

## SCHEDULE A: Applications with Recommendation

14/0406

Item No: 05

Date of Committee: 25/07/2014

**Appn Ref No:**  
14/0406

**Applicant:**  
Gardners Guns Ltd

**Parish:**  
Arthuret

**Agent:**  
SPACE Designed Solutions Longtown & Rockcliffe Ltd

**Ward:**

**Location:** Field Adjoining Purdoms Crook, Sandysike, Carlisle, CA6 5ST

**Proposal:** Variation Of Condition 3 Of Previously Approved Permission 07/0749 To Discontinue Shooting On Sundays And Bank Holidays; Proposal Of New Shooting Days And Times Of Tuesday To Saturday Inclusive From 10am To 4pm

**Date of Receipt:**  
20/05/2014

**Statutory Expiry Date**  
14/07/2014

**26 Week Determination**

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

- 2.1 The Principle Of Development
- 2.2 Potential Noise And The Impact Of The Proposal On The Amenities Of Neighbouring Residents
- 2.3 The Impact On Public Safety
- 2.4 Highway Safety
- 2.5 Human Rights
- 2.6 Other Matters

#### 3. Application Details

##### The Site

- 3.1 This application seeks Full Planning permission for variation of a planning

condition to extend the hours when shooting can occur on field adjoining Purdams Crook, Sandysike, Carlisle. The site is located adjacent to the A7 between Carlisle and Longtown and is situated approximately betwixt the junction for Sandysike and the junction for Westlinton. The site is flanked to the west by a high and established hedgerow and punctuated by a vehicular access. The main A7 road is to the west with the River Lyne and agricultural land on remaining boundaries.

- 3.2 There are no immediate residential properties adjoining the site although there are in the wider vicinity.
- 3.3 The site itself comprises of 3 rifle ranges of 50 metres, 100 metres and 150 metres, each enclosed by a 2.5 metre high earth bund. Portable structures are at the end of each range to provide accommodation for individuals whilst using the range. The ranges are towards the eastern boundary of the site and are orientated in a north to south direction. Further to the south is an open area of ground where clay pigeon shooting takes place.

## **Background**

- 3.4 Planning permission was granted in 2007 for the use of the land and was subject to a condition restricting the period during which the site could be used. Condition 3 reads:

“The use of the land hereby permitted shall take place only on Sundays and Bank Holidays (excluding the Christmas period) between 11-00 and 16-00 hours.”

- 3.5 The reason given reads:

“To prevent disturbance to nearby occupants in accordance with Policies CP4 and CP5 of the Revised Redeposit Draft Local Plan (2001 - 2016).”

## **Proposal**

- 3.6 The application seeks consent to vary the condition to relinquish shooting on Sundays and Bank Holidays and instead allow shooting on Tuesdays to Saturdays between 1000 hours and 1600 hours.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 3 properties. In response, 4 letters of objection have been received and the main issues raised are summarised as follows:
  - 1. noise pollution from this site is already acute and extreme and an extra 4 days use will add to this;
  - 2. despite complaints to the Council that the site is being used in breach of the existing condition restricting the days it can be used, the applicant

- continues to do so;
3. the site is adjacent to farmland and a working farm. The use is distressing to livestock who become nervous and agitated;
  4. such a use can't be considered safe next to land used by cattle and sheep;
  5. when shooting occurs, the livestock take refuge on a narrow piece of land adjacent to the river and in the past, stock have been lost;
  6. clays shatter and this, together with the plastic wad, land on the adjacent agricultural land;
  7. material also falls into the river which is the only means of drinking water for the livestock. Ingestion of this material can lead to vet intervention or worse;
  8. information provided on the previous application relating to the parking provision shows land not in the applicant's ownership;
  9. the use should be in a more rural, remote location;
  10. the noise from the rifle shooting is constant and disruptive resulting in a sharp loud cracking noise which is frightening to neighbours and livestock;
  11. the use is off-putting to visitors to the area who fish the river;
  12. if lead is being used in the shot, it will result in it falling into the river to the detriment of the fish;
  13. the access to the site is inappropriate and may result in an accident for people turning from the A7;
  14. there may be stray bullets from the site;
  15. the existing arrangements are a minor, noise polluting nuisance to the residents and businesses in the area. The increased use would affect the nearby dog breeding facility as a dogs hearing is far more acute and would affect older dogs and whelps.

4.2 One comment has been received which states that the hours of use are restrictive for working people and questions whether shooting would be permitted on Sundays if noise moderators are fitted and a noise limit set.

4.3 Also in response, 8 letters of support have been received which raise the following issues:

1. this is an excellent facility that allows people to practice their sport;
2. it is an invaluable facility within the region and if approved, it would attract more users from a wider area with valuable benefits in trade for the local community;
3. this is the only approved outdoor range in the area with facilities for civilians to practice target marksmanship at distances up to 150 metres;
4. the facility provides a safe, secure environment with minimum disturbance to the surroundings;
5. there will be very little impact on the neighbours;
6. this application should be supported;
7. the concession of halting use on Sundays and Bank Holidays indicates the applicant is not ignoring the concerns of his neighbours;
8. the range allows disabled person the freedom to shoot;
9. there is no disturbance to neighbouring livestock;
10. the range meets all the safety regulations required by the Home Office;
11. the noise from the range is absorbed by the construction of the firing

- range together with the noise of the A7;
- 12. valuable asset in the locality;
- 13. only large range of its kind in Cumbria and Southern Scotland.

## **5. Summary of Consultation Responses**

Cumbria County Council - (Econ. Dir. Highways & Transportation): - no objection;

Arthuret Parish Council: - the Parish Council support local business. Neighbouring properties, however, should be consulted;

Local Environment - Environmental Protection: - the shooting range shall be controlled so that any noise from the use shall not cause a statutory noise nuisance to other property in the locality;

Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention): - no objections.

## **6. Officer's Report**

- 6.1 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF) together with Policies CP6, EC11 and T1 of the Carlisle District Local Plan 2001-2016. The proposal raises the following planning issues.

### **1. Whether The Principle of Development Is Acceptable**

- 6.2 The main issue to establish in the consideration of this application is the principle of development as defined by the increase in business operation. Since the adoption of the local plan, the NPPF has been published by the Government and is a material consideration in the determination of this application.
- 6.3 Planning policies, both at national and local level, allow for the expansion of economic activities undertaken in rural areas. The local plan policy is subject to 4 criteria which require that the use should be complementary to or compatible with the agricultural operations in the rural area; and be compatible with the character and scale of the operation and its landscape character; and not lead to an increase in traffic levels beyond the capacity of the surrounding local highway network; and be capable of providing adequate access and parking arrangements.
- 6.4 The existing use on the site was granted permanent planning consent and not as a temporary use. The business has been established for a number of years and it follows, therefore, that the principle of the expansion of the use is acceptable subject to consideration against the policy criteria and other planning policies which are discussed in the following paragraphs.

### **2. Potential Noise And The Impact Of The Proposal On The Amenities Of Neighbouring Residents**

- 6.5 The use of the site includes rifles and shotguns. The relevant clay target shooting criteria was set by the Chartered Institute of Environmental Health; (CIEH) Clay Target Shooting entitled 'Guidance on the Control of Noise', published in January 2003.
- 6.6 There is strict guidance in terms of noise emanating from any site and in particular, Chapter 6 provides criteria on noise measurement and assessment and in summary states:
- 'The BRE [Building Research Establishment] research suggests that there is no fixed shooting noise level at which annoyance starts to occur. Annoyance is less likely to occur at a mean shooting noise level (mean SNL) below 55 dB(A), and highly likely to occur at a mean shooting noise level (mean SNL) above 65 dB(A).'
- 6.7 The site has been operating for 7 years since planning permission was granted in 2007. The objectors are concerned about the noise generated from the use of the site and the impact on both residents, visitors to the area and livestock. The Government's National Planning Practice Guidance (NPPG) states that "noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. When preparing local or neighbourhood plans, or taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment."
- 6.8 In consideration of this application involving noise issues, the NPPG requires local planning authorities to take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved.
- 6.9 At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the 'no observed' effect level as it becomes noticeable. However, the noise has no adverse effect so long as the exposure does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment. As noise levels escalates through various stages until it reaches the highest extreme, noise exposure can cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise and this situation should be prevented from occurring.
- 6.10 Policy CP6 of the Local Plan seeks to protect the living conditions of occupiers of neighbouring properties from inappropriate development including those that would generate a significant increase in noise levels.
- 6.11 The previous planning application in 2007 included an Acoustic Survey produced by Wakefield Acoustics and included an assessment of noise readings from the 2 nearest residential properties and the layby adjoining

Lynebank Hotel whilst shooting clay pigeons using a 12 bore shotgun on the site. In all 3 locations, the recorded readings during the shooting were below the 55dB(A) as required in the Environmental Health Guidance on the Control of Noise for Clay Target Shooting and it was stated that as such, the proposed use should not give rise to noise complaints. Since the site began to be used for shooting purposes, Environmental Health Officers have confirmed that no complaints have been received by the Council in respect of unacceptable noise from the site.

- 6.12 The applicant has confirmed that 75% of the rifles fired on the range are moderated, meaning that the sound emissions from the muzzle are significantly reduced through the use of a noise moderator or silencer. Of the remaining 25%, the majority of these are antique weapons which can't be moderated but are only fired on limited occasions. The shotguns are generally only used once per month for club meetings except where competitions are held.
- 6.13 The issue for Members to consider therefore, is whether the variation in the planning condition, and allowing 3 extra days shooting on the site, would result in unacceptable levels of noise and disturbance and thereby affect the living conditions of the occupiers of neighbouring properties. The existing consent allows for the use of the site on 1 day at the weekend and the proposal would not alter this. The consent also allows the site to be used on Bank Holidays when background noise levels are arguably lower and when people can reasonably expect to enjoy peace and quiet. The use on bank holidays would be relinquished by this application.
- 6.14 During the course of the site visit, Officers observed shooting taking place on the site using both rifles and shotguns. Sheep were present in the field on the opposite bank of the river and were undisturbed by the shooting taking place.
- 6.15 Shooting is a rural pursuit and whilst it is acknowledged that the use of the site is more of a commercial venture and therefore more intensive. On balance, the increased use of the site of 3 days and the additional hour each day sought on the overall five days, would not give rise to significant levels of noise and disturbance to the occupiers of neighbouring properties, visitors or livestock, such to warrant refusal of this application. This is supported by the original noise report and the consultees who have informed this application.

### **3. Range Safety And The Impact On Public Safety**

- 6.16 The Home Office circular 031/2006 'Firearms' makes it clear that range safety is primarily the responsibility of range owners and operators. Paragraph 11 states that it is anticipated that most ranges will use The National Small-bore Rifle Association and the National Rifle Association scheme. However, it is for each range owner/ operator to decide what steps to take to ensure their range is safe.
- 6.17 The applicant has submitted the following in support of the application:

1. Home Office certification;
  2. National Rifle Association certification;
  3. the ranges are British Association for Shooting & Conservation (BASC) approved;
  4. The facility is never used solely by 1 person;
  5. at least 1 Range Conducting Officer (RCO) is present at all times when the site is in use.
- 6.18 All rifle owners are a member of the club operated by the applicant and must undergo or have achieved a particular level of training. More recent members to the club must be supervised at all times by a club member and no guns are stored at the facility. An RCO of the club must be present when the ranges are in use and it is his or her role to supervise the overall safety of the site. To become an RCO, that individual must be a full member of the club and have passed a complete training schedule. When a member has finished shooting, the RCO will conduct various inspections and implement procedures to ensure that no loaded weapons are carried off the ranges. A red flag is flown on site at all times, regardless of whether shooting is taking place and there are appropriate warning signs around the site.
- 6.19 The ranges were originally designed in consultation with Firearms Officers from Cumbria Constabulary. The rifles are shot from inside a structure down an open bunded range. There is an overhang on the outside of each of these structures which limits the trajectory of any weapon fired and prohibits a round to be fired over the height of the bund at the end of the range.
- 6.20 As part of the consultation process, Cumbria Constabulary has provided comments and in particular, Officers asked for this to be provided in conjunction the Firearms Officers from the Constabulary. Members will note that no objection has been received and that no complaints have been made in respect of the use of the site or regarding concerns about public safety.

#### **4. Highway Safety**

- 6.21 The objectors have raised concerns about the vehicular access to the site which is taken directly from the A7 road. This a particularly busy stretch of road linking Cumbria with the Scottish Borders and is heavily used. It is also subject to the national speed limit of 60 mph. Visibility is clear in both directions when exiting the site and there is sufficient parking provision within the site. The increased use of the site is not likely to result in significant levels of vehicles to the site over and above the existing numbers. In response, Cumbria County Council as the Highway Authority has raised no objection.

#### **5. The Impact On Human Rights**

- 6.22 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:

- Article 6** bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;
- Article 7** provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularize any breach of planning control;
- Article 8** recognises the "Right To Respect for Private and Family Life".

- 6.23 Article 1 of Protocol 1 relates to the "Protection of Property" and bestows the right for the peaceful enjoyment of possessions. This right, however, does not impair the right to enforce the law if this is necessary, proportionate and there is social need.
- 6.24 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

## **6. Other Matters**

- 6.25 Reference is made in the objection to pieces of broken clay and other fired material entering adjoining land and the watercourse. With regard to the latter, the applicant has confirmed that the shotgun cartridges used on site do not contain lead but steel. The only shotgun cartridges permitted to be used on the site use fibre wads which are biodegradable and not plastic wads. In addition, condition 5 of the planning permission prohibits the use of lead shot on the site and this condition would remain unaltered.
- 6.26 The layout of the site was designed such that the clay pigeon area is enclosed by a bund and that guns are discharged in the air at such an angle that the shot would be rendered harmless if it travelled beyond the bund. The traps are mobile and are set such that account is taken of the position of the guns and the wind direction. This remains the same for the steel shot but is less likely to stray outwith the site due to the weight. The applicant has informed Officers that the fragments of broken clay pigeons degrade after few periods of rainfall. If material does fall onto adjoining land, this is a civil matter and an operational matter for the applicant to resolve with the adjoining land owner.

## **Conclusion**

- 6.27 The site is located in open countryside albeit adjacent to agricultural land with residential properties in the wider area. The site has been in operation since planning permission was granted 7 years ago. Planning policies support the principle of the expansion of rural based businesses, subject to an appropriate assessment against other planning related matters.
- 6.28 The increased use of the site has the potential to generate increased levels of noise and disturbance; however, the originally submitted noise assessment



found that noise levels in the 3 nearest noise sensitive locations would be within acceptable limits. Since the use commenced, the Council has not received any noise nuisance complaints.

- 6.29 The site continues to be bound to operate within the parameters of its Home Office licence and Cumbria Constabulary has raised no objection to the increase use of the site.
- 6.30 Consent of this application would allow the expansion of an established rural based business. All matters have been appropriately and robustly assessed against national and local planning policies and found to be acceptable. The application is therefore recommended for approval.

## **7. Planning History**

- 7.1 In 2004, planning permission was granted for the change of use of part of ground floor of the applicant's dwelling to a gun dealers and fishing tackle shop (including testing of guns and rods in adjoining fields). The planning permission (04/1462) restricted the period for testing guns to between 1000 and 1200 hours on Saturdays and to no more than 20 days per year.
- 7.2 In 2007, planning permission was granted for the use of the field for a shooting range on Sundays & Bank Holidays (excluding the Christmas Period) between the hours of 1000 and 1700 hours together with the erection of a 4 metre high flagpole for a warning flag.

## **8. Recommendation: Grant Permission**

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 ( as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

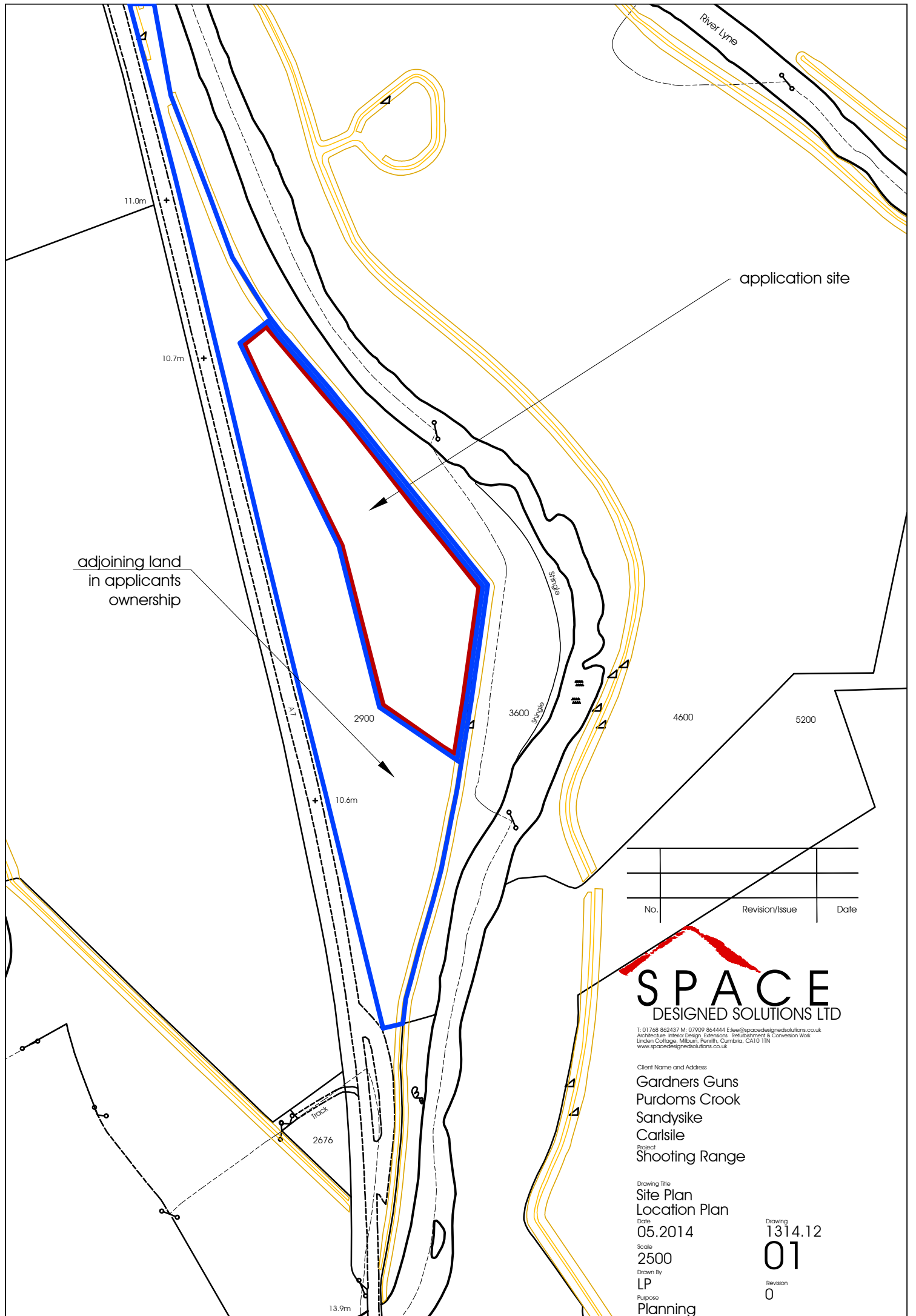
2. The approved documents for this Planning Permission comprise:

1. the Planning Application Form received 12th May 2014;
2. the Site Plan Location Plan received 20th May 2014 (Drawing no. 1314.12 01 Rev 0);
3. the Notice of Decision.

**Reason:** To define the permission.

3. The development shall be carried out in accordance with the remaining conditions attached to the Full Planning permission approved under application 07/0749.

**Reason:** For the avoidance of doubt.



application site

adjoining land  
in applicants  
ownership

No.	Revision/Issue	Date

**SPACE**  
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Client Name and Address

Gardners Guns  
Purdoms Crook  
Sandysike  
Carlisle

Project  
Shooting Range

Drawing Title

Site Plan  
Location Plan

Date  
05.2014

Scale  
2500

Drawn By  
LP

Purpose  
Planning

Drawing  
1314.12

01

Revision  
0