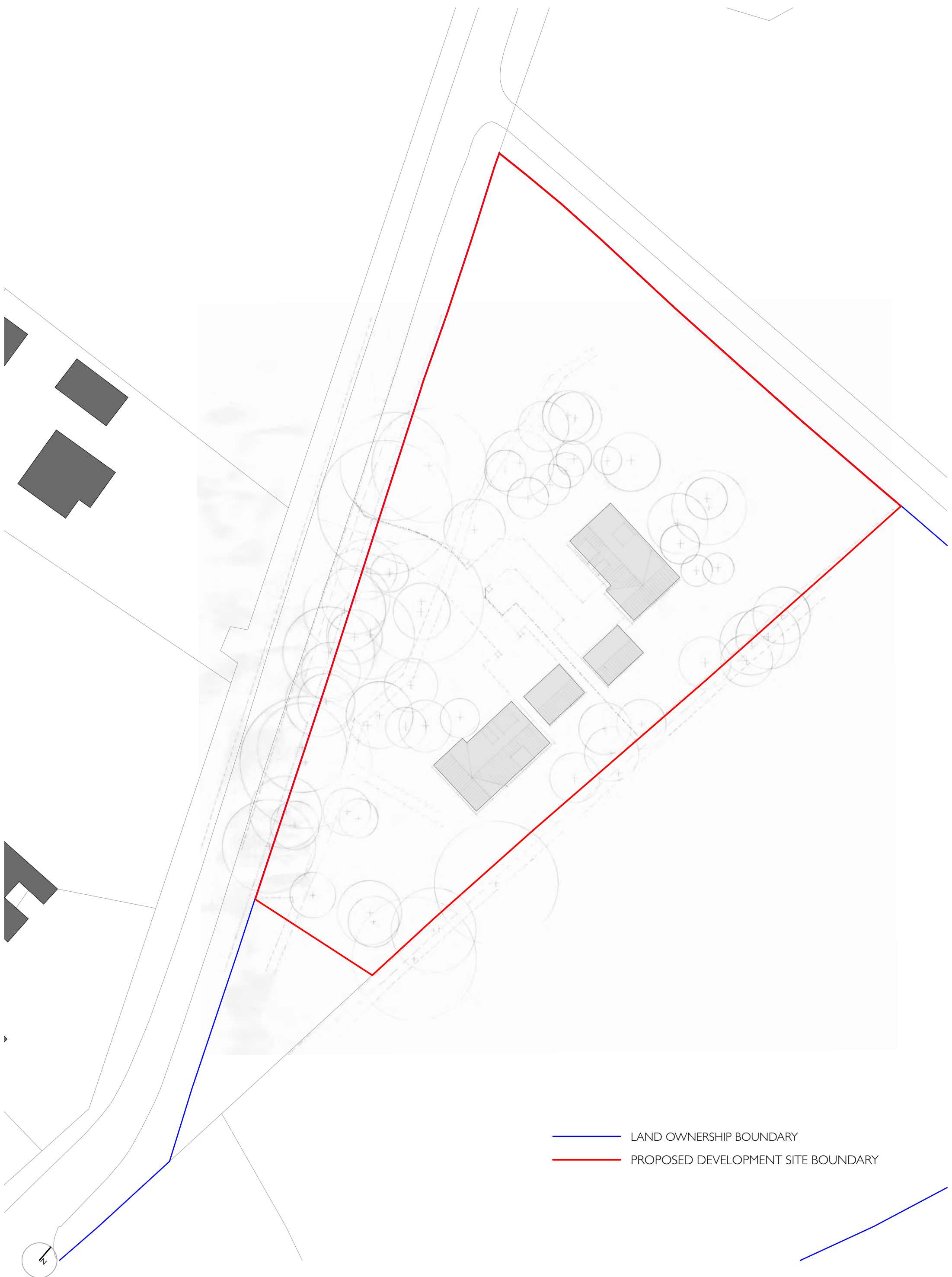
- Full Structural Review
- Topographical Survey
- Rights of Light Issues



Name	Bankhead-A-GWP-0002	Bankhead	
Scale	1:2000@A3	Revision / Status	01
Drawn/Checked	dt/jwy	Date of Issue	04.08.17

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Site Plan	
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— LAND OWNERSHIP BOUNDARY  
— PROPOSED DEVELOPMENT SITE BOUNDARY

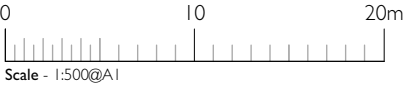
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- Land Registry Confirmation
- Planning Approval
- Review of Easements and Covenants
- Building Regulations Approval / Fire Engineering
- Full Structural Review
- Topographical Information
- Rights of lights Issues



Name	Bankhead-A-GWP-0006	
Scale	1:500@A1	Revision / Status 01
Drawn/Checked	dt/jwy	Date of Issue 04.08.17

Bankhead
Block Plan

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