

# AGENDA

## Development Control Committee

**Friday, 14 August 2020 AT 10:00**

**This meeting will be a virtual meeting and therefore will not take place in a physical location.**

### **Session 1**

#### **Register of Attendance and Declarations of Interest**

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

#### **Apologies for Absence**

To receive apologies for absence and notification of substitutions

#### **Public and Press**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

#### **Minutes of Previous Meetings**

**5 - 8**

To approve the minutes of the meetings held on 17 July and 12 August 2020 (site visits).

### **PART A**

**To be considered when the Public and Press are present**

## **A.1 CONTROL OF DEVELOPMENT AND ADVERTISING**

To consider applications for:

- (a) planning permission for proposed developments
- (b) approval of detailed plans
- (c) consents for display of advertisements.

### **Explanatory Notes**

**9 - 16**

#### **Item 01 - 19/0556 - BSW Sawmills, Cargo, Carlisle, CA6 4BA**

**17 -  
40**

#### **Item 02 - 19/0869 - Cumbria Wildflowers, The Stables, Great Orton, Carlisle, CA5 6NA**

**41 -  
98**

#### **Item 03 - 20/0377 - Land adjacent to former Railway Inn, Low Row, Carlisle, CA8 2LG**

**99 -  
110**

#### **Item 04 - 20/0206 - Land adjacent Beck House, Cumwhitton, Carlisle**

**111 -  
140**

## **Session 2**

#### **Item 05 - 19/0898- Land adjacent to St John's Hall, Cumwhinton, Carlisle, CA4 8EJ**

**141 -  
168**

**PART B**

**To be considered when the Public and Press are excluded from the meeting**

-NIL-

**Members of the Development Control Committee**

**Conservative** – Christian, Collier, Meller, Morton, Nedved, Shepherd, Mrs Bowman (sub), Mrs Finlayson (sub), Tarbitt (sub)

**Labour** – Birks, Brown, Mrs Glendinning (Vice Chair), Rodgerson, Miss Whalen, Alcroft (sub), Patrick (sub), Dr Tickner (sub)

**Independent** - Tinnion (Chair), Paton (sub)

Enquiries, requests for reports, background papers etc to:

Jacqui Issatt, Committee Clerk - [jacqui.issatt@carlisle.gov.uk](mailto:jacqui.issatt@carlisle.gov.uk)

To register a Right to Speak at the Committee contact -  
DCRTS@carlisle.gov.uk



## DEVELOPMENT CONTROL COMMITTEE

**FRIDAY 17 JULY 2020 AT 10.00 AM**

**PRESENT:** Councillor Tinnion (Chair), Birks, Christian, Collier, Glendinning, Meller, Morton (until 10:50am), Nedved, Rodgerson, Shepherd, Dr Tickner (from 10:10am - as substitute for Councillor Brown) and Whalen.

**OFFICERS:** Corporate Director of Governance and Regulatory Services  
Corporate Director of Economic Development  
Development Manager  
Planning Officer x 2

### **DC.052/20 APOLOGIES FOR ABSENCE**

An apology for absence was submitted on behalf of Councillor Brown.

### **DC.053/20 DECLARATIONS OF INTEREST**

The were no declarations of interest submitted.

### **DC.054/20 PUBLIC AND PRESS**

**RESOLVED** – That the Agenda be agreed as circulated.

### **DC.055/20 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED** 1) That it be noted that Council, at its meeting of 14 July 2020, received and adopted the minutes of the Development Control Committee meetings held on 11 February (site visits), 14 February, 24 April, 22 May and 5 June 2020.

2) That the minutes of the meeting held on 19 June 2020 be approved.

### **DC.056/20 CONTROL OF DEVELOPMENT AND ADVERTISING**

That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

#### **1. Change of Use to provide extension to existing Caravan Park, Green Meadows Country Park, Blackford, Carlisle, CA6 4EA (Application 20/0309).**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: site location plan, proposed site block plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

*Councillor Dr Tickner joined the meeting.*

The Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application. In response to questions from Members, Officers confirmed:

- That the traffic increase generated by the proposal was likely to be sporadic and that the Highway Authority did not object to the proposal;
- Any health and safety assessment of the proposed water features would be carried out by the Health and Safety Executive;
- No additional toilet block facilities were provided for by the application;
- Condition 3 required the submission of a Surface Water Drainage Management Plan to be approved by the Local Planning Authority.

A Member moved the Officer's recommendation which was seconded, and following voting it was:

RESOLVED: That application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

*Councillor Dr Tickner having not been present for a portion of the Committee's consideration of the item of business did not take part in the discussion nor determination of the application.*

## **2. Formation of Slurry Lagoon, Dobcross Hall, Gaitsgill, Dalston, Carlisle, CA5 7AW (Application 20/0226).**

The Planning Officer submitted the report in the application. Slides were displayed on screen showing: site location plan; elevation plans; cross section plan; and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be approved, subject to the conditions and appropriate advisory note, as detailed in the report.

The Committee then gave consideration to the application. In response to questions from Members, Officers confirmed:

- That the lining of the lagoon would be formed of impermeable clay;
- The Environment Agency were the responsible body for controlling potential run-off and associated pollution to the water environment from the lagoon. It would carry out checks prior, during and post construction to ensure that the facility met the requirements of the relevant legislation, it would address any matters of non-compliance. Additionally, the Council's Environmental Health service may also investigate any issue relating to nuisance connected with odour or insect nuisance from the lagoon.

Consideration was given to the proposed fencing around the lagoon, it was noted that paragraph 6.59 of the report made reference to the applicant having offered to install hedging around the base. The Committee felt that proposal would diminish the visual impact of the fencing as well as providing a further barrier against accessing the lagoon. Accordingly, Members agreed that an additional condition be added to the permission requiring that the offered hedge be provided

A Member moved the Officer's recommendation along with the imposition of an additional condition requiring the provision of hedging at the base of the fence surrounding the lagoon. The proposal was seconded and, following voting it was:

RESOLVED: That application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

*Councillor Morton left the meeting.*

3. **Variation of Condition 2 (Approved Documents) of previously approved application 19/0042 (Erection of single storey side extension to provide dining room/sunroom; installation of double doors to roadside boundary wall to facilitate new vehicular access; rendering of dwelling and roadside boundary wall) to install 4-Panel bi-fold doors and rebuild of front boundary wall; rendering of base plinth zone on front elevation and rendering of rear portion of the property, School House, Moat Street, Brampton, CA8 1UJ (Application 20/0058).**

The Development Manager submitted the report in the application. Slides were displayed on screen showing: site location and proposed block plan; elevation and roof plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

Members were advised that the central considerations in determining the application were: the proposal's impact on the Conservation Area and highways matters, issues relating to both had been set out in the report.

In conclusion, the Development Manager recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application. In response to questions from Members, Officers confirmed that the use of the bi-fold doors would provide security for the dwelling, but would impact on the car parking space available at the site, its use was a matter for the occupiers.

A Member moved the Officer's recommendation, which was seconded and, following voting it was:

RESOLVED: That application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

*Councillor Shepherd abstained from voting on the item of business.*

## **DC.057/20 SCHEDULE B**

The Development Manager submitted the report which detailed other planning decisions taken within the district.

RESOLVED – That the report be noted.

## **DC.58/20 UPDATE ON CHANGES TO PLANNING LEGISLATION (TO DEAL WITH RELEASE FROM COVID-19 LOCKDOWN)**

The Development Manager submitted report ED.27/20 which presented a summary of the changes coming into force to support local businesses as they adapt to ease the release of lockdown post Covid-19.

Further to the production of the report, the Development Manager noted that the government had made further announcements regarding additional changes to planning legislation as a result of Covid-19 in relation to: applications to demolish or change the use of theatres/events/arts/live performance venues which may have been empty for some time, and the extension of open periods for holiday parks that had to close down during the lockdown period. In addition, changes had also been made to the approval of "dwelling houses" (dwellings constructed on top

of purpose-built blocks of flats), the Development Manager summarised those amendments for the Committee. It was recommended that the content of the report be noted.

The Committee then gave consideration to the report.

In response to Members' questions regarding controls on dwelling houses, vacant shops, marquees and pavement cafes, the Development Manager advised that:

- Dwelling houses – issues relating to overlooking and privacy were able to be considered when determining those proposals;
- Vacant shops – the aim of the changed legislation was to encourage use of city centres following the Covid-19 lockdown. Planning would retain a role in this area through its granting Consent through a Prior Approvals process;
- Marquees – the changes had been implemented, on a temporary basis, to assist premises who had reduced capacity internally due to the implementation of social distancing measures. Other Council services (Licensing and Environmental Health) also had a regulatory role in relation to marquees;
- Pavement Cafes – the current changes to the legislation provided a much streamlined process to obtain the relevant permission, however, the Council's Licensing team would still perform a regulatory role.

A number of Members expressed concerns regarding the removal of the need to apply for planning permission for the demolition and rebuilding of vacant and redundant residential and commercial properties.

The Development Manager acknowledged Members' concerns and advised that currently demolition was a two-stage process, which the amended legislation would streamline. There were restrictions which prevented such activity taking place in rural areas, however, the full extent of that aspect of legislation was as yet unclear and further guidance from government was expected in due course.

RESOLVED – That the report be noted.

[The meeting closed at 11:24am]



# **Development Control Committee Main Schedule**

## **Schedule of Applications for Planning Permission**

**14<sup>th</sup> August 2020**



## Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer
01.	19/0556 A	BSW Sawmills, Cargo, Carlisle, CA6 4BA	SD
02.	19/0869 A	Cumbria Wildflowers, The Stables, Great Orton, Carlisle, CA5 6NA	RJM
03.	20/0377 A	Land adjacent to former Railway Inn, Low Row, Carlisle, CA8 2LG	SD
04.	20/0206 A	Land adjacent Beck House, Cumwhitton, Carlisle	RJM
05.	19/0898 A	Land adjacent to St John's Hall, Cumwhinton, Carlisle, CA4 8EJ	SD
06.	19/0540 B	Pennine View, Sandy Lane, Broadwath, Heads Nook, Brampton, CA8 9BQ	RJM
07.	19/0588 B	25 Whiteclosegate, Carlisle, CA3 0JA	AC

## The Schedule of Applications

This schedule is set out in five parts:

**SCHEDULE A** - contains full reports on each application proposal and concludes with a recommendation to the Development Control Committee to assist in the formal determination of the proposal or, in certain cases, to assist Members to formulate the City Council's observations on particular kinds of planning submissions. Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 <http://www.legislation.gov.uk/ukpga/2004/5/contents> unless material considerations indicate otherwise.

In order to reach a recommendation the reports have been prepared having taken into account the following background papers:-

- relevant planning policy advice contained in Government Circulars, National Planning Policy Framework, [https://www.gov.uk/government/publications/national-planning-policy-frame work--2](https://www.gov.uk/government/publications/national-planning-policy-frame-work--2),
  - Planning Practice Guidance <http://planningguidance.planningportal.gov.uk/> and other Statements of Ministerial Policy;
  - Carlisle District Local Plan 2015-2030 <http://www.carlisle.gov.uk/planning-policy/Local-Plan/Carlisle-District-Local-Plan-2015-2030> ;
  - Conservation Principles, Policies and Guidance – <https://historicengland.org.uk/advice/constructive-conservation/conservation-principles/>
  - Enabling Development and the Conservation of Significant Places <https://historicengland.org.uk/images-books/publications/enabling-development-and-the-conservation-of-significant-places/>
- Flood risk assessments: climate change allowances  
<https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>
- Consultee responses and representations to each application;

<http://publicaccess.carlisle.gov.uk/online-applications/>

- Cumbria Landscape Character Guidance and Toolkit  
<http://www.cumbria.gov.uk/planning-environment/countryside/countryside-landscape/land/landcharacter.asp>
- Natural Environment and Rural Communities Act (2006)  
<http://www.legislation.gov.uk/ukpga/2006/16/contents>
- Wildlife and Countryside Act 1981 <http://www.legislation.gov.uk/ukpga/1981/69>
- Community Infrastructure Levy Regulations 2010  
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>
- EC Habitats Directive (92/43/EEC)  
[http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)
- Equality Act 2010  
[http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)
- Manual For Streets 2007  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/341513/pdfmanforstreets.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/341513/pdfmanforstreets.pdf)
- Condition 2 of each application details the relevant application documents

**SCHEDULE B** - provides details of the decisions taken by other authorities in respect of those applications determined by that Authority and upon which this Council has previously made observations.

The officer recommendations made in respect of applications included in the Schedule are intended to focus debate and discussions on the planning issues engendered and to guide Members to a decision based on the relevant planning considerations. The recommendations should not therefore be interpreted as an intention to restrict the Committee's discretion to attach greater weight to any planning issue when formulating their decision or observations on a proposal.

If you are in doubt about any of the information or background material referred to in the Schedule you should contact the Development Management Team of the Planning Services section of the Economic Development Directorate.

This Schedule of Applications contains reports produced by the Department up to the 30/07/2020 and related supporting information or representations received up to the Schedule's printing and compilation prior to despatch to the Members of the Development Control Committee on the 14/08/2020.

Any relevant correspondence or further information received subsequent to the printing of this document will be incorporated in a Supplementary Schedule which will be distributed to Members of the Committee 5 working days prior to the day of the meeting.

SCHEDULE *A*

SCHEDULE *A*





## SCHEDULE A: Applications with Recommendation

19/0556

Item No: 01

Date of Committee: 14/08/2020

**Appn Ref No:**  
19/0556

**Applicant:**  
BSW Timber Group

**Parish:**  
Kingmoor

**Agent:**  
WYG

**Ward:**  
Belah & Kingmoor

**Location:** BSW Sawmills, Cargo, Carlisle, CA6 4BA

**Proposal:** Removal Of Conditions Of Previously Approved Permissions 90/1152 (Conditions 10, 11, 12, 16); 92/0219 (Conditions 7, 8, 9, 12); 92/0733 (Conditions 7, 8, 9, 11); 99/0313 (Condition 6); 01/0075 (Condition 6) And 15/0418 (5) Relating To Hours Of Operation; Restricting The Movement Or Operation Of Vehicles Or Plant Within And To And From The Sawmill; Restricting The Despatch Of Timber Or By-Products From The Site And Deliveries Of Timber; And Restricting The Maintenance, Repair, Servicing, Replacement Or Re-Fitting Works To Plant, Equipment Or Vehicles

**Date of Receipt:**  
17/07/2019 10:00:42

**Statutory Expiry Date**  
11/09/2019 10:00:42

**26 Week Determination**  
06/07/2020

### REPORT

**Case Officer:** Stephen Daniel

The application was deferred at the Development Control Committee meeting on the 19th June 2020 in order to allow a meeting to take place between the applicant's noise consultant (WYG) and officers in Environmental Health to discuss the noise assessment undertaken to date.

At the meeting, it was agreed that additional information was required to make the noise assessment more robust and, therefore, acceptable to Environmental Health Officers. A Noise Addendum Report was subsequently submitted on 15th July 2020 and this considers the following:

- the assessment of the potential change in ambient noise levels at nearby properties;
- details of baseline and predicted noise frequency spectra;
- expanded commentary of the results in line with the guidance presented within BS4142 and the 1/3 octave method presented within the standard; and
- quantification of the effects of the proposed barriers.

The conclusions from the Noise Addendum are summarised below:

- The updated change of noise levels assessment shows that with all noise sources operating at the development, the maximum change in noise levels expected as a worst case at the modelled receptors is 2.8dB. When taking out the contribution of noise levels from the Biomass Building (which currently is operational 24 hours), the maximum change in noise levels expected is 2.1dB, which falls below the Lowest Observed Adverse Effect Level (LOAEL) (noise level changes of  $\pm 3$ dB are generally imperceptible to the human ear).

- In line with the request from Environmental Health Officers, details of the assessment results at each receptor location have been presented in-line with the guidance presented within BS4142, including consideration of the 1/3 octave method which has identified no objective tones at off-site locations. Indeed, the analysis of the LAeq and LA90 at the short-term monitoring locations during the daytime and evening, when the site is fully operational are presented in the report and clearly show that there was no tonal noise at the attended monitoring in the surrounding area whilst the facility was operational.

- The BS4142 assessment shows that during the night-time period, specifically at weekends, noise rating levels have the potential to exceed existing background noise levels by up to 11dB at the closest receptor location (R08). However, when taking the context of the assessment into account, as required by BS4142, the overall change in ambient noise level at the closest receptor locations is predicted to be less than 1dB (A) at a location that experiences regular high noise levels events from passing traffic which have a higher noise level than the predicted contribution from the development proposals.

- Given the more variable nature of road traffic contributions (e.g. rapid onset, multiple sources), which occur in greater proximity to the sensitive properties, the lower contribution from night-time site operations is not expected to have an adverse impact.

- At locations within the wider area, although the nominal overall contribution to existing ambient noise levels may be higher, cumulative noise intrusion levels are expected to remain within the target BS8233 noise intrusion criteria that relate to internal resting conditions within bedrooms during the nighttime period. As such, there are not expected to be significant adverse impacts with respect to noise.

BSW has engaged the Alderley Consulting Group (ACG) to review the noise assessment that has been prepared by WYG. ACG considers that the approach by WYG to the original impact assessment comprehensively accorded with current best practice guidance. Equipment used to measure recorded noise values and its calibration traceability is 100% appropriate. Subsequent use of recorded data, computerised extrapolation of recorded data and presentation of findings conforms to established practice whereby BS8233/WHO criteria were considered along with BS4142 guidance. Albeit Environmental Health Officers requested additional depth of detail with respect to the BS4142 assessment, this has only required WYG to publish data and findings that had already been logged and processed; there was no need for any further at-site work.

The principal conclusion as originally stated in February 2020 remains the same on

the 14th July 2020 and in response to constructive criticism from Environmental Health Officers the latest expansion of the original conclusion also remains the same. This can be summarised as follows:

To reduce noise from fixed sources of noise within the development site, mitigation measures have been designed and their benefits calculated such that noise breakout from the main sawmill building and from the noise from the log sorting conveyors will be controlled to ensure that the maximum change in noise levels will fall below the “Lowest Observed Adverse Effect Level” as defined in BS8233; as such in-line with this Standard it can be considered that the change will not be significant. The BS4142 assessment demonstrates that noise as perceived off-site at local neighbouring residences will not have any potentially disturbing tonal nature and although empirically there is the potential for a significant increase in noise over existing background noise levels in consequence of operations at the sawmill, when taken in the overall context of the location of the sawmill and other 24-hour noise sources that affect the same neighbouring residences it is concluded that there are not expected to be significant adverse impacts with respect to noise.

ACG concurs fully with the conclusions as delivered by WYG that stem from a detailed professional assessment. The systems of assessment employed focus principally on the differences between the existing and the proposed development scenarios during the night-time thereby correctly drawing attention to and addressing the worst case scenario.

Officers in Environmental Health have been consulted on the Noise Addendum. They are satisfied with the revised information and have withdrawn their objection to the proposal. They have suggested that the Noise Addendum A111870, submitted by the applicant on July 2020, should form part of the approved documents and that the following condition should be added to the consent:

Should noise complaints arise from the operation of the BSW site, it should be the responsibility of the applicant to investigate if agreed noise levels have been exceeded. A noise assessment must be carried out in accordance with BS4142 using the one-third octave method. The assessment methodology should be approved in writing by the Local Planning Authority before commencement. Within one month of notification of a complaint, BSW should forward the assessment to the Local Planning Authority and the applicant shall take such actions as are necessary to ensure that noise levels return to the agreed limit. The agreed noise limits are the predicted noise impact levels, contained within ‘Noise Addendum A111870,’ dated 14 July 2020.

Environmental Health Officers have confirmed that the following condition is no longer required as it is conflict with the condition suggested above:

Between the hours of 22:00 and 06:00, operational noise levels shall not exceed 45dB LAeq, 8 hours or 60dB L<sub>Amax</sub>(15 mins) so as to comply with, with World Health Organisation standards for restful sleep. Operational noise levels shall be measured at free-field locations representing facades of residential dwellings or via a combination of measurement and propagative calculations.

## **1. Recommendation**

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

## **2. Main Issues**

- 2.1 Whether The Removal Of Conditions Restricting The Timing Of Vehicle Movements To And From The Site Would Be Acceptable
- 2.2 Whether The Removal Of Conditions Restricting The Hours Of Use Of The Site Would Be Acceptable
- 2.3 Impact Of The Proposals On The Hadrian's Wall World Heritage Site Buffer Zone

## **3. Application Details**

### **The Site**

- 3.1 The existing sawmill site is situated approximately 500m to the east of the settlement of Cargo which lies to the north of Carlisle. The site covers approximately 15 hectares of land and is accessed via the main road (C1016) that lies to the west of the site.
- 3.2 BSW Timber Group (BSW) has occupied and operated from the site for over 30 years, and during this time the manufacturing processes and the site development has evolved. Currently, the main activities that take place are the conversion of round wood into sawn timber and co-products (chips, sawdust bark and shavings). Additional value is added to this sawn timber by further processing such as kilning, grading and crosscutting.
- 3.3 The site is adjoined to the north, east and south by railway tracks, sidings and storage areas, with the adjacent site to the north being occupied by Network Rail. Kingmoor Park Central lies to the east of the railway line, together with an area of land that is allocated for employment use. The land to the north of this is committed to residential development and forms part of the Story Crindledyke development.
- 3.4 Agricultural land and a used car dealership are located on land immediately adjoining the site to the west. The C1016 also adjoins part of the western site boundary and a large lay-by lies to the west of this road near to the main entrance into the site.

### **Background**

- 3.5 BSW is the largest integrated forestry business in the UK. It is a family-owned business that has four main operating divisions: forestry, sawmilling, timber manufacturing and energy. The group has seven sawmills in the UK – in Newbridge-on-Wye, Southampton, Carlisle, Dalbeattie, Petersmuir, Fort William and Boat of Garten – and one in Riga, Latvia. The headquarters remain in Earlstoun, Berwickshire, where the business originated.

- 3.6 BSW has 1,300 employees nationally and is passionate about creating a sustainable future for British forests and woodlands, and as such the company is a proud member of 'Grown in Britain'. There are 162 direct employees on the site at the Cargo with an additional 21 office-based Group Company employees for BSW support functions.
- 3.7 The site operates a 75-hour week and annual input is 330,000 cubic metres of roundwood and it produces 178,000 cubic metres of sawn timber.

### **The Proposal**

- 3.8 The site at Cargo is a key strategic investment location as part of the BSW portfolio. BSW operates seven sawmills across the UK, six of which have no planning restrictions on operating hours with Cargo being the only site that is restricted by hours of operation, which is making the site uncompetitive. To retain market share, it is essential that BSW has the operating flexibility to respond to surges in demand and to sustain customer confidence in continuity of supply. In addition, BSW's largest British competitor operates their largest sawmill complex only 25 miles north of Cargo without planning restrictions on hours. The BSW Cargo sawmill is therefore seriously disadvantaged by the restrictions on the operations imposed by the current planning conditions.
- 3.9 Whilst BSW has no immediate intentions to extend their sawmill operating hours, the lifting of some restrictive planning conditions would provide greater flexibility to enable them to make further investment in the Carlisle site to offset the challenging economic conditions affecting the business and to bring the site into line with other modern facilities in common with their other BSW site operations across the country.
- 3.10 The proposal is seeking to remove 15 planning conditions that relate to the following six applications:
- 90/1152 - sawmill development for the conversion of logs into sawn timber with by-products of chips, sawdust and bark (approved December 1990).
  - 92/0219 - the erection of six new kilns and an extension to sawmill building (approved June 1992).
  - 92/0733 - increase of storage areas for logs and sawn timber (approved March 1993).
  - 99/0313 - installation of cross-cut sawline incorporating new building to enclose automated saw equipment in lieu of existing manual chainsaw operations (approved June 1999).
  - 01/0075 - extension to sawmill building (revised proposal) (approved March 2001).
  - 15/0418 - single-storey extension to existing sawmill building (approved

July 2015).

- 3.11 The relevant conditions that require removal from the above planning decisions can be summarised as:

- restricting the use and hours of operation from 0600 to 2200 on Mondays – Fridays, 0800 to 1300/1800 on Saturdays and not permitting any work on Sundays or Bank Holidays;
- preventing the despatch of timber or by-products from the site and deliveries of timber to the site from 1800 to 0600 from Monday to Saturday, after 1300 hours on Saturdays and not at all on Sundays; and
- preventing the maintenance, repair, servicing, replacement or re-fitting works to plant, equipment or vehicles from 2200 to 0600 on Mondays to Fridays or before 0800 or after 1800 on Saturdays.

- 3.12 These conditions are repeated to varying degrees in each of the above planning decision notices but all have essentially the same effect. The exact wording of each of the 15 conditions that is seeking to be removed is set out below.

- 3.13 Application 90/1152 - sawmill development for the conversion of logs into sawn timber with by-products of chips, sawdust and bark. The relevant conditions that the application is seeking to remove from this planning decision are:

- Condition No. 10:

There shall be no movement or operation of vehicles or plant in the log or timber storage areas between the hours from 2200 hours to 0600 hours on Mondays to Saturdays; or after 1300 hours on Saturdays except in respect of vehicular activity relating to planned or routine maintenance, repair, servicing, replacement of machinery, plant or equipment or refitting works undertaken until not later than 1800 hours; or at any time on Sundays.

- Condition No.11:

There shall be no despatch of timber or by-products from the site and no deliveries of timber to the site between the hours from 1800 to 0600 from Monday to Saturday and after 1300 hours on Saturdays or at any time on Sundays.

- Condition No.12:

The proposed use shall only operate between the hours from 0600 to 2200 on Mondays – Fridays, 0800 to 1800 on Saturdays and not at all on Sundays or Bank Holidays.

- Condition No.16:

No maintenance, repair, servicing, replacement or re-fitting works to plant, equipment or vehicles, including testing, shall be carried out within the outdoor areas of the site between the hours 2200 – 0600 on Mondays to Fridays or before 0800 or after 1800 hours on Saturdays other than works of an essential and emergency nature where the works concerned are unable to be undertaken either during the intended production shift times or

between 1300 – 1800 hours on Saturdays when planned or routine maintenance, repair, servicing, replacement of machinery plant or equipment or refitting works can be specifically programmed.

- 3.14 Application 92/0219 - the erection of six kilns and extension to sawmill building. The relevant conditions that the applicant is seeking to remove are conditions 7, 8, 9 and 12 which are identical to the conditions listed in paragraph 3.13 above.
- 3.15 Application 92/0733 - increase of storage areas for logs and sawn timber. The relevant conditions that are seeking to be removed are conditions 7, 8, 9 and 11 which are identical to the conditions listed in paragraph 3.13 above.
- 3.16 Application 99/0313 - installation of cross-cut sawline incorporating new building to enclose automated saw equipment in lieu of existing manual chainsaw operations. The relevant condition that the application is seeking to remove from this planning decision is:
- Condition No. 6:  
The proposed use shall only operate between the hours from 06.00 to 22.00 on Mondays to Fridays, 08.00 to 13.00 on Saturdays and not at all on Sundays or Public Holidays.
- 3.17 Application 01/0075 - extension to sawmill building (revised proposal). The relevant condition that requires removal from this planning decision is:
- Condition No. 6:  
The use of the premises hereby permitted shall not commence before 0600 hours or remain in operation after 2200 hours on Mondays to Fridays, 0800 hours to 1300 hours on Saturdays and shall not operate at all on Sundays or Statutory Holidays.
- 3.18 Application 15/0418 - single-storey extension to existing sawmill building. The relevant condition that requires removal from this planning decision is:
- Condition No. 5:  
The proposed extension shall only be used between the hours of 0600 to 2200 on Mondays -Fridays, 0800 to 1800 on Saturdays and not at all on Sundays or Bank Holidays.

#### **4. Summary of Representations**

- 4.1 The application has been advertised by means of a site notice and notification letters sent to 4 neighbouring properties. In response 4 letters of objection and 8 letters of support have been received. Cllr Trevor Allison supports the application; Cllr Helen Davison has concerns about the impact of the proposal on local residents; and Cllr Gareth Ellis has requested that the application be determined by the Development Control Committee.

4.2 The letters of objection raise the following concerns:

- can hear noise from the plant;
- the prevailing wind carries the noise of the machines working in and around the site to homes at Low Crindledyke;
- the site already operates long hours and concerned that the increased noise from 24 hour operation would be detrimental to residents sleep and health;
- proposal will have a detrimental effect on those who live nearby;
- the noise from the sawmill is loud enough to disturb sleep, especially through the summer when windows are open;
- proposal is not good for the environment or public health in what is becoming any increasing populated area with new housing development at Cargo and Crindledyke both of which are very near BSW;
- there would be a significant increase in traffic movements from large wagons;
- increased operating will benefit the company financially however the quality of residents' lives are of equal if not more importance;
- residents of Phase 1 Crindledyke are already subject to noise and dust from the Woodward, the Network Rail Site and NW Recycling - the Crindledyke housing estate will extend right up to the railway line and be less than 30m from these noisy dirty sites;
- the Council has said that only planning related considerations will be taken into account when reaching a decision but the whole of BSW's argument is an economic one;
- polices seek to protect the amenity of residential areas and ensure that there is no detrimental effect on residential amenity through noise, nuisance, damage to visual amenity or increase in traffic;
- the proposed development at Crindledyke will create a residential area very near to BSW - the noise from BSW can already be heard from the gardens of properties on Fenwick Drive - those in the next phase of Crindledyke will hear noise on a 24/7 basis - this could be avoided by the council ensuring that the amenity of future residents is protected by rejecting this application.

4.3 The letters of support make the following comments:

- the sawmill is a fairly large employer in the area and the company's growth plans for the Carlisle site would be helped by a decision that allows it to operate at different hours;
- the BSW operation at Carlisle is an important part of the success of the forest industry in the Carlisle and Borders Region - it is a major contributor to local employment directly within the site and also supports significant rural employment in the local forestry sector;
- BSW is one of the largest saw milling operations in the UK and lifting the current restrictions will allow the site to compete with other saw mills on a level playing field which is imperative to the long term prosperity of the site and the 140 direct employees;
- BSW helps to ensure the availability of local domestic timber for local and regional building, fencing and packaging businesses;
- as we move towards a new situation in Europe it is even more important to protect jobs and maintain a viable local economy;



- the timber industry in the UK faces many challenges from imported products and BSW needs to have full flexibility to be able to compete in these markets;
- BSW has to compete with cheaper imported wood products and this can only be achieved through improved efficiencies and cost effective operations;
- primary processing of local wood products using locally sourced sustainable timber is key to global sustainability;
- limiting the sites operating hours is to limit the site's potential- BSW's competitors don't have the same restrictions;
- restricted operating hours is another disadvantage the Carlisle site has against competitors;
- the business needs to be able to operate at full capacity and grow to create jobs for the local community without unreasonable restrictions;
- in today's current market BSW needs to be able to operate as efficiently as possible in order to remain competitive;
- BSW are a major employer in the area and indirectly support a number of other companies which contributes to the local economy;
- extending the operating hours for BSW will allow greater output of productivity which will benefit all businesses associated with them;
- if BSW is restricted to current working practices there is the potential of lost business to competitors which will impact a number of businesses;
- the company will do everything it can to ensure that it acts in the best interests of the community if the hours of operation are extended;
- industrial activity will inevitably result in some local concerns but BSW works with its customers, suppliers and transport service providers to minimise the impact of their activities on their immediate neighbours and the wider community;
- all drivers of road haulage businesses visiting the site have been instructed and comply in using the most direct route to the A689;
- hauliers will be instructed to use direct main roads rather than travel through nearby villages;
- all haulage coming into and leaving the site will be via the bypass;
- it is likely that hauliers delivering to the adjacent railway are being confused with BSW hauliers;
- as a resident of Cargo for 20 years noise is not an issue - the sound of dogs at the local kennels close to the mill is more noticeable;
- the Port of Workington wished to offer its support to the application - BSW is a major customer, shipping cargoes of sawn timber into the port. It has attracted investment in plant and equipment, which has meant the port has expanded its workforce to facilitate the additional business from BSW;

- 4.4 Cllr Gareth Ellis has requested that the application is determined by the Development Control Committee.
- 4.5 Cllr Helen Davison has raised concerns on behalf of residents about the additional operation that will end up happening over night and the associated noise, which will have much more impact on residents than daytime noise.
- 4.6 Cllr Trevor Allison (who as City and County Councillor for the Dalston & Burgh represents Kingmoor Parish including Cargo and the Crindledyke

Estate) supports the application.

- it is clear from the number of cars in the car park that BSW is a very significant local employer. Some employees are from Cargo village close by the site.
  - after a career in manufacturing I am well aware of the impact of continuous working on operating efficiency and commercial viability. Compared to their other sites in Scotland which operate on a 24 hour basis, the Cargo site is at a commercial disadvantage. They are seeking to address this.
  - This is consistent with Policy SP1 3.2 *"The NPPF sets out a presumption in favour of sustainable development....an economic role contributing to building a strong responsive and competitive economy"* and Policy EC1 4.1 *"...a key element of the Plan's economic strategy is to support investment in existing sites to facilitate their modernisation and reconfiguration."*
  - In supporting this application appreciate that there are a small number of respondents with concerns about noise and traffic which may lead to the application going before committee rather than under delegated powers.
  - note that Rockcliffe Parish Council has no objection and that at their last meeting, Kingmoor Parish Council resolved to support the application.
  - A Cargo resident described BSW as a "good neighbour for the community"
- of the statutory consultees, Highways are now satisfied that the C1016 is capable of carrying any potential increase in HGV traffic. The recommendations from the City Council Environmental Health are negative and relate largely to potential noise and traffic nuisance.
- BSW and their neighbour Railtrack are located on the long established industrial land of the Marshalling Yard, sandwiched between the C1016 and the railway line. Cargo's Edenside estate is 400m from BSW with 4 dwellings opposite the entrance to the Rail site on the C1016 and BSW about 150m distance towards the CNDR roundabout. The Crindledyke estate is 1,700m north east of BSW at the other side of the Strategic Employment site plus an adjoining area designated for further industrial development in the CDLP.
- I subjectively assessed the noise generated by the site both during the day and early evening when traffic volumes had subsided. At Crindledyke a low distant noise could be heard from the land at the rear of both ends of Fenwick Drive but was non existent on the frontage. At the perimeter fence of the Rail and BSW sites at Cargo I judged both sites to be similar with most noise from fork lift truck activity. New buildings on the designated development site rather than open countryside may well have the same sound blocking effect as at Fenwick Drive.
- to put this in perspective, the traffic and industrial noise is far less than the 24 hour traffic noise at other locations such as the housing developments bordering the M6 motorway which have been granted permission.
- at Cargo, noise can occasionally be heard emanating from the operations on the other side of the C1016. Although I have never had a complaint in my time as a councillor, this can best be assessed by measurement as proposed by Environmental Health and addressed through "Conditions".

- in January 2019 as part of the Cargo Cycleway Project (which has wide support from Cargo residents) a traffic monitoring device (ATC) was installed for a week on the C1016 between the BSW site and the CNDR roundabout.

- HGVs represent 16.6% of total traffic, of which a significant proportion are clearly not BSW related. In fact some HGVs with timber are destined for the neighbouring Rail depot.

- best estimate suggest that there are already around 20 HGVs per day on the C1016 outside of BSW's current working day some during the early hours.

- the issue of turning right when exiting the BSW site I understand is the subject of discussions with the applicant. Turning left onto the C1016 is an issue that has been raised with me by residents and at the parish council. HGVs exiting to the left, cross over onto the opposite carriageway to make the turn. A re-profiling of the left hand side of the exit could facilitate a quieter smoother exit.

- the 7 day assessment illustrated a greater proportion of car traffic with an increase in late night/early hours movements.

- hopefully you will be able to address concerns expressed in submissions and use appropriate conditions to protect local residents.

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

**Kingmoor Parish Council:** - fully supports the application;

**Rockcliffe Parish Council:** - has no comments to make;

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections - the proposal will not be increasing the vehicle usage of the C1016 and the applicant has implemented a policy to prevent HGVs from entering the site via Rockcliffe;

**Local Environment - Environmental Protection:** - the conditions to be removed have been attached to the existing planning permission over a long period of time. The intention is to restrict noise levels generated on site and restrict noise created from vehicular movements to and from the site. The conditions are in place to protect residential amenity of nearby residents. The restrictions are also intended to reduce the likelihood of complaints and prevent the facility from causing a statutory nuisance.

There are a large number of residential receptors in the vicinity of BSW. This proposal would increase the levels of noise, which is likely to affect these properties. This is of particular concern during night time hours. The surrounding rural area is inherently quiet during the night, therefore any increase in noise, above background levels, has the potential to be problematic.

The existing conditions which limit noise are not considered to be sufficient to protect nearby residents from noise nuisance. HGVs associated with BSW routinely use the C1016 towards Rockcliffe and the C1015 towards Todhills and pass a number of residential properties and housing estates. They also routinely use the Network Rail entrance to the site which is located directly opposite several residential properties. The noise caused by HGV movements could result in disturbance during the night if the conditions are removed.

The applicant has provided insufficient information to allow a decision to be made on this application at this stage. There is a notable absence of any on site noise monitoring or any report detailing current noise emissions from the site. It is recommended, as a minimum, that the applicant carries out a noise report in accordance with BS4142, using the one-third octave method. This should detail all current and expected future noise levels at several of the nearest sensitive receptors.

The application is contrary policies SP6, SP9 and HO12 of the Carlisle District Local Plan 2015-2030.

A Noise Assessment was submitted in February 2020, but this is not in accordance with BS4142 as requested - it needs to be revised to include a full BS4142 assessment. More information is requested in relation to the tonal nature of the noise; how the existing baseline levels were obtained at the nearest resident receptors; the application of a 30db sound reduction for single glazed window; and the proposed on-site mitigation measures, including why the measures have been selected and expected noise attenuation levels that will be achieved. The report demonstrates that the proposal is expected to exacerbate night time sound levels at the nearest residential receptors.

**Historic England - North West Office:** - does not wish to offer any comments.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP1, SP2, SP5, SP6, SP9, IP2, CM5 and HE1 of the Carlisle District Local Plan 2015-2030. Both national and local plan policies seek to promote economic development and also to protect residential amenity.

- 6.3 The proposal raises the following planning issues.
1. Whether The Removal Of Conditions Restricting The Timing Of Vehicle Movements To And From The Site Would Be Acceptable
- 6.4 Whilst there are no properties opposite the main access to the site, a number of HGVs travelling to and from the sawmill site used the route through Cargo and Rockcliffe. A number of residential properties lie in close proximity to the roadside along this route and the Council was concerned that noise and vibration from these HGVs during the evening, at night and at weekends would have an adverse impact on the living conditions of the occupiers of these properties.
- 6.5 As a consequence, planning conditions were placed on applications 90/1152 (condition 11), 92/0219 (condition 8) and 92/0733 (condition 8) to prevent the despatch of timber or by-products from the site, and deliveries of timber to the site, between 1800 and 0600 Monday to Saturday and after 1300 hours on Saturday and at no time on Sundays. Further conditions (condition 10 on application 90/1152 and condition 7 on applications 92/0219 and 92/0733) also prevent the movement of vehicles in the log storage areas between 2200 hours and 0600 hours on Mondays to Saturdays or after 1300 hours on Saturdays with none permitted on Sundays.
- 6.6 The introduction of the Northern Relief Road has enabled commercial traffic to access the BSW site directly from the M6 via junction 44 and the A689. The total distance travelled by vehicles between Junction 44 to the sawmill site is 2.5 miles, which can be covered in 5 minutes comprising a mix of dual and single carriageway and which is suitable for HGVs. In addition, commercial traffic travelling to West Cumbria can likewise use the new A689, which by-passes any local settlements around the west of Carlisle before reaching the A595 the main strategic route to Workington and Whitehaven.
- 6.7 These changes have meant that commercial vehicles using the BSW site no longer need to use the local minor roads (such as via the road up to Rockcliffe, or via Harker) to get access to the wider local and national transport network.
- 6.8 A Traffic Management Plan has been submitted with the application. This includes a copy of a letter which has been sent out to all hauliers accessing the site. This letter gives explicit instructions that all vehicles are to approach the sawmill site from the south along the A689. The instruction includes a map showing that vehicular access to the site from the northern direction is not permitted by BSW. This instruction has now been put in place since November 2019 as part of the overall management plan for the site.
- 6.9 In addition, BSW has erected a directional sign at the exit from its site making it clear that all HGV vehicles leaving their premises must not turn right (towards Cargo/ Rockcliffe). BSW is also proposing to put in place

CCTV camera surveillance at the entrance and exit to the site so that they can monitor all vehicles entering and leaving their site. Should any HGV driver not abide by the new instruction they will be contacted and will be informed as to how they will be expected to reach the site in future. In addition, BSW has produced an engineering drawing and has a quote for improving the access for vehicles turning left out of the site and these works are currently awaiting budget approval.

- 6.10 In light of the above, the existing conditions referred to in paragraph 6.5, to restrict the timing of the despatch of timber or by-products from the site and deliveries of timber to the site and the conditions to prevent the movement of vehicles in the log storage areas at certain times are no longer considered to be necessary. A new condition has been added to the permission to ensure that HGVs visiting the site comply with the Traffic Management Plan (which requires HGVs visiting and leaving the site to use the Northern Relief Road). The existing condition that limits noise levels at the site boundary would be replaced by a condition that would measure noise levels at any existing properties and this in with current planning guidance and World Health organisation standards for restful sleep. In addition, the condition that restricts the number of HGV movements entering and leaving the site to 208 in total per working day would be retained.

2. Whether The Removal Of Conditions Restricting The Hours Of Use Of The Site Would Be Acceptable

- 6.11 The applicant is keen to remove the conditions which currently restrict the hours that the site can operate. Five applications that have previously been approved contain conditions that restrict the hours of use of the site (conditions 10, 12 and 16 of application 90/1152; conditions 7, 9 and 12 of application 92/0219; conditions 7, 9 and 11 of application 92/0733; condition 6 of application 99/0313; condition 6 of application 01/0075; and condition 5 of application 15/0418). The site is currently permitted to operate from 0600 to 2200 hours from Monday to Saturday and from 0800 to 1800 hours on Saturdays (with some parts of the site only allowed to operate until 1300 hours on Saturday). There is an existing condition in place which restrict noise levels at the site boundary and this would remain in place (but would be amended to bring it in line with current best practice).
- 6.12 Following initial comments from Environmental Health, the applicant has submitted a Noise Assessment. This considers the effects of extended night time operations at the BSW site at existing and proposed residential receptors. A monitoring survey was undertaken to characterise the baseline ambient noise levels currently experienced on the site using nine locations. These locations included sensors positioned in proximity to the nearest residential properties that are located opposite the entrance to the Network Rail site as well as nearby residential properties in the village of Cargo itself. It should be noted that there are no residential properties located opposite the BSW site entrance, apart from a dilapidated building beside the lay-by opposite the entrance.
- 6.13 The Noise Assessment incorporated a range of potential mitigation

measures that are proposed to be implemented at the site. The assessment included the beneficial effects of closed roller-shutter doors to the main building. The other measures chosen to be taken forward as being the most effective in terms of noise reduction are the installation of 4.5m high barriers adjacent to the log sorting and conveyor machinery. These on-site mitigation measures could be ensured by planning condition.

- 6.14 The Noise Assessment measured the external noise levels at nearby sensitive receptors based on measurements undertaken during the existing baseline night-time period monitoring. The Noise Assessment then measured the external noise levels at nearby sensitive receptors with combined sources of potential noise associated with extended operating hours, including all measured operating activities during the day.
- 6.15 The Noise Assessment demonstrates that existing internal noise levels at the nearest residential receptors are predicted to be within the BS8233/WHO noise intrusion criteria at the majority of existing receptors with windows closed. The internal noise levels at two properties (Chapel Cottages and Wood Villa which lie adjacent to the C1016) which are the two closest receptors to the site, are currently above the BS8233/WHO noise intrusion criteria with windows open and closed. This is likely to be due to noise from traffic travelling along the C1016, from HGVs accessing the Network Rail site which has an access opposite these dwellings, from the railway and possibly from the neighbouring kennels.
- 6.16 Even with the extended operating hours (including continuous use of the log sorters and conveyors, main sawmill building and vehicle movements around the site) the internal noise levels from the proposed development are predicted to be within the BS8233/WHO noise intrusion criteria at the majority of existing receptors with windows closed. The internal noise levels at two properties (Chapel Cottages and Wood Villa) would be above the BS8233/WHO noise intrusion criteria with windows closed. Existing night time noise levels at these dwellings are, however, already above the BS8233/WHO noise intrusion criteria.
- 6.17 The Noise Assessment includes a cumulative comparison of the difference between the existing conditions and the contribution from the proposed development involving night time operations. The conclusion from the cumulative comparison is that the use of the site during the night is not expected to significantly increase existing noise levels. The expected increases range from 0.1dB (at Chapel Cottages and Wood Villa) to no greater than 1.4dB at all receptors, which is considered to be not significant. Accordingly, the proposed operations are not expected to have a significant 'adverse impact' on health or quality of life at nearby dwellings and satisfies the relevant policy considerations set out in the NPPF.
- 6.18 It should be noted that the Noise Assessment represents a worst-case scenario. The likelihood is that the effects would be less than demonstrated in the Noise Assessment.
- 6.19 It is worth pointing out that the vast majority of the HGVS (82.76%) travelling

along the C1016 are not attributable to BSW. The entrance to the Network Rail site is located 245m to the north of the BSW site entrance and this site accounts for a number of the HGV movements, with HGVs delivering timber and concrete sleepers for subsequent loading onto freight trains for onward transit. The use of the Network Rail site is unrestricted and contributes to the existing night time noise. This has perhaps led to a degree of public misunderstanding as to where noise actually emanates from in the locality.

- 6.20 Officers in Environmental Health note that the Noise Assessment refers to BS8233 and that it is not in accordance with BS4142. The report should be revised to include a full BS4142 assessment. It has also requested more information on: the tonal nature of the noise which might lead to a tonal penalty being applied; as to how the existing baseline levels were obtained at the nearest residential receptors; the application of a 30db sound reduction for single glazed windows; and the reason why the on-site mitigation measures have been selected and the expected noise attenuation levels that are expected to be achieved. The report states that night time sound levels at the nearest residential receptors do not meet the requirements of BS8233, either before or after the proposed extension of hours and demonstrates that the proposal is expected to exacerbate this noise problem at these properties.

- 6.21 Environmental Consultants at WYG have provided a response (dated 7th April 2020) to the issues raised by Environmental Health.

- as part of the noise survey and noted within the noise assessment, attended noise measurements of operational activities and machinery were undertaken across the application site. In total 19 measurements were taken of different machinery across the application site. From the measurements, only the use of the log conveyor into the building displayed tonal characteristics but no readily distinguishable tonal noise was observed off-site.

- a Noise Assessment in line with BS4142 has been undertaken. Whilst this identifies that during the night-time noise levels have the potential to be significantly above existing background levels, this is based on the worst-case assumption of all the machinery and processes operating at once (which is unlikely).

- although the attended baseline noise survey measurements were not taken at the façade of nearby dwellings due to the number of dwellings and access restrictions at third-party properties, they were taken at representative locations for the closest existing receptor locations. Additionally, long-term noise measurements were taken around the application site to gather representative typical free-field noise levels of the processes that occur at the site.

- a single glazed window was used as a worst-case assumption within the noise assessment for the existing residential dwellings. Based on the sound insulation software Insul 9.0, a single glazed window of 6mm thickness would be expected to achieve an overall reduction of 30dB Rw, which is



considered representative of typical residential dwellings (although it should be noted that many benefit from double glazing).

- the changes in noise levels at nearby properties are not expected to be significant. Indeed, cumulative noise intrusion levels at the location where the largest nominal change in noise level is predicted (1.4 dB at Cervantes in Cargo) are below the BS8233 guideline values. At the closest properties to the development site where the residual acoustic environment is dominated by regular contributions from passing road traffic along the road parallel to the site, the predicted contribution to overall noise levels is 0.1 dB (noise level changes of up to  $\pm 3$  dB are generally imperceptible to the human ear, and the overall contribution does not exceed this and is, therefore, considered not significant). As a consequence, internal resting conditions are not expected to be adversely affected.

- as detailed in the WYG Noise Assessment February 2020, mitigation measures are proposed to control noise from within the site at-source, including the provision of localised 4.5m high acoustic barriers adjacent to the log sorting machinery and conveyor. Furthermore, the assessment includes the beneficial effects of closed roller-shutter doors to the main building. The closed roller-shutter door is proposed as a mitigation measure to ensure noise levels from the machinery that operate inside the building are kept to a minimum. The inclusion of a 4.5m barrier adjacent to the log conveyor belt is deemed the most appropriate form of mitigation along a noisy section of machinery to assist in controlling noise levels at source. Consideration was given to the provision of acoustic barriers at the boundary of the site, however, given the distance from the fixed machinery on site and variable locations of mobile plant and the presence of large stocks of timber across the site which provide some screening already, the effectiveness of alternative barriers would be reduced.

6.22 Officers in Environmental Health still consider that a full BS4142 noise assessment should be carried out. This should disclose the monitoring results and be in line with the BS4142 methodology in order to make an informed decision and give confidence that nearby residents will not be adversely affected by activities from this site in the future. Any further monitoring and assessment should be undertaken once “lockdown” restrictions are lifted and the site is operating at “normal” level. Concerns have also been raised about why the measurements were not taken at the façade of the properties and that a difference of 11dB at the nearest properties which has been identified in the latest noise report is significant.

6.23 Environmental Consultants at WYG have provided a response (dated 11th May 2020) to the issues raised by Environmental Health.

- the previous WYG response (Dated 7th April 2020) includes a specific assessment in accordance with the requirements of BS4142:2014 + A1:2019 which measured the existing baseline conditions and sources of noise separately. As the application is to extend the operating hours to include night-time, measurements of the machinery were undertaken during the daytime period during existing operational hours, whilst measurements

of the existing baseline noise levels were undertaken during the night-time period. The source noise levels from each individual measured operation were then input into Cadna noise modelling software to propagate the noise levels to the nearby properties and compared to the representative background (LA90) noise levels. This approach is outlined at section 7.3.6 of BS4142, which outlines a method to “determine the specific sound level by calculation alone if measurement is not practicable, for example if the source is not yet in operation.” This approach also allows for the specific source level to be calculated where it is “composed of contributions from several sources which have been measured separately and, if necessary, corrected for propagation effects.” This approach also allows for specific configurations of plant and activities to be represented, as well as for mobile plant to be assessed at different locations and reduces the uncertainty of measuring noise levels from multiple sources at receptor locations that may not be readily identifiable, or influenced by external noise sources.

- the baseline noise monitoring locations are considered to be representative of existing night-time conditions at the closest sensitive receptors, in the absence of the specific noise source. It should be noted that this approach is outlined within BS4142 (section 8.1.2), which states that “where possible, measure the background sound level at the assessment location(s), if this is not possible measure at an alternative location where the residual sound is comparable to the assessment location(s).” In this instance, it was not possible to measure in all private gardens or at the facades of each property that was assessed during the night-time period. However, long-term and short-term noise meters were located close to representative residential receptors used within the assessment. Furthermore, in accordance with BS4142 (section 6.2) noise measurements were undertaken 1.2m-1.5m above ground and were located at least 3.5m from reflective surfaces such as buildings etc.

- as detailed in the previous set of WYG comments, although the BS4142 assessment identified rating noise level which is up to 11dB above background at Wood Villa, Cargo, it was identified that the assessment undertaken is considered to represent a worst case scenario with all plant operating simultaneously, which is highly unlikely to occur. Additionally, the residual acoustic environment is considered to remain constant, with regular contributions from passing road traffic along the road adjacent to the site and railway noise affecting the closest sensitive receptor locations. Considering the more variable nature of road traffic contributions (e.g. rapid onset, multiple sources) which are also expected to be slightly noticeable to residents who are already awake, the contribution from night-time site operation is not expected to have an adverse impact.

- 6.24 The agent considers Environmental Health Officer's request for a full BS4142 monitoring and assessment to be undertaken once “lockdown” restrictions are lifted and the site is operating at “normal” level is both unrealistic and seriously damaging. ‘Lockdown’ is going to extend for the foreseeable future and BSW need a positive decision to get the flexibility they need – this is now getting very urgent. There seems to the agent to be no comprehension of the damage that is being done to the UK economy with

Covid, and at this time Officers should be even more conscious of the need to find positive ways to enable economic development to take place, and to allow businesses to operate flexibly, such as BSW.

- 6.25 Whilst Environmental Health Officers consider that a full BS4142 noise assessment should be submitted, the applicant has provided a robust noise assessment, as well as an additional assessment which considers the effects of the proposals in line with the guidance presented within BS4142, which demonstrates that, with appropriate mitigation (which would be secured by condition), the increased noise from the operation of the site at night time would not have a significant impact on the amenity of occupiers of existing dwellings (with the overall change in noise exposure being a maximum of 1.4dB at all receptors).
- 6.26 The existing condition that limits noise levels at the site boundary would be replaced by a condition that would measure noise levels at any existing properties and this in line with current planning guidance and World Health Organisation standards for restful sleep. A further condition has also been added to the permission which requires the applicant to investigate any noise complaints from the operation of the plant to assess if the agreed noise levels have been exceeded. The applicant would be required to submit a noise report to the local planning authority and take such actions as are necessary to ensure that noise levels return to the agreed limit.
- 6.27 In light of the above, the proposal to remove, the existing conditions referred to in paragraph 6.11, which restrict the hours that the site can operate, would be acceptable.

### 3. Impact Of The Proposals On The Hadrian's Wall World Heritage Site Buffer Zone

- 6.28 The only physical changes to the site that would result from this application would be the erection of two sections of 4.5m high acoustic fencing within the site. The fencing would be set back within the site and would largely be screened by the existing buildings or the existing boundary treatment. The proposal would not, therefore, have an adverse impact on the Hadrian's Wall World Heritage Site Buffer Zone

## Conclusion

- 6.29 The proposal to remove 15 conditions from 6 planning applications that relate to the following matters are considered to be acceptable:
- restricting the use and hours of operation between the hours from 0600 to 2200 on Mondays – Fridays, 0800 to 1300/1800 on Saturdays and not at all on Sundays or Bank Holidays;
  - preventing the despatch of timber or by-products from the site and deliveries of timber to the site from 1800 to 0600 from Monday to Saturday, after 1300 hours on Saturdays and not at all on Sundays; and
  - preventing the maintenance, repair, servicing, replacement or re-fitting works to plant, equipment or vehicles from 2200 to 0600 on Mondays to

Fridays or before 0800 or after 1800 on Saturdays.

- 6.30 The existing condition that limits noise levels at the site boundary would be replaced by a condition that would measure noise levels at any existing properties and this in with current planning guidance and World Health organisation standards for restful sleep. New conditions have been added to the permission to ensure that HGVs visiting the site comply with the Traffic Management Plan (which requires HGVs visiting and leaving the site to use the Northern Relief Road); to secure the implementation of the mitigation measures outlined in the Noise Assessment; and to require the applicant to investigate any noise complaints from the operation of the plant to assess if the agreed noise levels have been exceeded. The applicant would be required to submit a noise report to the Local Planning Authority and take such actions as are necessary to ensure that noise levels return to the agreed limit.

## **7. Planning History**

- 7.1 There is an extensive planning history relating to the use of the site as a sawmill.

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

1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
1. the submitted planning application form, received 17th July 2019;
  2. Location Plan/ Site Plan (Dwg No. R-GO-GE-02-00-002), received 17th July 2020;
  3. Planning Statement, received 17th July 2020;
  4. Noise Assessment, received 10th February 2020;
  5. Letter from WYG dated 7th February 2020 (received 10th February 2020), which contains the Traffic Management Plan;
  6. Noise Addendum, dated 14th July 2020 (received 15th July 2020);
  7. the Notice of Decision;
  8. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

2. Should noise complaints arise from the operation of the BSW site, it should be the responsibility of the applicant to investigate if agreed noise levels have been exceeded. A noise assessment must be carried out in accordance with BS4142 using the one-third octave method. The assessment methodology should be approved in writing by the Local

Planning Authority before commencement. Within one month of notification of a complaint, BSW should forward the assessment to the Local Planning Authority and the applicant shall take such actions as are necessary to ensure that noise levels return to the agreed limit. The agreed noise limits are the predicted noise impact levels, contained within 'Noise Addendum A111870,' dated 14 July 2020.

**Reason:** To ensure that the proposal would not have an adverse impact on the living conditions of the occupiers of neighbouring properties, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

3. Prior to the site being brought into use between 2200 hours and 0600 hours Monday to Saturday, after 1300 hours on Saturdays or on Sundays, the mitigation measures contained within the Noise Assessment (produced by WYG dated February 2020 Report, received 10th February 2020) shall be fully implemented and shall remain in place at all times thereafter.

**Reason:** To ensure that the proposal would not have an adverse impact on the living conditions of the occupiers of neighbouring properties, in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

4. All HGVs entering and leaving the site shall do so in accordance with the details set out in Traffic Management Plan contained within a letter from WYG dated 7th February 2020 and received on 10th February 2020.

**Reason:** To protect the residential amenity of existing areas in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

5. Unless otherwise approved in writing by the local planning authority, the number of heavy goods vehicle movements entering and leaving the site shall not exceed 208 in total per working day.

**Reason:** To ensure that the proposed development does not generate an unacceptable burden of heavy goods vehicles, in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

6. A record of all heavy goods vehicles entering or leaving the site shall be maintained by the application at all times and access to this record shall be afforded to the local planning authority as requested.

**Reason:** To ensure that the traffic levels entering and leaving the site can be monitored, in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

7. The existing landscaping along the boundaries of the site, which helps to screen the site, shall be maintained to the satisfaction of the local planning authority.

**Reason:** To ensure that the proposal does not adversely affect the visual amenity of the area, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

8. Materials shall not be stacked or deposited at a height exceeding 4m above the adjacent ground level of the proposed site.

**Reason:** To ensure that the proposal does not adversely affect the visual amenity of the area, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

9. No cross-cut operations shall be undertaken within the open areas of the site.

**Reason:** To ensure that the proposal would not have an adverse impact on the living conditions of the occupiers of neighbouring properties, in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

10. Kiln drying of timber shall take place prior to any treatment process or impregnation.

**Reason:** To ensure that the proposal would not have an adverse impact on the living conditions of the occupiers of neighbouring properties, in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

11. All fuel and chemical tanks shall be surrounded by protective sealed bund walls with no outlets, the capacity of which shall be equal to the largest tank within the bund plus 10%.

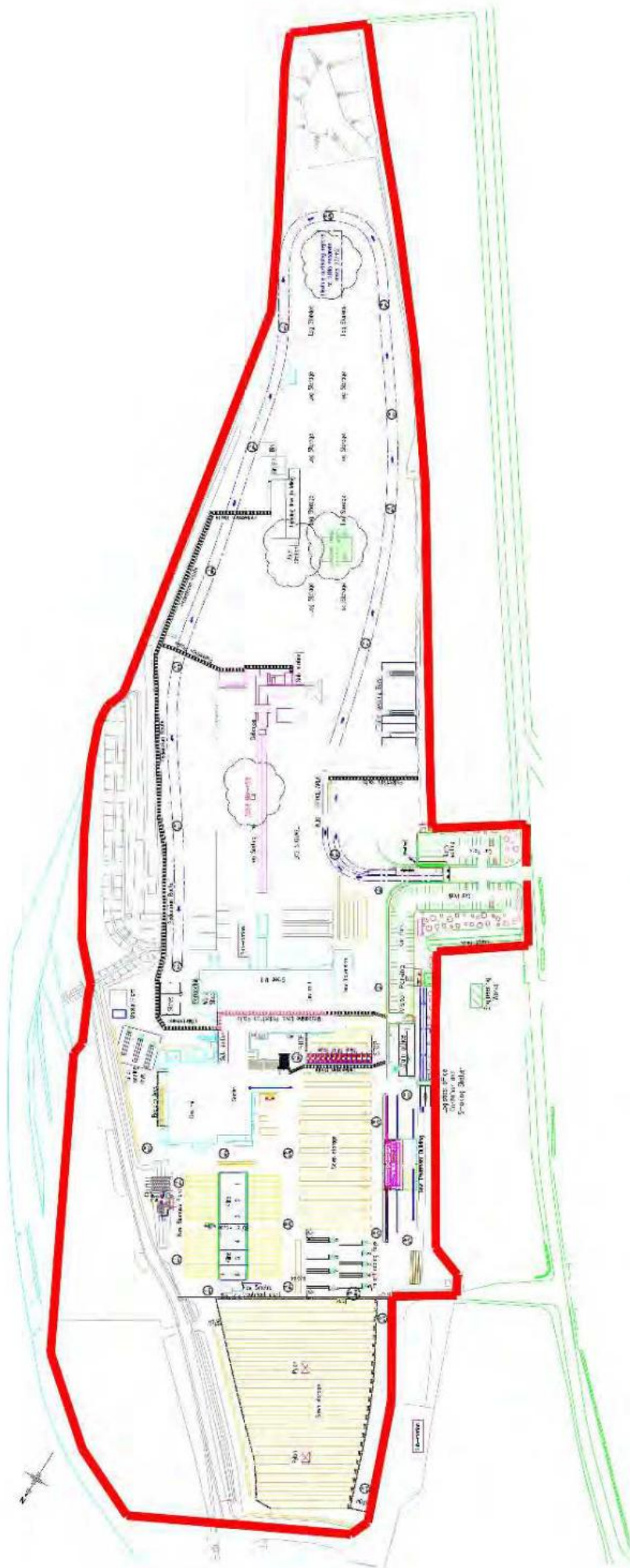
**Reason:** To ensure that the proposal would not have an adverse impact on the environment, in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

12. All areas used for the handling, loading and unloading of fuels, oils, chemicals, or effluents must have an impermeable base to prevent discharge of contaminated drainage or accidental spillages to underground strata or surface waters.

**Reason:** To ensure that the proposal would not have an adverse impact on the environment, in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

13. Only totally uncontaminated surface water shall be discharged to any watercourse.

**Reason:** To ensure that the proposal would not have an adverse impact on surface water, in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.



1. Design	2.00 - 1.00	3.00 - 1.00
4. Construction	5.00 - 1.00	6.00 - 1.00
7.00 - 1.00	8.00 - 1.00	9.00 - 1.00
10.00 - 1.00	11.00 - 1.00	12.00 - 1.00
13.00 - 1.00	14.00 - 1.00	15.00 - 1.00
16.00 - 1.00	17.00 - 1.00	18.00 - 1.00
19.00 - 1.00	20.00 - 1.00	21.00 - 1.00
22.00 - 1.00	23.00 - 1.00	24.00 - 1.00
25.00 - 1.00	26.00 - 1.00	27.00 - 1.00
28.00 - 1.00	29.00 - 1.00	30.00 - 1.00
31.00 - 1.00	32.00 - 1.00	33.00 - 1.00
34.00 - 1.00	35.00 - 1.00	36.00 - 1.00
37.00 - 1.00	38.00 - 1.00	39.00 - 1.00
40.00 - 1.00	41.00 - 1.00	42.00 - 1.00
43.00 - 1.00	44.00 - 1.00	45.00 - 1.00
46.00 - 1.00	47.00 - 1.00	48.00 - 1.00
49.00 - 1.00	50.00 - 1.00	51.00 - 1.00
52.00 - 1.00	53.00 - 1.00	54.00 - 1.00
55.00 - 1.00	56.00 - 1.00	57.00 - 1.00
58.00 - 1.00	59.00 - 1.00	60.00 - 1.00
61.00 - 1.00	62.00 - 1.00	63.00 - 1.00
64.00 - 1.00	65.00 - 1.00	66.00 - 1.00
67.00 - 1.00	68.00 - 1.00	69.00 - 1.00
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76.00 - 1.00	77.00 - 1.00	78.00 - 1.00
79.00 - 1.00	80.00 - 1.00	81.00 - 1.00
82.00 - 1.00	83.00 - 1.00	84.00 - 1.00
85.00 - 1.00	86.00 - 1.00	87.00 - 1.00
88.00 - 1.00	89.00 - 1.00	90.00 - 1.00
91.00 - 1.00	92.00 - 1.00	93.00 - 1.00
94.00 - 1.00	95.00 - 1.00	96.00 - 1.00
97.00 - 1.00	98.00 - 1.00	99.00 - 1.00
100.00 - 1.00	101.00 - 1.00	102.00 - 1.00



# 19/0556 Aerial Location Plan





## SCHEDULE A: Applications with Recommendation

19/0869

Item No: 02

Date of Committee: 14/08/2020

**Appn Ref No:**  
19/0869

**Applicant:**  
Cumbria Wildflowers Ltd

**Parish:**  
Orton

**Agent:**  
WYG

**Ward:**  
Dalston & Burgh

**Location:** Cumbria Wildflowers, The Stables, Great Orton, Carlisle, CA5 6NA

**Proposal:** Use Of Former Stable Building And Erection Of Extension To Provide Storage Facilities; Reconfiguration Of Staff And Visitor Parking Facilities; Retention And Extension Of Administration Building; Siting Of Polytunnel; Erection Of Potting Shed; Erection Of Tray Filling Building; Change Of Use Of Land From Meadow To Hardstanding; Installation Of Standalone Solar Panels; Erection Of Additional Greenhouse (Part Retrospective)

**Date of Receipt:**  
25/11/2019

**Statutory Expiry Date**  
20/01/2020

**26 Week Determination**  
24/04/2020

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### REPORT

**Case Officer:** Richard Maunsell

### ADDENDUM REPORT

The application was presented to Members of the Development Control Committee on the 19th June 2020 with a recommendation that the application was approved subject to the imposition of eight conditions.

Conditions 1 and 2 are standard conditions relating to the timescale for implementation and the list of approve documents. No issues were raised in the discussions about these conditions.

The agent has submitted a Management Plan and associated documents which are reproduced following this report.

#### Condition 3

*"Within 6 months from the date of this permission, details of the means of siting and construction details within the application site of means to prevent plant and machinery breaching the boundary with the neighbouring property 'Stonerigg' shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed in accordance with the approved details and*

*retained thereafter.”*

Members may recall that this condition was recommended to protect the boundary from machinery as a result of the questions that were raised regarding the structural integrity of the horizontal telegraph installed by the applicant. Through further discussions, the applicant has confirmed that the imposition of this condition is acceptable.

#### Condition 4

*“No plant or machinery shall be operated on any part of the application site between the gable of the Seed Store and the north-east boundary of the 'Existing Meadow enhanced by wildflower planting' shown on the Site Plan As Proposed (Drawing no. 6NA 06) received 20th November 2019 before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or statutory holidays).”*

Through discussions with the applicant, he has highlighted that this condition is too onerous. In terms of imposing a planning condition, Paragraph: 003 Reference ID: 21a-003-20190723 Revision date: 23 07 2019 of the NPPG states:

*“What approach should be taken to using conditions?”*

*What should a local planning authority do to ensure that the tests in national policy have been met?*

*Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:*

- 1. necessary;*
- 2. relevant to planning;*
- 3. relevant to the development to be permitted;*
- 4. enforceable;*
- 5. precise; and*
- 6. reasonable in all other respects.*

*These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.”*

The applicant has raised concerns about the imposition of such a condition in its original form. It is stated that the adjacent meadow is used by sheep which graze the land and during period when the meadow is not being cultivated for seed. When it is, the plants on the land are allowed to grow and machines are used to harvest the seeds.

The Management Plan suggests a revision to the wording of the condition which reads:

*“All ancillary plant or machinery, other than those to be stored within the proposed leanto store, shall be parked on the north-western boundary of the site or within the temporary drop-off point as shown on Figures 3 and 5 of the Management Plan*

*submitted with this application dated 22nd July 2020, and shall be used in association with the maintenance of the land and buildings contained within the land outlined in red on Site Plan CA5 6NA 12 JR Proposed 16-11/19 as submitted on the 20th November 2019, or as part of the operation of Cumbria Wildflowers Ltd.”*

The revised wording is specific insofar as it only allows machinery in this area which would be used in association with the maintenance of the land thereby addressing the concerns aired during the previous meeting about the storage of large plant and machinery such as excavators etc.

It is also highlighted that this area would be used as a temporary drop-off area for equipment of materials/ compost.

It states in paragraph 3.1.1. of the Management Plan that:

*“To ensure the safe management of machinery and implements there has to be a workable area where tractors or trailers can reverse safely (Figure 5). Equipment sometimes has to be picked up and dropped off in the area as part of the working day. It means occasionally equipment if left in the rear area until is needed. The area design allows for safe working and the safe area to reverse and pick up implements.”*

#### Condition 5

*“No waste shall be burned on any part of the application site between the north-east gable of the Seed Store and the north-east boundary of the 'Existing Meadow enhanced by wildflower planting' shown on the Site Plan As Proposed (Drawing no. 6NA 06) received 20th November 2019.”*

The applicant has stated that some waste was historically burnt on the site when it was first purchased and he was in the process of clearing waste from the site. He has also confirmed that this practice no longer takes place and that he accepts the imposition of the condition.

#### Condition 6

*“No chipping of timber or wood products shall take place on any part of the application site between the north-east gable of the Seed Store and the north-east boundary of the 'Existing Meadow enhanced by wildflower planting' shown on the Site Plan As Proposed (Drawing no. 6NA 06) received 20th November 2019.”*

The submitted Management Plan suggests a revision to the wording of the condition which would read as follows:

*“The chipping of timber or wood products for use in the biomass boiler shall take place in accordance with the Management Plan submitted with this application dated 22nd July 2020, and shall be restricted to the north western part of the site as shown on Figure 3 and 4 of the Management Plan”.*

The Management Plan identifies:

1. an area where the timber would be stored;
2. chipping would only take place on a dry day following 2 previous dry days;
3. chipping will be undertaken on a low wind day and will ensure the wind direction south west or southerly direction to ensure there is no chance of any dust moving towards the neighbouring property;
4. chipping would be undertaken during work hours in a workweek the start time being after 8:30 am and all chipping will be completed by 3:00 pm on the same day;
5. the maximum number of chipping events in anyone calendar year is 3 but more likely to chipping events;
6. wood chipping will be undertaken using biomass specified wood chipper which has a number of dust and chip protection measures within the machine;
7. the chipper will be orientated with the chipper shoot placed next to a sheeted tractor trailer and once full loaded into the large barn.

#### Condition 7 -

*“No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or statutory holidays).”*

The wording of this is standard across construction sites across the district and includes working times that are normal practice. The applicant has confirmed that he accepts the imposition of the condition.

#### Condition 8

*“In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared which is subject to the approval in writing of the local planning authority. Further guidance can be found on the Carlisle City Council website “Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers.”*

*Site investigations should follow the guidance in BS10175:2011 (or updated version) “Investigation of Potentially Contaminated Sites.- Code of Practice ”.*

*Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.”*

This is a standard condition where there is the potential for contamination on a site and is recommended by Environmental Health Officers. The applicant has confirmed that he accepts the imposition of the condition.

#### **Conclusion**

Through discussions with Officers, the applicant has agreed to the imposition of six

of the eight conditions without review or amendment. This process has further served to highlight the operational needs of the applicant's business which is a material consideration in the determination of this application.

Central to the Officer's report and the debate at the previous Development Control Committee meeting was the potential impact on the occupiers of the neighbouring property and this still remains the case. Planning policies are robust in advising that where proposals would have a demonstrable negative impact on the occupiers of the neighbouring properties, planning applications should be refused. The advice in the NPPG is that *"a condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development."* It is evident from the objections received that the issues and concerns profoundly detailed against the application that the activities generating noise and disturbance etc. already take place.

Through the retained original six conditions and the variation of the remaining two conditions in respect of the chipping of wood and the storage of machinery as detailed in the foregoing paragraphs, it is considered that the proposal would achieve this objective and that the residential amenity would be adequately protected whilst simultaneously allowing the applicant to conduct his business in accordance with the relevant development plan policies.

If Members are content with the proposal subject to the revised wording for these conditions, it is recommended that the application is approved with the amended conditions and the inclusion of the Management Plan and associated documents within the list of approved documents in condition 2.

## **COMMITTEE REPORT FOR 19th JUNE 2020 MEETING**

### **1. Recommendation**

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

### **2. Main Issues**

- 2.1 Whether The Proposal Is Appropriate To The Rural Area
- 2.2 Scale, Design And Impact On The Character And Appearance Of The Area
- 2.3 The Impact On Amenity Of The Occupiers Of The Neighbouring Property
- 2.4 Highway And Parking
- 2.5 Foul and Surface Water Drainage
- 2.6 Biodiversity

### **3. Application Details**

#### **The Site**

- 3.1 The application site is located between Moorhouse and Great Orton and is approximately 1.4 kilometres (0.87 miles) south of Moorhouse and approximately 1.26 kilometres (0.78 miles) north of Great Orton.

- 3.2 Bluebell House is the applicant's dwelling and is situated close to the entrance of the site but the majority of the 2.59 hectare site is set back from the county highway. An access road leads from the C1021 road. Bluebell House is on the left of this access road. An open area exists on the opposite side of the access road at which there is then a storage building which at its closest point, is approximately 48 metres from the county highway. A single greenhouse encroaches in this open area between the storage building and the highway.
- 3.3 The road sweeps in front of the storage building to the rear of the structure which provides some parking facilities and is also where the administrative building is located. In this locality can also be found the existing polytunnel and set out area for plants.

## **Background**

- 3.4 Members will note from the planning history, that planning permission was granted in 2014 for the change of use of land and buildings from a riding centre to a horticultural use; erection of administrative building, one greenhouse and two polytunnels; associated landscaping and parking.
- 3.5 Following on from this certain elements of the development were not implemented in accordance with planning permission and additional works on the site have been undertaken which has resulted in the current application.

## **The Proposal**

- 3.6 The current proposal comprises a number of different elements and the following are retrospective:
1. use of former stable building to provide storage facilities;
  2. reconfiguration of staff and visitor parking facilities;
  3. retention of administration building;
  4. erection of potting shed;
  5. demolition of a building;
  6. installation of standalone solar panels;
  7. change of use of land from meadow to hardstanding;
- 3.7 The following elements of the application are proposed:
1. erection of extension to former stable building to provide additional storage facilities;
  2. extension of administration building
  3. siting of polytunnel;
  4. erection of tray filling building;
  5. erection of additional greenhouse.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct

notification to the occupiers of three of the neighbouring properties. In response 16 letters of objection has been received. The main issues raised are summarised as follows:

#### Application details

1. there are numerous inconsistencies and contradictions within the planning application documents and the presented in the plans is selective – relevant information has been omitted or brushed over;
2. the plans give the impression that some features have always been there, when in fact they haven't which is very misleading;
3. the plans have been submitted by Mr Jonathan Rook under company name Cumbria Wildflowers Ltd. which is a horticultural business growing and selling wildflowers. However, Mr Rook also operates a second and very different business from the same site – Open Space Cumbria Ltd. There is no mention of Open Space Cumbria Ltd in this planning application;
4. the operation of Open Space Cumbria Ltd next to neighbouring properties imposes a threat to residential amenity and safety and cannot be properly examined in the planning application as it has been omitted. Cumbria Wildflowers Ltd. is used as a smoke screen to hide the true activities.

#### Change of use of land from meadow to hardstanding

5. an area of previous green field meadow has been encroached into in multiple phases by the owner. This encroached green field land has been converted into industrial hard standing directly behind the neighbouring property. This land is used to operate Open Space Cumbria Ltd, not Cumbria Wildflowers Ltd and includes the storing, loading and use of dangerous heavy plant machinery and industrial processes associated with the business (e.g. wood chipping, chain sawing, grinding, burning waste);
6. the undertaking of activities associated with Open Space Cumbria Ltd in such close proximity to neighbouring properties incurs major safety issues, and stress. Also, the scale of the operation in a relatively small parcel of land, particularly in such close proximity to a residential property is completely inappropriate;
7. apart from the description referring to the change of use of the land and shown on the existing site plan, there is no further reference of this change of land use at all in the planning documents. The failure to mention this illustrates that Mr Rook recognises that this activity is inappropriate, contentious and dangerous to us and the surrounding area, and it would risk the passing of these plans;
8. the fence line (between the 'meadow' and 'outside storage area') shown on the Existing Site Plan drawing (04 6na 06 site plan 25112019) inaccurately shows the fence line in its current position, rather than its original position which is very misleading;
9. the change of use of this land and how it is used (by Open Space Cumbria Ltd) significantly affects how the garden of the neighbouring property can be used;
10. there are a number of references included within the background paper which are inaccurate in relation to the actual operations undertaken on this site and the impact on the countryside;

11. the land was previously an area of unspoilt tranquil countryside which has changed with no respect for the character of the countryside and surrounding area nor neighbouring properties;
12. numerous large diggers and heavy plant machinery are stored on this hardstanding area which is not at all respectful or in keeping with the character of the countryside and it has indeed been spoilt. This business should be sited on a suitable brown field site / industrial estate where the potential for contamination from diesel and oils spills, for example, would be less damaging;
13. industrial processes are also carried out on this hard-standing area, this includes the chipping of logs causing significant noise along with substantial dust pollution. Lignin in wood is carcinogenic and that wood operations require stringent extraction and operating procedures;
14. the applicant portrays his business values that he is an environmental, ecological, habitat, and conservation company - in reality this is not always the case;
15. the operation of dangerous plant machinery and industrial processes are done so with absolutely no regard for safety of users of the adjacent property.

#### Erection of extension to provide storage facilities

16. the proposal includes the erection of a new lean-to store. The building of this store commenced in June 2019. The plans describe the poles as 'existing' - this is misleading;
17. the site is already overdeveloped with buildings, there are currently more than sufficient sheds to operate a horticultural business - why are more needed?
18. the background papers imply that the new shed will be used for storing wood and other materials. However, as the shed is on the compound used by Open Space Cumbria Ltd, in reality it is more likely to be used to store equipment and machines resulting in heavy machinery manoeuvring with safety concerns;
19. the location of the proposed store sits on the top of a raised area of land and the poles which have already been erected stand proud and already have a visual impact to the countryside;
20. without the green field meadow encroachment and illegitimate operation of Open Space Cumbria Ltd on this land, this new shed would not be viable as its requirement would be negated and access to the 3 bays impossible;
21. the size and location of the proposed new store will be visually intrusive which will be wider than the existing shed and will have a detrimental impact on the neighbouring property creating overshadowing, blocking out sunlight and reduction of the amenity value of being able to sit in the garden and enjoyment of the beautiful rural countryside would be further spoilt.

#### Proposed Hours of Opening

22. if workers were tending to flowers at the proposed start times, this would not be an issue; however, more often than not all the noise created on these weekday early starts are to load and transport heavy machinery associated with Open Space Cumbria Ltd.



### Burning of Commercial Waste

23. rubbish from both businesses is often burned on a green field meadow area close to the neighbouring property. This is mounted up and when substantial enough, it is burnt. This can include plastic flower trays and other commercial waste. On burning this rubbish, black putrid smoke plummets into the sky. The burning of such commercial waste contaminates the ground and also creates environmental health issues to residents;

### Siting of Polytunnel

24. the background papers state that four new polytunnels are proposed yet there are two polytunnels on site with one new polytunnel shown on the proposed site plan;

### Other Concerns

25. the applicant lives in Blue Bell House which is a private dwelling but not declared on the planning application and the site plans makes it look like it's separate and not associated with the application;
26. a flag pole is shown on the proposed plan but here is no information about it in the supporting documentation;
27. the background paper states that the existing timber fence will be replaced with a new hedge but this is new and shouldn't be replaced;
28. both the current and original (13/0914) planning applications were submitted under Cumbria Wildflowers. The background papers state that Mr and Mrs Rook own most of the land and Cumbria Wildflowers own only a small amount. Does the application sit with Cumbria Wildflowers or Mr Rook, and what happens if the company name is changed to accommodate Open Space Cumbria Ltd operations?;
29. the application does nothing to mitigate and reduce potential adverse impacts resulting from new development or avoid noise giving rise to significant adverse impacts on health and the quality of life;

### Conclusion

30. the planning documents of poor quality as they do not clearly and honestly describe the development proposal. There are inconsistencies and some key details have been omitted. They are ambiguous and misleading;
31. the applicant has failed to comply with the original planning permission hence the need to submit this part-retrospective application which questions whether there would be future breaches if permission is granted;
32. an objection is made to the running of Open Space Cumbria Ltd from this site and the industrial processes associated with it. This is not included in this planning application but is in fact occurring and affecting neighbouring occupiers;
33. it is insisted that the original boundary fence line (separating the green field meadow from the hard standing area) is re-instated and the illegitimately claimed green field land (as hard standing) returned to its original status of green field meadow and in keeping with the surrounding area;

34. it is requested that any subsequent approvals place conditions/ restrictions to prevent further inappropriate use of the land behind the neighbouring property to save further wastage of council and associate's time and unnecessary stress for neighbours, the following should be considered:

- reinstatement of the land and fences behind the neighbouring property to green field/ wildflower meadow, in accordance with the original approval;
- a condition prohibiting any activity other than wildflower planting and cultivation in this meadow in accordance with the original approval;
- no operation of Open Space Cumbria Ltd (and associated industrial processes including chipping) on land beyond the original fence line and behind the neighbouring property;
- no further wood chipping in any location close to our property that would have a detrimental effect on the neighbouring environment and safety.

4.2 In addition, four letters of support have been received and the issues raised are summarised as follows:

1. the application and the work undertaken by Cumbria Wildflowers and its aims especially the opportunity offered for local people with employment should be supported;
2. the company has extensive knowledge and is essential in protecting the Cumbrian countryside in a wide range of diverse projects in the nature conservation field;
3. the promotion of Cumbrian Wildflowers for Cumbria and the specialised work on peat bogs is essential to protect the landscape is essential;
4. the improvements by the applicant to the site and adjoining has removed localised flooding issues; undertaken by the owner in the adjoining field have removed it;
5. the view to the whole site approaching from Great Orton when looking at the buildings has been greatly improved;
6. the proposals submitted seem small and hopefully this will enable them to further expand the business and add more awards and praise for the work they have done in Cumbria and the Scottish Borders;
7. a small unobtrusive expansion would not only improve local job prospects but would increase the capacity for the production of plants from a peat free site that are actually contributing to pollination, carbon absorption and reclaiming the countryside for future generations.

4.3 Following the receipt of the objection, the applicant submitted a further document addressing each of the points raised. Three other supporting documents including images and diagrams were also submitted. The main points raised are summarised as follows:

Boundary A the line agreed with the occupiers of the neighbouring property

1. the current line where the stock fence is positioned was installed on a line which was agreed with the occupiers of the neighbouring property;
2. the wooden fence between the application site and neighbouring property was a replacement of a gable wall that was dangerous and since this wall

- was along a boundary was within the legal duty of the occupiers of the neighbouring property, the applicant offered to pay for and install the fence in lieu of slightly moving the fence line which was agreed;
3. the applicant also agreed to plant a new hedge with some trees along this boundary and has planted a native, species rich hedge with the hedge border being about 2m wide to encourage wildlife. The current stock fence is very close to a line of a previous temporary fence confirmed by the previous owner of the land.

#### Danger to children playing in the garden/ play area

4. there is no risk of any of the applicant's machinery making contact with the play area or persons using this for the following reasons:
  - the applicant has been using the rear area for the purpose to manage land for over 4 years and in the short term to store construction equipment and to date there has not even been any incident which could even be counted as a near miss. A telegraph pole has been placed on the ground near the fence to act as a visual barrier to allow machine operators to put down the implement a good 1.5m before the fence and provides a safety buffer.
  - in the course of the year the hay cutting implements are only moved for 7 - 8 times this means for the vast majority of the year they are left in place, causing no issue or danger. This means the frequency of use of this area is very low.
  - tractors with hay cutting equipment are undertaken mainly in weekdays (usually when children are at school) and therefore the play area is not being used. This greatly reduces the risk level.
  - before the new telegraph pole was installed if a tractor wheel would have touched the telegraph pole before hitting the fence and the only way to break through the fence would be for a tractor to purposely drive at the fence at speed (which is unlikely since most of the operations here are reversing). The fence is reasonable robust and the concrete posts offer some protection, but again this is so unlikely;
5. it was the applicant who was proactive in removing an unstable shed, whereby the gable end was actually leaning over the play area;
6. the applicant has fixed a telegraph pole to some concreted posts at a height of 600mm which will act as a more robust barrier, which means any implements will be stored up to 1.5m away from the fence boundary.

#### Damaging a Wild flower meadow

7. the area which is partly hardstand and also hedgerow was an area used by the previous owner for her horse riding business and was never a 'wildflower meadow' but a mix of rubble, horse manure, some grass (species poor grass) and fences;
8. the field in question up until 2013 was grazed by horses and would be considered low species diverse grassland. On purchasing the land the applicant has been undertaking a programme of habitat recreation to change the meadow from a grass dominated meadow to a species diverse meadow;
9. good access is required for seed harvesting and hay making equipment and the gateway has been improved both in terms of drainage and access levels.

#### Equipment being seen and a scrap yard/ hire company site?

10. the comments relating to equipment being stored in the rear area mostly relate to the construction period where the rear hardstand was used for storing construction equipment and materials. The hedge planted by the applicant will screen this rear area and in another 2 years will be higher and denser;
11. the purpose of the proposed lean-to building is to allow under cover storage of the hay making and grass cutting equipment which will further remove equipment from the rear boundary and the issue of equipment being seen from the main road or the neighbour's property will be reduced greatly. The 4 poles in currently in place for the building will actually be 4 feet lower than shown as they need cut down. The visual impact of the lean to will be minimal.

#### Waste Management

12. Cumbria Wildflowers are a responsible business and operate high environmental standards with aim being to minimise the impact on the environment from our business activities which includes using renewable energy (solar power and biomass boiler), rainwater harvesting, using roof water to water our plants, built in bio-digester (effluent plant) which discharges in to a reedbed, use of biological control (no pesticides), using plant based fertilisers and are a fully peat free nursery;
13. the business re-uses about 80% of our plastic pots and trays as re-using is part of our sustainable aims. Where plastic has to be removed, there is an arrangement in place with local companies.

#### Sparks flying

14. any welding that is required, which is rarely, has been undertaken by a mobile plant fitter and has always been done in the large barn under cover;
15. the barn is being used for a number of horticultural operations and includes a general mix of activities associated with the business. Part of the reason for the application is that more space is needed for the compost tray filling operation as there is not much workable space.

#### Use of OpenSpace equipment

16. during the construction of the nursery there were two activities which were considered suitable for OpenSpace to undertake. These were demolition and groundwork's (which includes drainage, access, underground tanks, soil move, landscaping and boundary work). To reduce construction costs using OpenSpace machinery allowed saved funds to be deployed into other areas of the build. During the construction phase diggers, tractors and other equipment were stored around the site with some being left in the rear hardstand for a few weeks;
17. in 2017 Mr & Mrs Rook commenced work on their private house which is on land adjacent to the nursery. The Principal Contractor chose to use OpenSpace diggers to perform the ground strip, drainage, dig trenches and landscaping (soil move). This created a situation of having two OpenSpace diggers on site from April 2017 to November 2017 and then again in summer 2018. Often the diggers were stored in the rear area;

18. OpenSpace equipment has also been used from time to time when a digger has been required. In the last few years there have been drainage issues which has required a digger to investigate and repair;
19. one of the points in the objection infers a digger has been incorrectly used. This is totally incorrect as the broken boom was due to a hidden fault in the boom and not operator mistreatment and has now returned to the base at Kirkbride Airfield;
20. the applicant is aware of the use of the rear area for storage of construction machinery and some materials increased the activity in this area but these are almost entirely during weekdays and between 8am and 5pm. There was no night-time operations and Saturday working was minimal, with no Sunday working;
21. the nursery operations are very much less intrusive than the previous business use of a riding stables where customers would come to site 7 days a week and on weekdays up to 9pm resulting in increased lighting and noise.

General point relating to the nursery site and OpenSpace

22. the site at the stables is owned by the Mr & Mrs Rook who have a formal and legal lease in place with Cumbria Wildflowers to operate the buildings and 3 fields as part of a horticultural business. The lease gives Cumbria Wildflowers sole ownership of the site and from this Cumbria Wildflowers are able to undertake their activities on site to run the nursery and other horticultural activities;
23. the use of OpenSpace equipment during both construction phases has given the impression OpenSpace operate our conservation contracting activities from the Stables. OpenSpace currently operate our OpenSpace conservation contracting company from a business unit on Kirkbride Airfield. Mr Rook has an office in his private home which he uses for some OpenSpace contracting activities. OpenSpace's registered address for the Limited Company is Bluebell House.

4.4 Following the submission by the applicant, this information was made publicly available and a further objection has been received which is summarised as follows:

1. this further response from the applicant contains contradictory statements when compared to the submitted planning application which are a misrepresentation of the truth;
2. it would appear the applicant is trying to support the addition of an extensive area of hardstanding, the storage of machinery and associated new fence line that the applicant appears to have created new but is trying to pass it off as existing which is not the case;
3. there is photographic evidence which shows that the grass extends close to the stables which contradicts the applicant's statement that the grass never extended up to the stables up to September 2013 when horses were grazing;
4. the applicant states that the area subject to the hardstanding was contained by a post and rail fence but then in 1995/ 96 was cleared and leftover hardcore laid. This is a substantially smaller area than now being applied/installed for and is of a materially different nature. There is no

- justification for the size of hardstanding proposed, that can be drawn from its previous use and believe that this should be dismissed entirely from consideration as justification;
5. historically there was a clear divide between grazed and ungrazed grass which is the line of one of the temporary fences which took the form of portable electric fences, moved as required to protect grass or other access routes. This is not justification for covering the area with hardcore and storing heavy machinery and is materially different nature to anything that existed previously;
  6. the objector has been reasonable and accommodating allowing the applicant to develop his site. This is despite their misgivings and whilst the applicant's responses may also seem reasonable they have not been borne out by his actions or personal interactions with them. Additionally, they feel their goodwill has been exploited, their concerns only really paid lip service to and the implementation of the applicant's wider development objectives masked from both them and the planning department and council;
  7. the applicant provides many assertions regarding actions by the himself which it is assumed are provided to demonstrate his reasonableness and all-around good character but objectors maintain through evidence submitted that this is not the case;
  8. on the basis of the authors of the report's own professional interaction with the applicant's ecological consulting company, OpenSpace (Cumbria) Ltd, the objector highlight that at least one assertion could be interpreted as an outright lie – that being the presence of OpenSpace (Cumbria) Ltd on the application site. The applicant's own website up until our first report in December 2019 listed OpenSpace's address as the application site, and its employees continue to post photographs and comment on social media further proving this. If so basic and checkable a fact can be easily dismissed as a falsification, how much else in the applicant's applications and responses could therefore be considered as reliable?;
  9. regardless of what may or may not have been discussed, the temporary fence was not included on the original application, which remains the only planning approval on the site. The temporary fence was to allow the management of horses and grazing not as a hardstanding that has been used for the storage of large machinery and industrial processes;
  10. the objectors have little to do with Cumbria Wildflowers but are concerned with OpenSpace (Cumbria) Ltd and its operation of heavy plant and machinery on the site which has been stored on and moved on the hardstanding. This plant then miraculously was cleared out of the way when the planning officer visited intrigues the authors of this report greatly and may bear greater investigation on the part of the council;
  11. despite claims that there have been no near misses, the objectors claim that a wall has been damaged, immediately adjacent a garden and children's play area;
  12. the telegraph pole has appeared and been mounted on posts from January 2020 and it could be speculated that it is solely in response to the objection and should be recorded as such;
  13. a timber barrier has questionable protection against heavy plant and machinery and there is no evidence that it has been structurally designed.

- Will the Planning Department subsequently take responsibility for the safety of our the occupiers of neighbouring property and the property;
14. these features and operations are underplayed in the current application, there is not enough detail to fairly assess the risk and there is also not enough detail for the planning officers to fairly assess the scale and nature of development;
  15. there is evidence of a tractor, with forks raised, moving at a noticeable speed in forward gear in this area;
  16. the need for the removal of the building that is claimed to have been dangerous is questioned and a structural engineer's report is requested as the building only become unstable when other structural elements were removed by the applicant. It is a recognised tactic to get rid of inconvenient buildings by carrying out works to elements of their fabric that result in destabilisation of the remaining structure;
  17. the barrier is claimed to be robust by the applicant is not a qualified engineer. If it is decorative and a placatory measure it serves no purpose;
  18. the objections are not against the use of the field as a wildflower meadow but that this is a significant part being turned into a vehicle hardstanding and is entirely contradictory;
  19. the applicant claims that the machinery was only ever a temporary measure but then argues that a hedge has been planted to screen the site which is contradictory as it should never have been there;
  20. the applicant states that the use of equipment in the rear area will reduce greatly with only horticultural implements being stored which is a written admission that there is and will still be other plant and machinery. There was no mention of this in the original planning application;
  21. a drawing should be presented that accurately dimensions this proposed building that relates to the telegraph poles, for the avoidance of doubt and suspicion? If the information and descriptions of the development and processes included with a planning application do not accurately describe what the development will actually entail, the planning authority, planning officers, planning committee, statutory consultees and the public cannot accurately assess the impact of the development, whether it will have negative effects on neighbours, the wider community and infrastructure and fairly determine whether it should receive approval;
  22. there is a lengthy statement regarding waste management and recycling activities. The applicant does provide evidence of the agreement with a local company for the removal of plastic waste; however, there is also evidence of waste material being burned on the site. A formal method statement be submitted to support the application;
  23. there is video evidence of a grinder in use with sparks flying and portable petrol welding kits with sufficient power are readily available for such works on site;
  24. the objector maintains that chipped wood is stored in the barn and following correspondence with the applicant, the objector was under the impression the applicant was agreeing with them to restrict chipping operations to within the barn and only certain times; regardless of the applicant's statement about agreeing working regarding chipping in the barn, this issue of this has been conveniently ignored in subsequent evidence;
  25. the applicant submits paragraphs in his response that are set up to deny

- that OpenSpace (Cumbria) Ltd have ever had an operational presence on the Great Orton site which is a false assertion;
26. the assertion that the existing activities are less intrusive is disputed. The noise, disruption, danger and pollution they have faced from the operation of the site by Cumbria Wildflowers and OpenSpace is of an entirely different scale and because the applicant continues to mask the presence and operations of OpenSpace from the planners, statutory consultees and the public generally by this inadequate application there seems no method to control this threat to the neighbour's ability to enjoy their property safely;
  27. the applicant states that "the use of OpenSpace equipment during both construction phases has given the impression OpenSpace operate our conservation contracting activities from the stables." The companies house listing for OpenSpace gave their registered address as The Stables, Great Orton as recently as December 2019. Evidence gathered indicates that OpenSpace operated from The Stables, Great Orton from 2014 to January 2020. The move to Kirkbride Airfield only seems to have happened following publication of the objection highlighting their presence at The Stables, Great Orton and may be a 'paper' exercise as continues smaller scale operations by OpenSpace on the application site continue to be recorded and documented;
  28. OpenSpace (Cumbria) Ltd is a materially different company to Cumbria Wildflowers. If it was always the intention of the applicant to operate this company from this location, the original application was misleading and did not give the planners fair opportunity to assess the impact of the proposals;
  29. the applicant maintains that works have been undertaken on the area of hardstanding to address drainage issues. The original area of hardstanding covers an area of approximately 88m<sup>2</sup> with the new area being approximately 454m<sup>2</sup> - 500% its original size which is overdevelopment carried out without planning approval and on the basis of the most tenuous justification;
  30. if Cumbria Wildflowers/ OpenSpace require an area so large, representing such an increase over any original size they need to state the precise square meterage to allow fair consideration and to demonstrate that the 'turning circle' is really necessary and cannot be placed;
  31. images provided by the applicant demonstrates that a fixed axle lorry can turn within the existing concrete yard making a mockery of the suggestion that the hardstanding area is required unless of course the applicant has larger, more industrial articulated vehicles that need to access the area for other purposes, such as those owned and operated by OpenSpace?;
  32. a direct admission by the applicant that wood chipping is ongoing on the site and an attempt to pass it off as not a problem and something that has been agreed with the objector. Wood chipping is an industrial process which creates dust and noise pollution and was not mentioned on either of the two planning applications so cannot be scrutinized, objected to or conditioned. This is a crucial omission due to the potential impact on the health and wellbeing residents. A solution would be to restrict this process to another location on the applicant's land perhaps nearer the house and polytunnels the chips are to serve;



33. the applicant states that forty tonnes of wood are required quarterly, then logically 160 tonnes is needed annually. The wood needs to dry for twelve months after felling, where is this felled wood being stored – is it all on the hardstanding area? If forty tonnes is chipped and lasts for three months, the next forty tonnes must have been drying for nine months, the forty after for six months, the forty after that for three months, and so on at that point in time. The applicant needs to explain where this drying takes place;
34. the applicant has presented a photographic timeline in a clear attempt to justify the application and present the situation from a very one-sided view. The photographs are mostly irrelevant in respect of responding the objections submitted; however, there are some factual errors:
- the applicant did not buy, nor has ever owned Stonerigg – they bought the stables and associated house ‘The Bungalow’ which they demolished to build their home, Bluebell House. The applicant has either inadvertently or deliberately misrepresented himself as the owner of Stonerigg which causes the occupiers problems with obtaining services and has created confusion in previous planning applications.
  - an extended construction period is referred to – there is a route for the planners through conditions to limit any negative effects upon our the occupiers of neighbouring properties by, for example, restricting the storage of construction machinery to a location other than adjacent to their garden, given the noise and danger highlighted;
  - the unstable gable wall is mentioned without suitable context or history;
  - asbestos removal is mentioned; this is acknowledged but this is related to the protection of their own workforce not neighbouring residents. There is still apparently further asbestos that hasn’t been removed and it is unclear whether the applicant expects to be applauded for this or what relevance it actually has to the planning application?
35. the applicant has operated a second business, OpenSpace (Cumbria) Ltd, from the application site was a charge levelled in the original objection this report and evidence has been presented that strongly indicates this to be the case. That the applicant has attempted to distance themselves from this and has attempted to deny it raises the question as to why? It is suggested that the reason might be that OpenSpace (Cumbria) Ltd is an unsuitable business to operate from this site and were the true extent and nature of its operations (in the context of the residential setting) presented for consideration by the planning officer and statutory consultees, both at the time of the original application for Cumbria Wildflowers and now, it would struggle to find support and approval;
36. the continued denial by the applicant that they have ever been here is proved untrue by the evidence presented. Indeed, the city council planners are invited to search their records for any ecological reports prepared by OpenSpace and check the address listed on any that were issued between 2014 and 2020, or any emails, if it is felt insufficient evidence has been presented;
37. if OpenSpace has genuinely withdrawn from the application site (and

there is little evidence currently to suggest this), the planning officers are requested to consider what measures are open to them to prevent any of their harmful operations returning to the site or preventing the gross inconvenience and disruption which neighbours have suffered over the previous six years being repeated regardless of which company operates there.

4.5 Representation has also been received from Cllr Allison as the city and county councillor for Orton Parish. The issues raised are summarised as follows:

1. during the consultation process detailed submissions have been made which reflects the concerns relating to the current activity at the site;
2. the filed accounts of the two companies (both family owned) have been assessed and it is noted that the machinery operation paid £16,000 to the flower company for the storage of machinery on their site. Earlier accounts show a substantial capital investment in machines and equipment which gives an indication of the scale of the operation;
3. there is no objection to the application itself and it should be considered on its merits from the planning perspective but it should be refused if, as a retrospective application, it simply consolidates the development and activity at the location where it is currently taking place, adjacent to the garden of the neighbouring property. Intrusion into open countryside is also a consideration;
4. there is particular concern at the serious risk to health of their neighbours from the smoke and particularly wood dust emanating from the site which has been well documented. The noise and unsocial hours with the machinery operation is also unacceptable. The area which has been levelled and consolidated should be returned to grass or horticultural use such as polytunnels. Any alternative site in the vicinity should be professionally evaluated for its suitability;
5. this application should not simply be passed subject to conditions and should not be considered until agreement has been reached on an alternative location for the machinery operation and separately for the chipping of the tons of timber.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no response received;

**Orton Parish Council:** - the following response has been received:

Orton Parish Council has no objections to the new proposals, as submitted. However, it does feel that the area of hard-standing towards the rear of Stonerigg should be returned to pasture land.

In addition, the council feels strongly that the location of any part of the development should not cause distress, loss of amenity, or health risk to the occupants of nearby Stonerigg, especially activities involving heavy machinery or timber processing.

The location is crucial to achieving this and should be assessed and identified in the permission document;

**Local Environment - Environmental Protection:** - the following comments have been received:

the following conditions are recommended to prevent the activities on site from causing a statutory nuisance, particularly in terms of noise and dust:

#### Noise & vibration

Consideration should be given to limit the permitted hours of work in order to protect any nearby residents from possible statutory noise nuisance, this includes vibration. Perhaps working hours could be limited to between 8am and 6pm. Any other appropriate noise mitigation measures should be considered, for example, the use of noise attenuation barriers, the storage/unloading of materials away from sensitive receptors and the use of white noise reversing alarms, where possible. These measures should aim to minimise the overall noise disturbance during construction works and operational phases of the development.

A condition should be added to restrict where very noisy activities can take place on site. In particular, wood chipping must not take place in close proximity to neighbouring properties and should be restricted to a location which is furthest away from neighbouring residential properties.

#### Dust

It is necessary to protect any nearby residents or sensitive receptors from statutory nuisance being caused by dust from the site. Given that the site is located in a residential area it would be advisable to consider all appropriate mitigation measures. Vehicles carrying materials on and off site must be sheeted or otherwise contained. During construction works, water suppression equipment should be present on site at all times and used when required, wheel wash facilities should be made available for vehicles leaving site and piles of dusty material should be covered or water suppression used.

A condition which restricts where the wood chipping activity can take place should be included. This should aim to minimise the risk of a nuisance being caused by the dust and airborne wood fragments, which can be generated, when undertaking this particular activity.

#### Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Further guidance can be found on the

Carlisle City Council website “Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers.”

Site investigations should follow the guidance in *BS10175:2011 (or updated version) “Investigation of Potentially Contaminated Sites.- Code of Practice ”*.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

### Burning

The burning of waste on the site should not be permitted at any time.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are Policies SP1, SP2, SP6, IP2, IP3, IP6, CC5, CM5 and GI3 of The Carlisle District Local Plan 2015-2030. The proposal raises the following planning issues.

#### **1. Whether The Proposal Is Appropriate To The Rural Area**

- 6.3 Within the NPPF there is a presumption in favour of sustainable development. Paragraph 7 requires that:

*“The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*

- 6.4 Paragraph 8 continues and identifies that to achieve sustainable development there are three overarching objectives. Paragraph 10 states “so that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).”

- 6.5 Paragraph 83 of the NPPF states that:

*“Planning policies and decisions should enable:*

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based*

- rural businesses;*
- c) *sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) *the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”*

6.6 The Framework continues in paragraph 84 that:

*“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”*

6.7 Policy SP2 of the local plan requires that development proposals will be assessed against their ability to promote sustainable development. Policy EC11 of the local plan states that any new buildings within the rural area should be well related to an existing group of buildings to minimise their impact and ensure they blend satisfactorily into the landscape through suitable materials, design and siting and these matters are considered in the following paragraphs of this report.

6.8 The principle of the use of the site has been established for several years following the grant of planning permission and it is clearly established on the site. There is policy support at both national and local level for the further expansion of the business and the principle of development is therefore acceptable. The remaining planning issues raised by this application are discussed in the following paragraphs.

## **2. Scale, Design And Impact On The Character And Appearance Of The Area**

6.9 The NPPF promotes the use of good design with paragraph 127 outlining that:

*“Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

6.10 It is further appropriate to be mindful of the requirements in paragraph 130 of the NPPF which states:

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”*

- 6.11 Policies require that development is appropriate, in terms of quality, to that of the surrounding area. Proposals should, therefore, incorporate high standards of design including care in relation to siting, scale, use of materials and landscaping that respects and, where possible, enhances the distinctive character of townscape and landscape. This is reflected in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and making use of appropriate materials and detailing.
- 6.12 The site is set back from the county highway. The site already comprises a number of former equestrian buildings that have been reused together with horticultural buildings and structures.
- 6.13 The former single storey stable building is located in the north -east corner of the site, close to the rear boundary with Stonerigg. It is proposed that this building is extended on the north-east elevation with a single storey structure. This building would be constructed from telegraph poles which have already been installed.
- 6.14 The administrative building is located to the rear of the large storage building, adjacent to the north-west boundary. This was initially used as the site office but was retained and has subsequently been used as office accommodation. The building presently has a small covered entrance in its south-east corner and it is proposed that this is enclosed and incorporate within the building to provide additional accommodation.

- 6.15 Adjacent to the gable of the office building is an area of visitor parking and beyond which to the south, is an existing potting shed. Between the potting shed and a polytunnel again, further to the south, it is proposed to site a smaller polytunnel. This would be flanked to the east by the proposed 'Tray Filling Building' which would be a single storey building constructed from concrete panels, vertical red cedar cladding, metal sheeted and sedum roof. This building would replace the administrative building that was approved a part of the extant planning permission.
- 6.16 To the south of this building and between the existing polytunnel and Bluebell House to the east, it is proposed to site the solar panels.
- 6.17 Close to the east elevation of the large building and adjacent to the access road through the site, is an existing greenhouse. It is proposed that this is extended on the north-east elevation.
- 6.18 In addition to the physical structures, it is further proposed to extend an area of hardstanding on the north-east boundary of the site. This extension is retrospective and involves the repositioning of the fence line into the adjacent meadow so instead of forming a continuous linear boundary that would have taken the same line and form as that which passes Stonerigg, it now curves onto the adjacent land before connecting with the north-west boundary. The extended area has been planted with native hedgerow species.
- 6.19 When approaching from Moorhouse, the road rises up on the approach to the site and the adjoining fields and meadow are bounded by a hedgerow. Whilst there may be views across the land of the extended area, these are glimpsed views and the enlarged hardstanding is not detrimental to the character or appearance of the area.
- 6.20 The scale, design and use of materials of the proposed buildings is considered to be appropriate in the context of the site, its surroundings and overall character of the area and is acceptable in this regard.

### **3. The Impact On The Living Conditions Of The Occupiers Of The Neighbouring Properties**

- 6.21 Paragraph 127(f) of the NPPF highlights that developments and decisions should:
- “create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*
- 6.22 Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate to its location taking into account the likely affect (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so

they should a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 6.23 Paragraph 182 of the NPPF goes on to state that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 6.24 Moreover, Policies SP6 and HO8 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive.
- 6.25 The site is generally surrounded by open countryside but Stonerigg and its curtilage are immediately adjacent to the north-east corner of the application site. The retention of the buildings and with the proposed siting of the new development would not affect the amenity of the occupier of the neighbouring property through their siting nor would they result in a loss of privacy, overshadowing or through poor design.
- 6.26 Members will note in the detailed objections that have been received, that the principle area of concern relates to overall impact on the amenity of occupiers of residential properties primarily from the nature and level from the use of the extended hardstanding and associated intensification of its use, including the proposed extension to the storage building. This manifests itself in all aspects of amenity including from increased noise, disturbance, concerns over their safety, pollution.
- 6.27 Planning control is the process of managing the development of land and buildings. The system exists to ensure that development is in the public interest, weighing up its economic, environmental and social benefits and drawbacks.
- 6.28 The physical changes to the land, as already detailed earlier in this report, are considered to be acceptable. The objectors make reference to the use of this land which are described as anti-social and which have affected the amenity of neighbouring residents.
- 6.29 The description for the extant permission for the site granted under application 13/0914 reads:



*“Change of use of land and buildings from riding centre to horticultural use; erection of administrative building, 1no. greenhouse and 2no. polytunnels; associated landscaping and parking.”*

- 6.30 The conditions associated with permission include the standard time limit for implementation; a list of the approved documents; a requirement for the submission of sample materials; details of tree hedgerow protection measures; and a condition prohibiting work within the protected tree and hedgerow areas. Of relevance is the fact that no condition was imposed limiting the nature of the use of the land or any condition which made the permission personal or limited who could use the land.
- 6.31 Paragraph: 014 Reference ID: 21a-015-20140306 Revision Date: 06 03 2014 of the NPPG provides further commentary on this issue and states:

***“Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?”***

*Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.*

*A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.”*

- 6.32 It is not disputed that certain operations have taken place on the land which is evidenced in the objections, such as the storing and chipping of tonnes of timber for the applicant's biomass boiler or the burning of waste and that both of these activities may have had an impact on the occupiers of the neighbouring property. If Members are minded to approve the application, it would be appropriate to impose a condition prohibiting such activities to safeguard the amenity of the residents. This would, in fact, be a betterment to the existing situation whereby no condition currently exists on the applicant will be at liberty in planning terms to carry out such activities on the area of hard standing that does benefit from the extent planning permission.
- 6.33 The applicant states the some of the machinery currently store on the hardstanding would be stored in the building that is proposed to be extended. Accordingly, it is reasonable to assume that there would be some movement of machinery on this land to manoeuvre the equipment and implements into the building. The objectors state that when machinery does operate on the land there have been occasions when they have been driven recklessly to the point where the forks of tractors have overhung the boundary and the objects have been in fear of machines breaking through boundary fence.

- 6.34 The obvious concerns of the residents are accepted; however, the planning system must deal with the land use planning issues. Under the extant planning permission machinery can already operate in this area and the extension of the hardstanding would not change this. Whether a building or object over sails a boundary onto neighbouring land is a civil matter as it may be an issue of trespass.
- 6.35 Again, as a betterment, Members may wish to consider that the imposition of a condition limiting the hours during which machinery can operate on the land to be appropriate.
- 6.36 It is noted that waste can be burned on land; however, there are certain conditions and criteria that must be adhered to, including the fact that the bonfire must not cause a nuisance. For clarity and certainty in the interests of residential amenity, it would be appropriate to impose a condition prohibiting the burning of any waste within the application site. If the applicant burns waste outwith this area, including material that ought not to be burned, then this would delegate as an issue for Environmental Health Officers to investigate and enforce under their relevant legislation.
- 6.37 Members will note that the council's Environmental Health Officer has raised no objection to the application but has instead recommended a series of conditions. With the exception of the issue of dust, these have been incorporated within the suggested conditions. With regard to the issue of dust, the response advises that this is necessary due to the proximity of the site and neighbouring residents, being in a residential area. The neighbours immediately affected by any development or activity are adjacent a portion of the eastern boundary of the site. The majority of the development proposed would occur on the opposite side of the site, away from the neighbours and therefore, the occupiers of this property would not be affected by this potential issue.

#### **4. Highway And Parking**

- 6.38 Planning policies generally require that development proposals do not lead to an increase in traffic levels beyond the capacity of the surrounding local highway and provide adequate parking facilities.
- 6.39 No response has been received from Cumbria County Council as the Local Highway Authority; however, the development would utilise the existing access. It is not considered that approval of the application would result in a significant number of additional vehicles to the site. The proposal would continue to provide parking facilities within the site and on this basis, on this basis the proposal does not raise any highway issues and is acceptable.

#### **5. Foul and Surface Water Drainage**

- 6.40 In order to protect against pollution, Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. The application documents, submitted as

part of the application, outlines that the soakaway water would discharge into a watercourse.

- 6.41 The application form details that both the foul and surface water would be connected into the respective systems. Given the scale of the development and potential relative low increased level of flow, it is considered this is acceptable and that no issues are raised in respect of the drainage arrangements.

## **6. Biodiversity**

- 6.42 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.43 The Councils GIS Layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. Given the scale and nature of the development, it is not considered that the development would harm a protected species or their habitat; however, an Informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

## **Conclusion**

- 6.44 In overall terms, the development will continue to sustain a rural-based and the building is of a scale and design that is appropriate. The buildings and development proposed as part of this application are well-related to the existing form of the site and several of the buildings would replace buildings granted by the extant planning permission. As such, the principle of development is acceptable and the building is of an appropriate scale and design which is not detrimental to the character or setting of the area.
- 6.45 The development does not raise any highway, drainage or biodiversity issues.
- 6.46 A number of objections have been received that are detailed in their response to the application and it is evident that the operations conducted on the land have an impact on the amenity of the occupiers of the neighbouring property and that approval of this application may exacerbate any existing issues. In addition to the standard planning conditions, two further conditions are recommended to protect the amenity of the neighbouring residents which is a betterment to the existing situation where there are no such restrictions.

- 6.47 In all aspects the proposals are considered to be compliant with the objectives of the relevant local plan policies and the application is therefore recommended for approval.

## **7. Planning History**

- 7.1 There is a brief planning history in relation to the site and its' previous use under separate ownership.
- 7.2 In 2013 a certificate of existing lawfulness was granted for the occupation of a dwelling house without agricultural restriction.
- 7.3 Planning permission was granted in 2014 for the change of use of land and buildings from a riding centre to a horticultural use; erection of administrative building, one greenhouse and two polytunnels; associated landscaping and parking.
- 7.4 In 2014, an application was approved for the discharge of condition 4 (scheme of tree and hedge protection) of the previously approved permission.
- 7.5 Also in 2014, planning permission was granted for the erection of a replacement dwelling.
- 7.6 In 2015, an application was approved to discharge condition 3 (materials) of previously relating to the replacement dwelling.
- 7.7 Later in 2015, a non-material amendment of previously approved application for the replacement dwelling was approved.
- 7.8 In 2017, an application was approved to discharge condition 4 (surface water drainage) relating to the replacement dwelling.

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
1. the Planning Application Form received 20th November 2019;
  2. the Location Plan As Proposed received 20th November 2019 (Drawing no. 6NA:12);
  3. the Site Plan As Proposed received 20th November 2019 (Drawing no.

- 6NA:06);
4. the CWF Admin Building As Proposed Plans & Elevations received 12th November 2019 (Drawing no. 6NA:02);
  5. the Tray Filling Building As Proposed received 12th November 2019 (Drawing no. 6NA:05);
  6. the CWF Lean-To Store As Proposed received 12th November 2019 (Drawing no. 6NA:04);
  7. the Polytunnel Plan & Elevations received 25th November 2019 (Drawing no. 6NA:13);
  8. the Greenhouse Plan & Elevations received 20th November 2019 (Drawing no. 6NA:09);
  9. the Potting Shed Plan & Elevations received 20th November 2019 (Drawing no. 6NA:08);
  10. the Solar Panels Plan & Elevations received 20th November 2019 (Drawing no. 6NA:10);
  11. the Supporting Statement by WYG dated 4th November 2019 received 12th November 2019;
  12. the Notice of Decision;
  13. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Within 6 months from the date of this permission, details of the means of siting and construction details within the application site of means to prevent plant and machinery breaching the boundary with the neighbouring property 'Stonerigg' shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed in accordance with the approved details and retained thereafter.

**Reason:** To ensure that the safety of the occupiers of the neighbouring property are not adversely affected as a result of vehicle movements on the site in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

4. No plant or machinery shall be operated on any part of the application site between the gable of the Seed Store and the north-east boundary of the 'Existing Meadow enhanced by wildflower planting' shown on the Site Plan As Proposed (Drawing no. 6NA 06) received 20th November 2019 before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or statutory holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

5. No waste shall be burned on any part of the application site between the north-east gable of the Seed Store and the north-east boundary of the 'Existing Meadow enhanced by wildflower planting' shown on the Site Plan As Proposed (Drawing no. 6NA 06) received 20th November 2019.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

6. No chipping of timber or wood products shall take place on any part of the application site between the north-east gable of the Seed Store and the north-east boundary of the 'Existing Meadow enhanced by wildflower planting' shown on the Site Plan As Proposed (Drawing no. 6NA 06) received 20th November 2019.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

7. No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or statutory holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared which is subject to the approval in writing of the local planning authority. Further guidance can be found on the Carlisle City Council website "Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers."

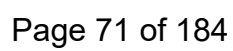
Site investigations should follow the guidance in *BS10175:2011 (or updated version)* "Investigation of Potentially Contaminated Sites.- Code of Practice".

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

**Reason** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy of the Carlisle District CM5 Local Plan 2016-2030.

---

SITE BOUNDARY



STONE LODGE

WOODLAND

CWF LTD

BLAKE BELL HOUSE

TOWARDS GREAT ORTON

AS PROPOSED

LOCATION PLAN

CUMBRIA WILDFLOWERS LTD  
THE STABLES  
GREAT ORTON, CARLISLE CA5 6NA  
PLANNING DWG

CONCEPT SUPPORT PROJECT DEVELOPMENT

CONQUEST  
 1 Main Street  
 Memphis, TN 38102  
 (901) 525-1111  
 TEL. 01238 679342

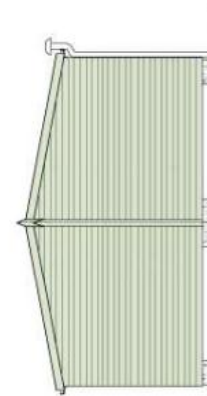
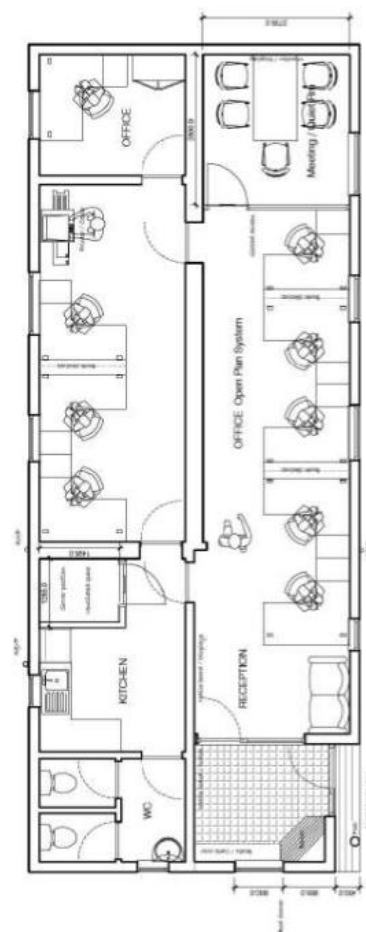
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Address: **Marketing Department**  
The University of North Carolina  
Chapel Hill, NC 27515-7050

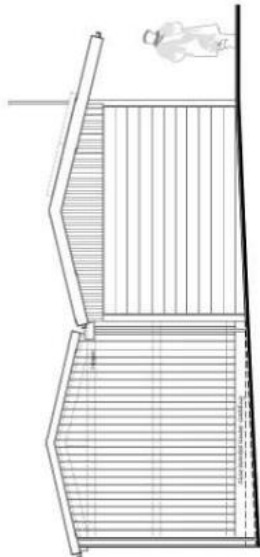




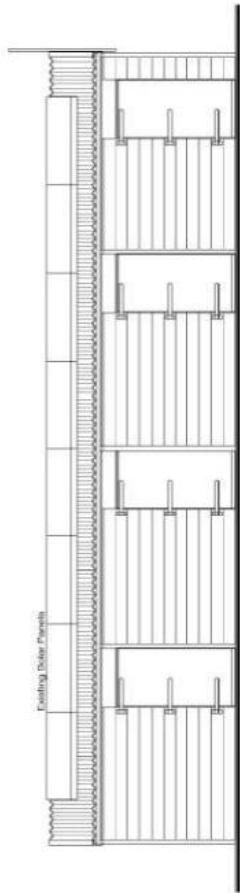




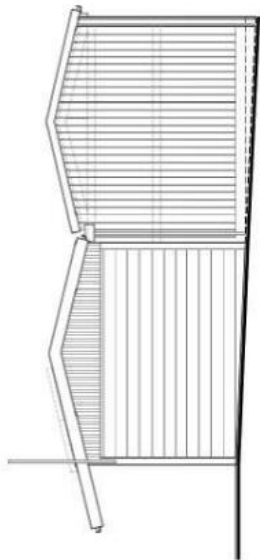




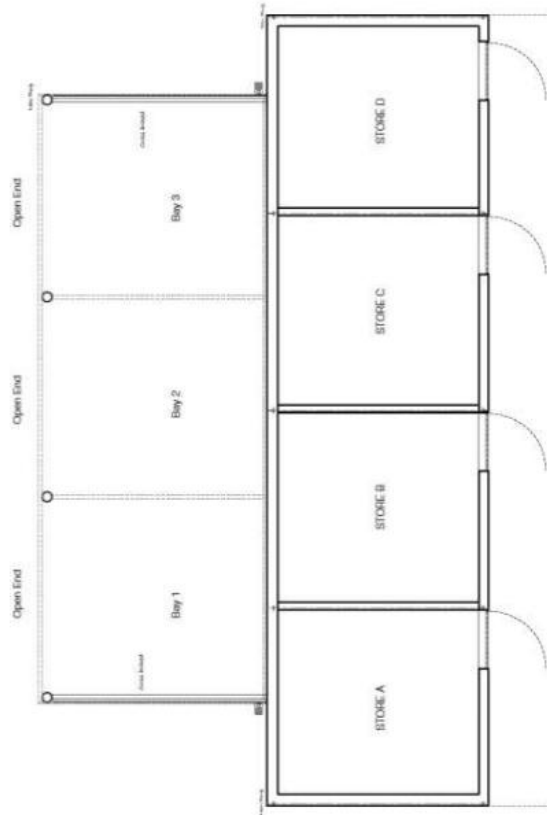
WEST ELEVATION



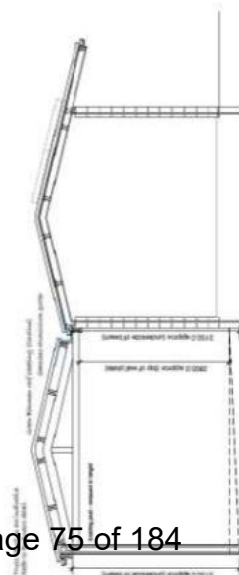
FRONT ELEVATION (FACING SOUTH)



EAST ELEVATION



REAR ELEVATION (FACING NORTH)



TYPICAL SECTION (THROUGH A)  
INDICATIVE





CUMBRIA  
WILDFLOWERS

3 - CWF LEAN-TO STORE  
AS PROPOSED

PLAN & ELEVATIONS

CUMBRIA WILDFLOWERS LTD  
THE STABLES  
GREAT ORTON, CARLISLE CA5 6NA  
PLANNING DWG

CONCEPT SUPPORT LTD PROJECT DEVELOPMENT

Drawn by: 1. Alexander Ford  
Checked by: 2. Alexander Ford  
Date: 01/01/2024  
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Proj. No: 2024-001  
Rev: 1.0  
Date: 01/01/2024

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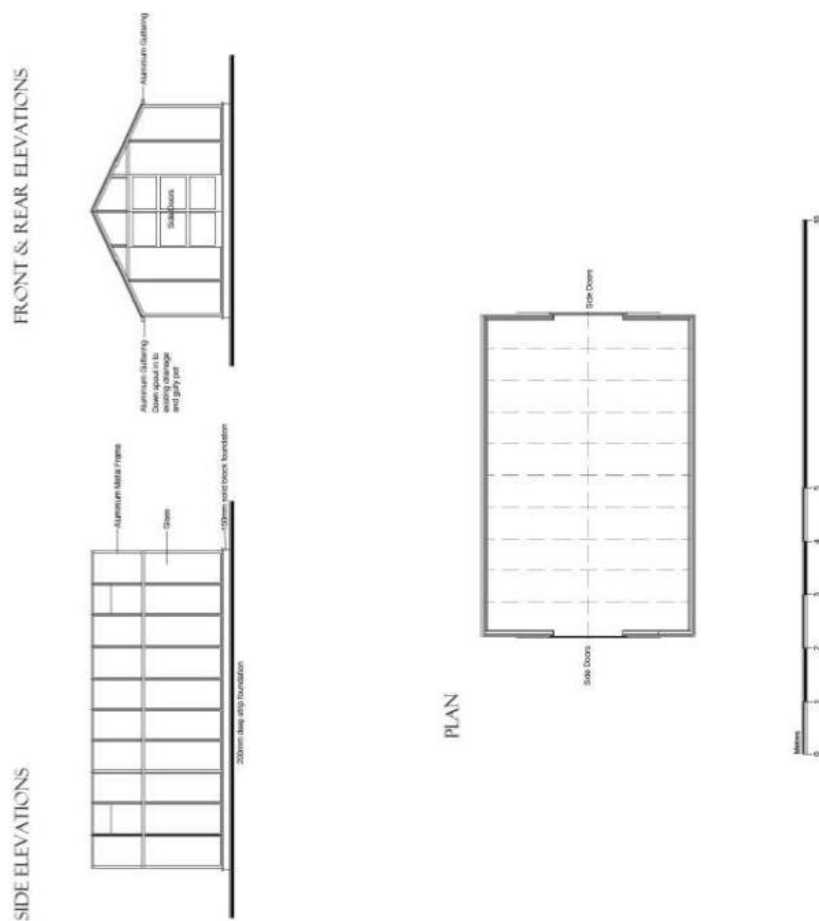
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Rev: 1.0  
Date: 01/01/2024

Proj. No: 2024-001  
Rev: 1.0  
Date: 01/01/2024









## REAR ELEVATION (FACING NORTH)

### SIDE ELEVATIONS

[illegible]

Covered Layer - Area covered with plastic film mulch



## SOLAR PANELS

## PLAN &amp; ELEVATIONS

CUMBRIA WILDFLOWERS LTD  
THE STABLES  
GREAT ORTON, CARLISLE CA5 6NA  
PLANNING DWG

## CONCEPT SUPPORT LTD PROJECT DEVELOPMENT

CONCEPT SUM

U.S. DEPARTMENT OF AGRICULTURE

doi:10.1371/journal.pone.0141048.g002

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**Did it manage to get approved and built as planned?**  
by an Architect or Building Surveyor

Our Ref: A114347

Mr Richard Maunsell  
Planning Officer (Development Management)  
Economic Development  
Carlisle City Council  
Civic Centre  
Carlisle  
Cumbria  
CA3 8QG

22<sup>nd</sup> July 2020

Dear Richard,

**PLANNING APPLICATION 19/0869**

**CUMBRIA WILDFLOWERS LTD**

**LAND AT THE STABLES, GREAT ORTON, CARLISLE, CA5 6NA**

Further to our meeting held on the 13<sup>th</sup> July 2020 to discuss the outcome of the Planning Committee meeting on the 19<sup>th</sup> June, please find attached the proposed Management Plan that Mr Rook is volunteering for the rear yard area of the site. The Management Plan aims to provide assurance to the occupier of the adjoining property and Council Members as to how the area will be managed responsibly.

The Management Plan provides the necessary detail, but it also ensures that Mr Rook is able to operate his business and his land without unnecessary impediment. It also enables the site to be operated in accordance with the existing planning permission (reference 13/0914) and the lawful use of the land as a horticultural business where no restrictions currently apply to this area and noting the historic use of the site and surrounding land as a horse riding centre, and previously as a farm enterprise.

I would make the point that the only change of use that is sought is for the very small extension involving:

***"the repositioning of the fence line into the adjacent meadow so instead of forming a continuous linear boundary that would have taken the same line and form as that which passes Stonerigg, it now curves onto the adjacent land before connecting with the north-west boundary"*** (see your Planning Committee report paragraph 6.18).



As you will know, a planning condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development (see <https://www.tfwm.org.uk/media/1468/wcce-e2-4-use-of-planning-conditions.pdf>). Furthermore, any planning condition must meet the 6 tests as set out in the NPPF and the NPPG:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

I would reaffirm the point in paragraph 83 of the NPPF, which states that Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;***
- b) the development and diversification of agricultural and other land-based rural businesses;***
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and***
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.***

I would also draw your attention to paragraph 182 of the NPPF, which states in relation to 'agents of change':

***"Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."***(my underlining)

Furthermore, paragraph 183 goes onto state:

***"The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a***

**planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.**”(my underling)

Whilst the ‘agent of change’ is not directly aligned with the circumstances at The Stables, the principle applies nonetheless. It would therefore be unreasonable to place additional unnecessary burdens on the lawful horticultural activities at The Stables, given the historic use of the premises.

I attach with this submission evidence to demonstrate the condition of the premises when Mr Rook purchased the site and what its appearance is today. You will see that the area at the rear of the site was used as a traditional yard where manure, materials and machinery were stored.

The previous owner of the riding stables would have moved horses from field to field on a daily basis and used the access gate at the northern end of the yard to gain access to the adjoining meadow. Hence historically there was a regular movement of livestock between the stable area to the fields. In addition, the former owner would have moved heavy agricultural equipment to carry out regular rural land management activities of the adjoining fields and would have used the yard at the rear to store heavy machinery including tractors, mowers and other agricultural equipment.

The intention is that the area, which is subject to the Management Plan, would not alter significantly from that historic use in real terms. However, the Management Plan provides assurance that Mr Rook takes his obligations as a good neighbour seriously in order to carry out his lawful rural land management activities.

With this in mind, I have recrafted the proposed planning conditions no’s 4 and 6 as follows. The new **Condition no: 4** should therefore read:

***"All ancillary plant or machinery, other than those to be stored within the proposed lean-to store, shall be parked on the north-western boundary of the site or within the temporary drop-off point as shown on Figures 3 and 5 of the Management Plan submitted with this application dated 22<sup>nd</sup> July 2020, and shall be used in association with the maintenance of the land and buildings contained within the land outlined in red on Site Plan CA5 6NA 12 JR Proposed 16-11/19 as submitted on the 20<sup>th</sup> November 2019, or as part of the operation of Cumbria Wildflowers Ltd."***

The revised proposed **Condition no: 6** relating to the wood chipping should now read as follows:

***"The chipping of timber or wood products for use in the biomass boiler shall take place in accordance with the Management Plan submitted with this application dated 22<sup>nd</sup> July 2020, and shall be restricted to the north western part of the site as shown on Figure 3 and 4 of the Management Plan"***

In addition to the Management Plan and the revised planning conditions, I enclose the photographic evidence of the previous use of the area of the rear of the site, together with documentary evidence relating to the current lease that Mr Rook has at Kirkbride Airfield for Open Space Ltd. I also attach for information rates paid to Allerdale Borough Council for the site at Kirkbride Airfield relating to OpenSpace Ltd (redacted for confidentiality reasons). **I would grateful if these documents are seen by Officers only and shall not be placed on the public file.**

Mr Rook feels he has to unfairly justify the position relating to his Open Space Ltd operation even though it has nothing to do with the current planning application proposals, but there have been unreasonable accusations made by representations at the Planning Committee on the 19th June, which have to be refuted.

I provide a brief history relating to Open Space operations below.

#### History of OpenSpace Premises

- Formed in March 2003. Operated from Mr Rook's home of 37 Norfolk Road for 2 years.
- April 2005 – Dec 2019 - Agreed a rental agreement with Mr George Pattinson to store equipment in two barns and an area of hardstand within his farm at The Flatts. This agreement ceased in 2019 when Mr Rook took ownership of Kirkbride Airfield but they still have 2-3 items at his farm. Mr Rook operated part of the business from their dwelling 9 Carvoran Way for about 1 year.
- 2008 to 2016 – OpenSpace and Cumbria wildflowers rented greenhouse space, hardstand and 2 office spaces from Westwood Nurseries.
- In 2014-2015 Mr Rook moved CWF over to The Stables but maintained the OpenSpace office and hardstand for a further year at Westwood Nurseries.
- OpenSpace temporarily set up at The Stables when they managed the Construction Phase of The Stables development. This started in 2014 and the main items were completed in 2018.
- Please note there were some cross overs in the above dates.

In addition to the above, I include examples of time lapse videos showing how the current Cumbria Wildflower Ltd operates, which gives a representation of current activities. Should the Council require further evidence, we can provide it if necessary. I would like these videos played at the Planning Committee to ensure that Members understand the correct planning position.

You will see the vast change and improvement over the previous position when the site was used as a stable yard and therefore despite the accusations made by third parties, a significant improvement in local amenities has been achieved through hard work and determination to improve the site.

I trust the above provide all the necessary information to grant planning permission for the developments.

Yours sincerely

Graham Hale  
Associate Planner  
WYG Environment Planning Transport Limited

## Management Plan

To support planning application 19/0869

Proposed Use of the working and storage area (Rear Area) at The Stables, Great Orton, Carlisle, Cumbria, CA5 6NA.

22<sup>nd</sup> July 2020



**Figure 1 - Area which the Management Plan relates to.**



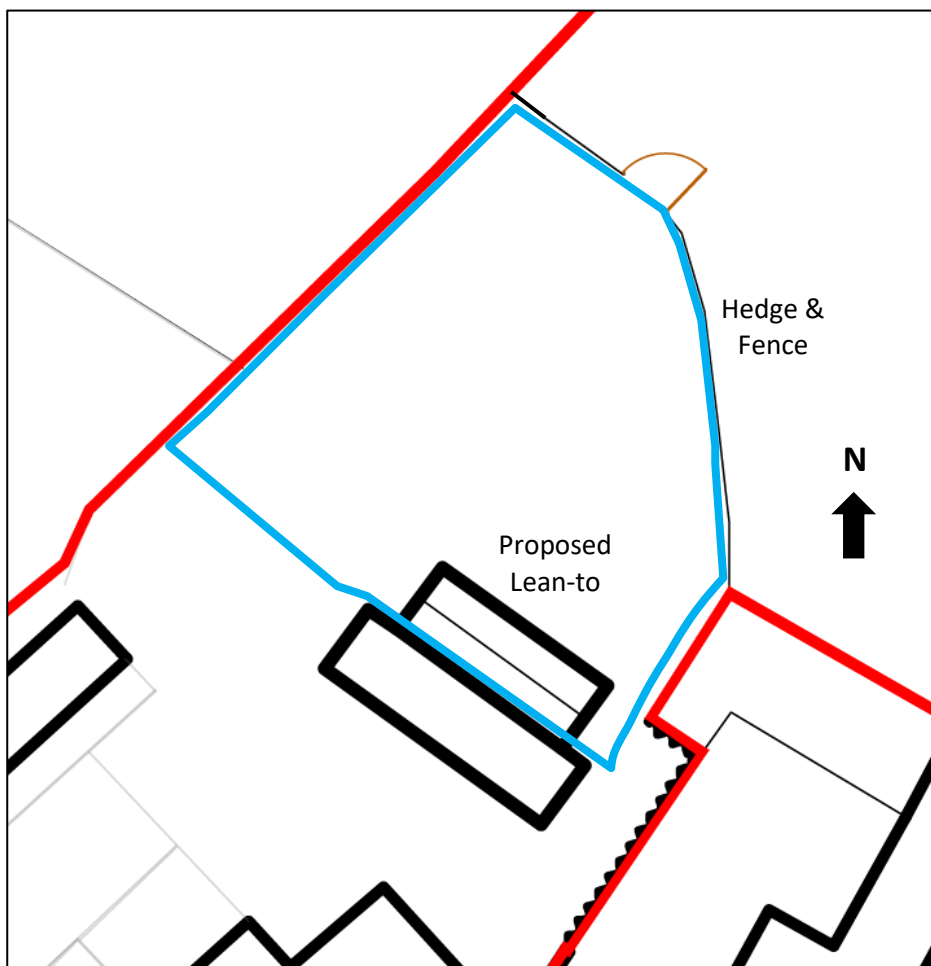


## 1 Introduction

1.1 This management plan is submitted to support the planning application 19/0869 and solely relates to the area marked blue in Figure 2. The management plan is proposed to support the unrestricted operations on site working for the use of horticultural activities under an approved planning application (No:13/0914). This was granted in January 2014 for the change of use of land and buildings at The Stables from a horse riding centre to horticultural use, erection of administrative building, greenhouse, polytunnels and associated landscaping and parking.

1.2 Since 2014 the site has been operating as a wildflower nursery with associated farm fields. The fields form part of the business operation and are managed throughout the year. As with all horticultural businesses the activity requires a high level of personal management to manage plant health and keep plants alive. Activities include watering plants, management of pests, plant inspection and general inspection of the site. These activities are undertaken within the greenhouse and polytunnels and are undertaken on foot and are quiet in nature. By their nature these plant management is required 7 days a week and is very dependent or controlled on the weather. To facilitate the requirement for 24/7 cover the applicants live on site with their family with the nursery and fields being both business and private interactions. Living on site assists with watering over the weekend but also inspecting the fields and other structures on site.

**Figure 2 - Location of area subject to the management plan (blue section)**



## 2 Wood chipping Management

### 2.1 Wood chipping methodology

2.1.1 There is a requirement to supply woodchips to feed a Frolin Biomass Boiler (110kw) which has been installed to supply the nursery and other buildings with sustainable produced heat. The heat assists with creating the right conditions to grow plants, particularly in the winter. The annual requirement of wood is between 60 to 80 tonnes per year which is in part dependant on how cold the winter period is. The timber will be air dried and seasoned for a few months before being delivered to The Stables. **The delivery of timber to feed the biomass boiler is not directly related to the proposals submitted within the planning application 19/0869. Therefore, this activity is not controllable by the Planning Acts.**

2.1.2 The timber is taken from sustainable grown forests or is the product of conservation projects, benefiting wildlife and biodiversity. CWF manage a woodland nearby and about 50% of the timber comes from this woodland which is only 2 miles away. The timber will be delivered to site via timber wagon. The wagon carries about 20 to 30 tonnes of cut timber. Delivery of the timber will be by an timber wagon haulage operator working under the Road Haulage of Round Timber Code of Practice (2012), Timber Transport Forum (4<sup>th</sup> Edition) – [www.timbertransportforum.co.uk](http://www.timbertransportforum.co.uk)

2.1.3 The timber wagon is about 12 to 18m depending if it has a trailer. It will access the rear area to off-load the timber in the agreed stacking area as shown in Figure 3. The rear area needs to be large enough to take the timber wagon to access. The timber wagon crane will off-load the timber and stack in a correct method. The timber stack per wagon load will be about 15m long by about 2m high.

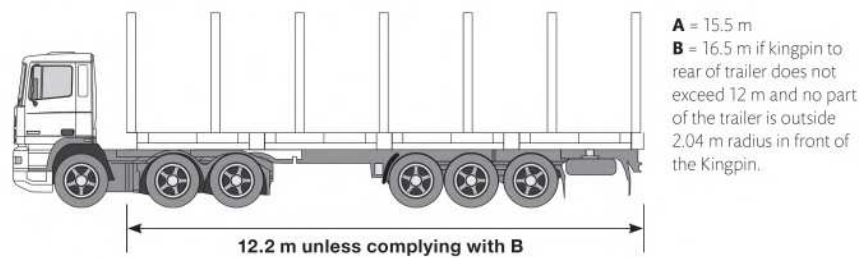


Picture showing a standard timber wagon

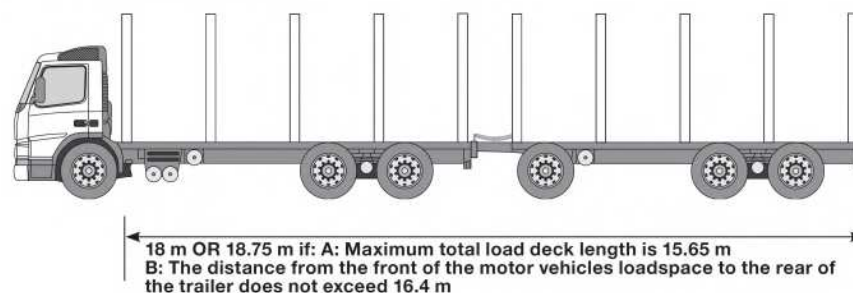


## A1.3 Maximum overall lengths

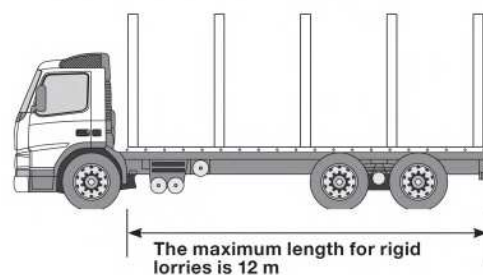
### Overall length for artics



### Overall length for drawbar



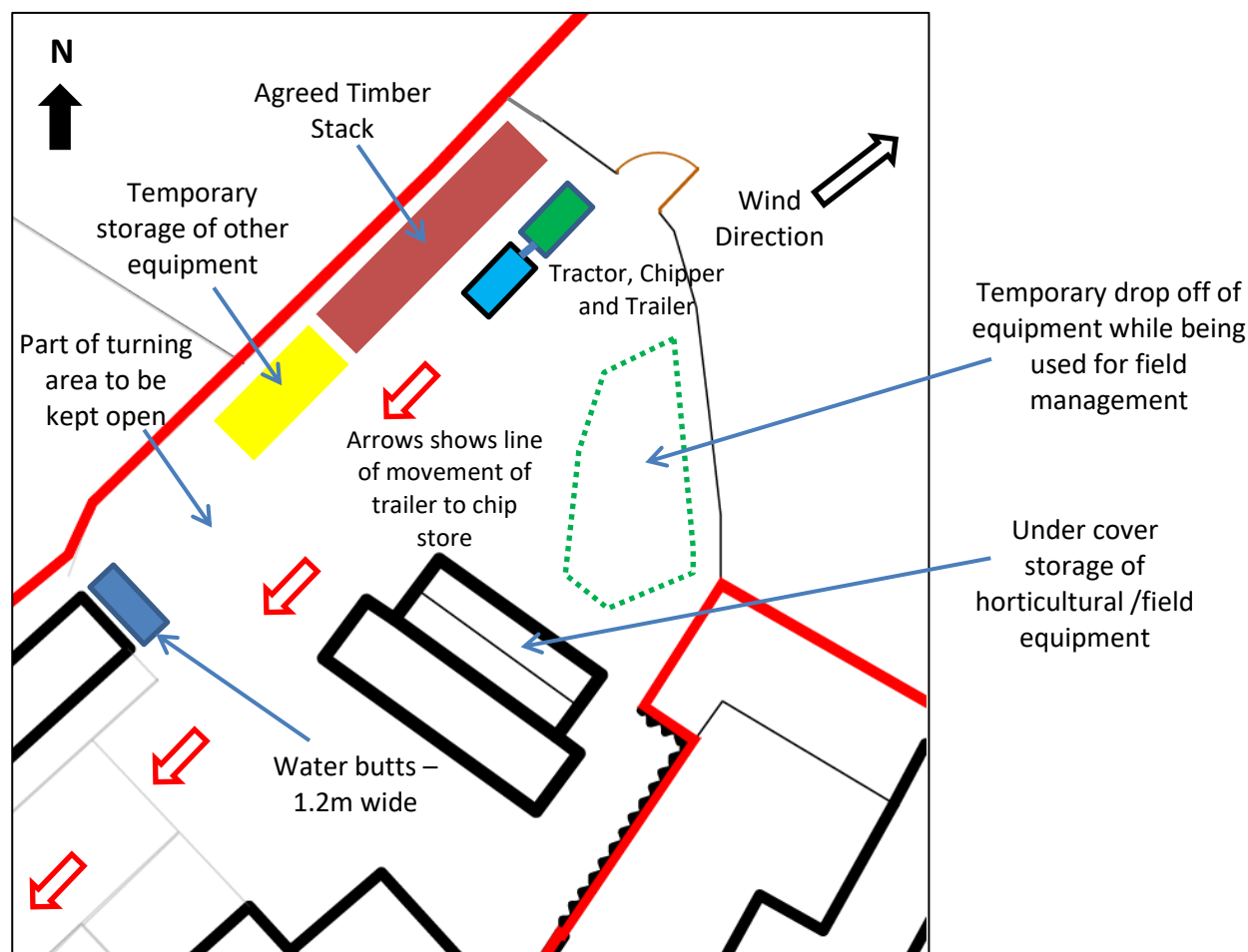
### Overall length for rigid lorries



Drawing showing dimensions of timber wagons accessing the site

2.1.4 The timber will be stored/stacked in the agreed timber area until it is ready for chipping. The chipping will be undertaken on a dry day following 2 previous dry days to ensure the timber surface is dry. The chipping will be undertaken on a low wind day and will ensure the wind direction is south-west or southerly to ensure there is no chance of any dust (the chipping method below stops any dust) moving back towards The Stables or neighbours property.

**Figure 3 - Location of timber stack, wood chipping & equipment storage**



## 2.2 Chipping duration

2.2.1 The activity of chipping the woodchips takes about 1.5 hours to chip 20 tonnes of timber. The average chipping will be between 40-60 tonnes of timber with the maximum time being between 4 to 5 hours. This means the chipping is undertaken during work hours and on a week day. The start time for chipping would be after 8.30am to allow time for the contractor to get to site. All the chipping will be completed by 3pm on the same day. As stated before the maximum number of chipping events in any one calendar year is three but more likely two chipping events.

## 2.3 Wood chipping Method

2.3.1 The wood chipping will be undertaken using a biomass specified wood chipper as shown below. The biomass chipper has a number of dust and chip protection measures in the machine with a series of grills managing the chipping process. This creates a chipping process which is virtually dust free. Currently this activity is contracted out to a specialist woodchip timber contractor.



Picture of the biomass chipper to be used at The Stables

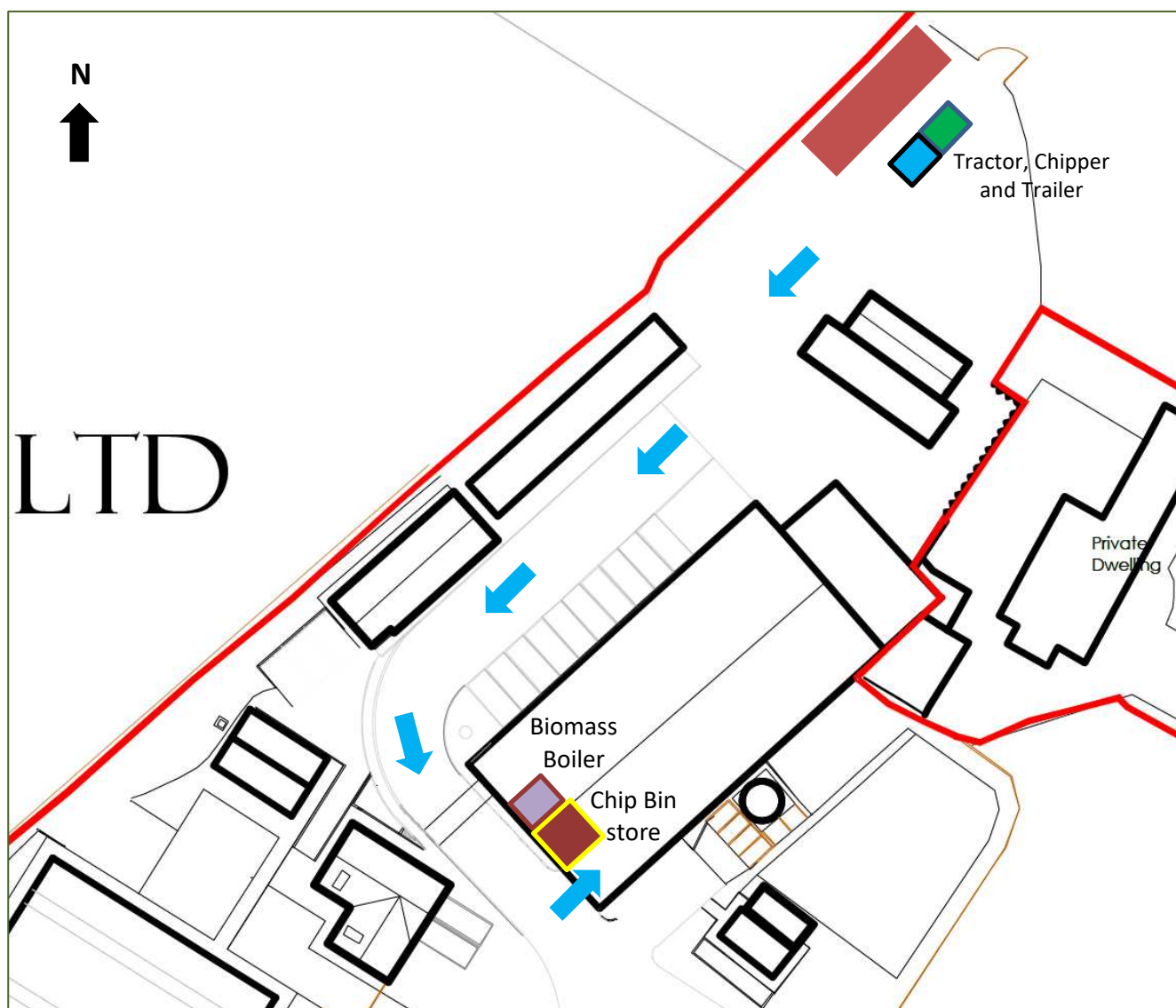
2.3.2 The biomass chipper will be powered by a 160Hp tractor. The tractor will be set up parallel to the timber and a timber crane on the back of the tractor will feed the biomass chipper. The chipper will be orientated with the chipper chute placed next to a sheeted tractor trailer. The trailer has a heavy duty sheet over to stop any chips or dust getting out (similar to below but smaller).



Picture of tractor with trailer and sheet cover

2.3.3 Once the trailer is full it will be driven round to the large barn and tipped inside ready for loading in to the biomass chip bin. The chip bin is inside the large barn as shown in the plan below (Figure 4). On completion of the chipping all the loose wood/bark is raked up and placed in to a compost area near the polytunnels. The site is left clean and tidy following the chipping operation.

**Figure 4 showing the location of the biomass boiler and chip store**



### **3 Management of horticultural equipment and temporary use of other equipment**

3.1 Cumbria Wildflowers Ltd own and use a range of equipment as part of their day to day operations as part of the existing planning permission for horticultural use of the site (Planning Approval No:13/0914). The current permission places no obligations or restrictions to the reasonable management or use of the site for horticultural purposes.

3.2 The plant and equipment owned by CWF is for the use on site and within the 3 fields, which are being managed as species rich grasslands/meadows. The meadows are cut for hay, grazed by sheep in the Autumn and Spring and are subject to seed harvesting before the hay cut. As with all fields there are a number of activities throughout the year including mowing, seeding, harrowing and general land management to ensure the field are kept in good order. There are other land maintenance items which occur occasionally or ad hoc which may include spot spraying, fence repair, hedgerow management, tree management, gates repair, culvert/ditch management and ensuring land drains are functioning. CWF has a number of legal obligations on our land which include taking

highways road water across our land, management of 2 bio-digester systems (one owned by the owner of Stonerigg), powerline wayleaves, management of public right of way, shared access with neighbour farmer and ditch responsibilities by taking adjacent farmers water. The property is located next to a main road and the access points from our land require maintenance to ensure safe visible sightlines.

3.3 To ensure we maintain our legal obligations, manage our land correctly and maintain the site so we can take a crop there is a requirement to access all the fields and site throughout the year. All our equipment is owned for the purpose to manage and maintain our site and fields. Equipment such as the tractor has front forks to allow the safe un-loading of delivered compost or seed trays. To achieve this there has to be a workable area to off-load in a safe manner. The rear area shows an area where compost/seed trays will temporarily off-loaded before being moved in the barn/polytunnels. The delivered to the rear area requiring off-loading accounts for between 8-14 deliveries per year.

3.4 To ensure the maintenance of the equipment some items are stored in the big barn but others are currently stored outside. These are getting rusty with increase maintenance and repair costs to ensure they are working correctly. The outside lean-to will allow the safe and dry storage of most of the field implements. Occasionally there may be a need to store a trailer or implement outside during times of seed harvesting or mowing while other work is being done. This will be of a temporary nature.

### **3.1 Use of rear area including temporary use**

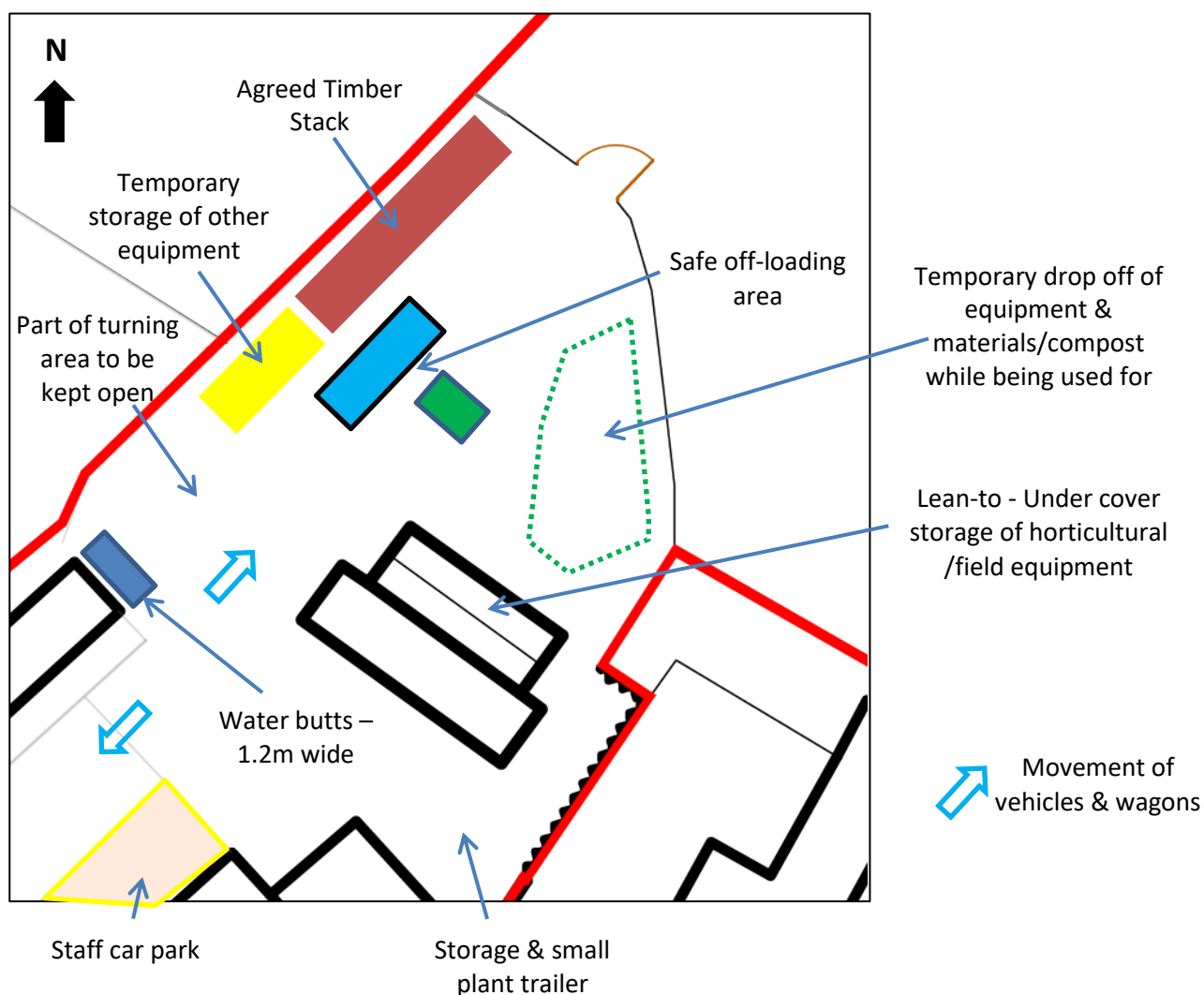
3.1.1 To ensure the safe management of machinery and implements there has to be a workable area where tractors or trailers can reverse safely (Figure 5). Equipment sometimes has to be picked up and dropped off in the area as part of the working day. It means occasionally equipment if left in the rear area until is needed. The area design allows for safe working and the safe area to reverse and pick up implements.

3.1.2 The rear area also allows for the safe delivery of materials for the nursery and the space has been determined to allow wagons to turn and maintain a workable area for machinery. This also has to allow for the few times there may be timber on site before it is chipped. The rear area is also divided by the access route to the field which must be maintained for most of the year. The space also has to allow safe off-loading of materials using the tractor and space to temporarily store/drop down compost or seed trays (on pallets) before these are moved once the wagon has left the site. All these different activities have to be managed by CWF and the space around the rear and to the side has been measured and designed to provide a safe and workable area.

3.1.3 The activities in the rear area are of a temporary and infrequent nature. Most are undertaken within general work hours and are consistent with the horticultural use of the site.



**Figure 5 – Set up of rear area for equipment storage, wagons turning, safe off-load of materials and temporary storage of field equipment**



### 3.2 Types of Equipment on site

The equipment will be stored mainly in the lean-to and this will be of a more permanent nature. Other equipment will require temporary storage and movement in the rear area to ensure the activities in the fields is undertaken safely and of a workable method. The green dashed area in Figure 5 shows this temporary area. Below are examples of the equipment stored on site that will be used in the rear area.

### 3.2.1 Equipment to be stored within the Lean-to



Mower



Rotovator



Hay Turner



Seed Spreader



Plough

### **3.2.2 Items temporarily stored in the rear area for a short period of work (green dashed area above)**

Items such as mowers and pin harrows will be occasionally taken off and other implements put on while in the course of a work activity.

The pictures below show other equipment that will require temporary use of the rear area.





Pin Harrows in temporary area



Chains Harrows/mower under sheet



16 foot flatbed trailer



Tractor usually stored in the big barn

(seed building).

## SCHEDULE A: Applications with Recommendation

20/0377

Item No: 03

Date of Committee: 14/08/2020

**Appn Ref No:**  
20/0377

**Applicant:**  
Mr Bell

**Parish:**  
Nether Denton

**Agent:**  
Ian Ritchie Land Agents Ltd Brampton & Fellside

**Ward:**

**Location:** Land adjacent to former Railway Inn, Low Row, Carlisle, CA8 2LG

**Proposal:** Erection Of Machinery And Crop Storage Building (Part Retrospective)

**Date of Receipt:**  
09/06/2020 17:00:57

**Statutory Expiry Date**  
04/08/2020 17:00:57

**26 Week Determination**

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### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Siting, Scale And Design Would Be Acceptable
- 2.2 Highway Matters
- 2.3 Drainage Issues
- 2.4 Impact On The Hadrian's Wall WHS Buffer Zone
- 2.5 Biodiversity

#### 3. Application Details

##### The Site

- 3.1 The application site is located on the eastern edge of Low Row and lies to the south of the Carlisle to Newcastle Railway Line. A Network Rail signal box lies to the west of the application site, with a residential property (Kells Cottage, which was formerly the Railway Inn Public House) lying to the south-west. A public footpath runs along the southern boundary of the site.
- 3.2 The site is accessed via a private road which runs directly to the front of

Kells Cottage. This road also provides access to the Network Rail signal box and to the residential properties of Casamia, the Station House and 4 and 5 Station Cottages.

## **Background**

- 3.3 In November 2019, a prior approval application was submitted for the erection of a building in the same location as the building in the current application. The submitted application form stated that this building would measure 18.30m in length by 7.70m in width and have an eaves height of 3.70m and a ridge height of 4.90m. It was determined that prior approval was not required for this building as it met the criteria in Part 6 of the The Town and Country Planning (General Permitted Development Order) 2015 (as amended).
- 3.4 The specified criteria are that the development does not exceed 1,000 square metres (including any other buildings that have been constructed in the last 2 years that lie within 90 metres of the application site), the height of the building would not exceed 12m and that any development is 25m away from a classified road.
- 3.5 Since the building was to be sited in close proximity to a railway line Network Rail was consulted. The building was to be located approximately 12m away from the railway boundary, which is in excess of 10m stand off distance required by Network Rail.
- 3.6 The building that has been erected on the site is higher than that granted approval under the prior approval process. This is due to the change in levels across the site, which has meant that the eaves and ridge heights on the building vary on the different sides of the building. In order to regularise the building, the applicant has submitted a full planning application for the building that has been erected on site.

## **The Proposal**

- 3.7 The proposal is seeking retrospective planning permission for the building that has been erected on the site. The building, which has been erected, measures 18.45m in length by 7.65m in width. The field rises uphill away from the railway line (from north to south) and from west to east so the eaves heights and ridge heights vary on the different sides of the building. The maximum eaves height is 4.45m with the maximum ridge height being 5.60m.
- 3.8 The building, which is to be used to store machinery and crops, is constructed of a steel portal frame and contains four bays. It is clad in black box profile sheeting (which is to be painted green) above low concrete panel walls. The roof is steel sheeting and contains roof lights. At the time of the officer's site visit, the building contained a metal storage container, a tractor and a trailer. A caravan (which is used to provide shelter during the day), a trailer and various other items were stored in the field in close proximity to the building. Once the building is complete it would be used to store farm

machinery and equipment together with crops.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and notification letters sent to six neighbouring properties. In response 5 letters of objection have been received from 4 households. The letters of objection make the following points:

##### Siting, scale and design

- this structure has already been assembled and it's an eyesore;
- no crops are being stored in the building as the farmer has literally only got four untagged sheep;
- the size of this build does not add up to the amount of cattle;
- the building shouldn't have already been assembled;
- the gigantic size of this barn is not warranted for the two sheep & two lambs that the applicant has - he has no crops;
- the barn does not seem to be constructed from the materials described in the planning application;
- the building has an adverse impact on the surrounding landscape and the skyline;
- the building is overbearing in size at 5.6m of height, and therefore it's appearance adversely impacts on the rustic views of the landscape;
- the agricultural building is inappropriately positioned in the heart of the village, rather than on one of the farms or at the outskirts of the village;

##### Access/ Highway Matters

- the road is narrow and serves many residences as well as access to Network Rail's signal box. It may therefore be entirely unsuitable for the type of agricultural machinery and storing/moving crops such as buying large quantities of hay;
- over use by tractors, large lorries and many extra vehicles on a private small road, which was only supposed to be the access to five residential properties until the Railway Signal Box was built in 2007;
- the heavy vehicle usage is a danger;
- the increase in traffic, whether big or small vehicles is a risk to the public;
- this barn is next to a public footpath which is used daily by villagers walking their dogs or exercising - there is a great danger of an accident waiting to happen here;
- large HGV's often reverse along the lane, therefore their vision may not be as clear and drives exit directly onto this lane;
- the local Highway Authority should consider specifically the reversing of large agricultural vehicles from the private road into the public road on the brow of a hill with a slight bend in the road. This is an accident waiting to happen;
- large lorries reversing down from road passed kids nursery and other property entrances are a danger;
- use of heavy vehicles are causing damage to a private road and drainage from other existing property;
- access is via private road yet no indication has been made whether there is

right of access and any limitations on the right of access to the site either for construction or ongoing operational purposes - evidence should be provided that the owner of the private road concurs with new usage;

- the farmer has no legal access to this field as the rights of access belong to four railway cottages;
- the awards set out along with the covenants quite clearly state no access points to be created or nothing to be built down this private road;
- the road owner must be asked;

#### Drainage Issues

- there are number of concerns about drainage due to the number of recent incidents of localised flooding that have affected the areas near and around Kell's cottage, Signal Box, other adjacent properties and the site proposed for development;
- the impact on flooding has greatly increased;
- land has been heightened to the detriment of all the other adjacent properties, which will now cause a massive flood risk because the water will obviously drain towards these other private dwellings and Network Rail Signal Box and the railway line through its natural course;
- given the location of the building in the lower end of the field which is often saturated soil, any increase in run-off will exacerbate problems downhill/downstream;
- alteration to the land at the end of the lane - changing from a drained and grassed area to hardcore and access was amended to this field in the corner with gates;
- interference with historic septic tank drainage pipes to two private properties (Kell's Cottage & Casamia) which went across the public footpath into the applicant's field long before he was ever involved;
- damage to drains through mechanical digging and huge amounts of heavy hardcore laid at the entrance/gateway and on parts of the field, which would be exacerbated by the very heavy plant machinery constantly running over these drains accessing this field for the erection of this barn;
- there are inadequate details in the application of technical design proposed of the drainage, and an absence of demonstration that the proposed drainage would be effective;
- there is major concern that there is no demonstration of an absence of flood risk for those properties nearby;
- in addition, weight limitations and protection of pipework and drainage running under the private road need to be considered;

#### Other Matters

- change of use of land not belonging to applicant has taken place;
- damage have been caused to Network Rail wall and adjacent tree;
- alteration of ground levels increasing flood risk to Network Rail and other properties;
- the area remained quiet until the applicant arrived approximately two years ago;
- the applicant is not a local 'farmer';
- the destruction of a great crested newts site along with other wildlife;
- the impact on resident's quality of life;
- the decrease in value of people's homes.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - Highways Authority has no objections as it is deemed the impact of the storage building on the public highway will be minimal. Lead Local Flood Authority has no objections subject to conditions (surface water drainage) and an informative being added to any permission;

**Nether Denton PC:** - there are concerns around the development from Parishioner's and that the planning committee should investigate and address these concerns before making a decision on the application;

**Network Rail:** - no objections subject to conditions (surface water drainage) and an informative being added to any permission;

**Historic England - North West Office:** - no comment received.

## 6. Officer's Report

### Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies EC12, SP6, CC5, HE1 and GI3 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposals raise the following planning issues:
  1. Whether The Siting, Scale And Design Would Be Acceptable
- 6.4 In November 2019, permission was granted under the prior approval process for an agricultural building in this location. The approved building measured 18.30m in length by 7.70m in width and had an eaves height of 3.70m and a ridge height of 4.90m. The building was to be used for the storage of farm machinery and crops.
- 6.5 The building that has been erected on site is 18.45m in length by 7.65m in width. The constructed building has the same floor area as the previously approved building (141 sq m) but is 15cm longer and 5cm narrower than the approved building. The building is a comparable size to that approved under the prior approval process and this is a material consideration which needs to be taken into account in the determination of this application.
- 6.6 The eaves height of the approved building is 3.70m and the ridge height is

4.90m. The building that has been erected on site has different eaves and ridge heights on the different sides of the building due to the changing levels across the site, with the eaves height varying from 3.8m to 4.45m and the maximum ridge height being 5.60m. The eaves and ridge heights as constructed are, therefore, between 0.70m and 0.75m higher than those approved under the prior approval process.

- 6.7 The building is located approximately 28m from the gable of the nearest residential property (Kells Cottage). Whilst it is acknowledged that the building sits at a higher level than the dwelling, it only has a maximum ridge height of 5.60m, 0.70m higher than the previously approved building. The main view from the rear elevation of the dwelling is largely unaffected.
- 6.8 The building is constructed of black metal sheeting (which is to be painted green) above a low concrete wall. The roof is also steel sheeting and this contains some rooflights. The materials are considered to be acceptable for an agricultural building.
- 6.9 Whilst the building is visible from a public footpath that runs to the south of the site, permission already exists for the erection of a building in this location. Whilst the maximum ridge height of the building is 0.7m higher than that of the approved building, this does not have a significant impact on views from the footpath or views from the surrounding area.
- 6.10 At the time of the site visit, the building contained a storage container (which had been moved into the building), a tractor and a trailer and a number of items were stored within the field. Once the building is complete these items should be stored in the building which would improve the visual appearance of the site.
- 6.11 In light of the above, the siting, scale and design of the building are considered to be acceptable.

## 2. Highway Matters

- 6.12 The access into the site is via an existing field gate which adjoins onto a private un-adopted road. As the access utilises an existing access into the development site via an un-adopted private road, the impact of the development on the highway network (C1023) would be solely through the construction phase of the development. In light of this application being retrospective, the majority of the building is already complete. Therefore, the future impact of this development on the highway network is negligible. As such the Highways Authority has no objections to the proposal as it is deemed that the impact of the building on the public highway would be minimal.
- 6.13 A number of objectors have raised concerns about the number of vehicle movements made along the private access road and they question if the applicant has a right to use this road to access the field. The number of vehicle movements along the road in recent weeks will have been high due to the building being constructed and once the building is finished the



number of vehicle movements to the site should not be significant. It should be noted that the Council cannot control the number of vehicle movements that the applicant makes to his field and a number of these would happen even if there was no building in the field. The applicant's right to use the access is a civil matter and is not relevant to the determination of this application.

### 3. Drainage Issues

- 6.14 The Lead Local Flood Authority (LLFA) has an ongoing investigation relating to numerous flooding instances in the location of the building and downstream of the works location at the railway line. It is the belief of the LLFA that the drainage outfall for the agricultural field is potentially compromised beneath the railway line which results in severe flooding to multiple properties within the vicinity.
- 6.15 The surface water drainage from the building currently discharges to the compromised drainage network downstream. This is not an acceptable solution to the LLFA as this could exacerbate flooding issues currently being experienced. It should be noted that Network Rail are to undertake a CCTV survey of the culvert beneath the railway line to determine if there are any blockages or collapses. The LLFA are awaiting the results of this CCTV survey and will inform the applicant as to its results and permutations.
- 6.16 The applicant's agent has stated that investigations to date have discovered that the existing drain that runs from the application site beneath the railway line (and which is the responsibility of Network Rail) has partially collapsed and this is impeding the flow of water and this is contributing to flooding in the surrounding area. Network Rail are aware of the issue and have indicated that they intend to repair the drain.
- 6.17 The first option for surface water disposal, in accordance with the Cumbria Development Design Guide, is through infiltration. Following on from the initial LLFA comments dated 23 June 2020, the applicant has undertaken a valid infiltration test in accordance with the BRE365 method. The infiltration tests undertaken determines that soakaways are a valid method of surface water disposal. As such, a soakaway is to be designed and constructed to discharge of surface water from the development with sufficient attenuation to accommodate a 1 in 100 year plus 40% to account for climate change storm event. Currently the applicant has not provided any calculations regarding the sizing of the soakaway required. However, the LLFA finds it acceptable that this information can be dealt with by condition.
- 6.18 The applicant needs to remove the current surface water connection to the compromised culvert beneath the railway line to prevent an increase in flood risk to the development site and neighbouring properties. Also, the additional drainage already constructed prior to the building being erected needs to be re-laid correctly to intercept existing surface water discharges across the bottom of the field. Further to this, additional protection should be given to any private pipe work that is within the existing access entrance given the weight of any agricultural vehicles that will access the site.

- 6.19 Network Rail has been consulted on the application. They have requested the inclusion of an appropriately worded condition to stipulate that an assessment of surface water drainage from this scheme is provided by the developer and that if it is demonstrated that the development increases flows of surface water towards the railway, that the developer undertake measures to mitigate this. The proposal to direct surface water from the building to a soakaway (rather than the Network Rail drain) would address Network Rail's concerns.

#### 4. Impact On The Hadrian's Wall WHS Buffer Zone

- 6.20 The site lies within the Hadrian's Wall WHS Buffer Zone. Policy HE1, which deals with the Hadrian's Wall World Heritage Site, states that proposed development in the buffer zone should be assessed for its impact on the site's Outstanding Universal Value and particularly on key views both into and out of it. Development that would result in substantial harm should be refused.
- 6.21 The proposal is seeking permission for an agricultural building which would be appropriate within this rural setting. Whilst the building would be visible from the adjacent footpath, long distance views of the building are limited and it does not cause any significant harm to the WHS Buffer Zone.

#### 5. Biodiversity

- 6.22 The field is used for grazing and is of low ecological value. The erection of an agricultural building on a small section of the field has not had an adverse impact on biodiversity.
- 6.23 An objector has made reference to the destruction of a great crested newt site. There is, however, no evidence that great crested newts were present within this field, which does not contain any ponds and is adjoined to the north by a railway line.

#### Conclusion

- 6.24 The siting, scale and design of the building are considered to be acceptable. The proposal would not have an adverse impact on the Hadrian's Wall Buffer Zone, the highway network or biodiversity. A condition has been added to ensure that surface water drainage from the building discharges to a soakaway rather than the existing Network Rail drain. The proposal is, therefore, recommended for approval subject to conditions.

### 7. Planning History

- 7.1 In December 1995, planning permission was refused for the erection of an agricultural workers dwelling (95/0840).
- 7.2 In July 2019, an application for prior approval for an agricultural building was

refused (19/0024/AGD).

- 7.3 In November 2019, an application for prior approval for an agricultural building was approved (19/0050/AGD).

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

1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the submitted planning application form, received 10th June 2020;
  2. Design & Access Statement, received 10th June 2020;
  3. Site Location Plan (Dwg No. B2-2), received 10th June 2020;
  4. Site/ Block Plan (Dwg No. B2-1), received 10th June 2020;
  5. Elevations/ Roof Plan (Dwg No. B2-5), received 10th June 2020;
  6. the Notice of Decision;
  7. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

2. Within two months of the granting of this permission, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance 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, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed (within three months of the granting of this permission), maintained and managed in accordance with the approved details.

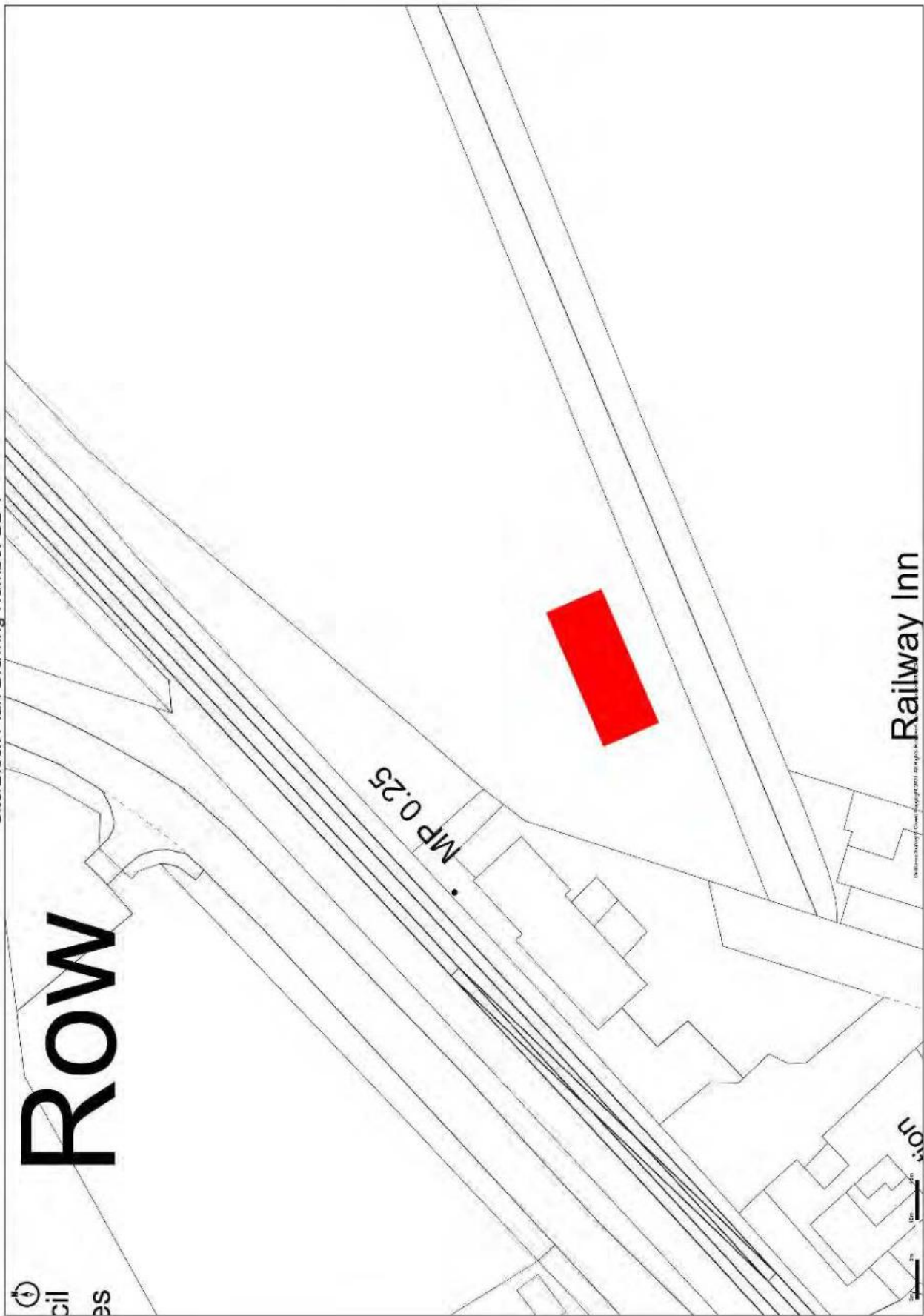
**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

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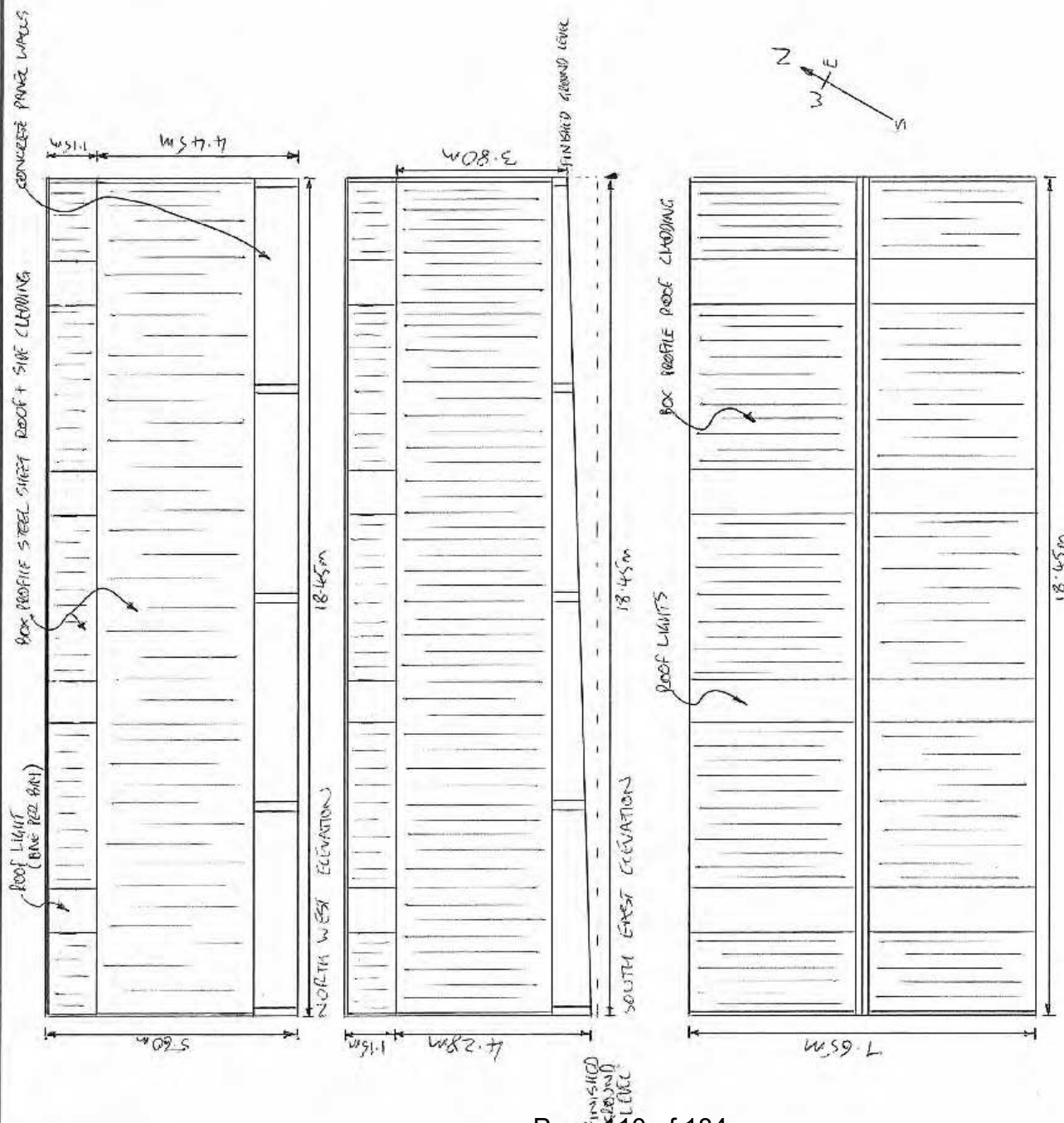
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Retrospective planning application for machinery and crop store at  
**Land adjacent to former Railway Inn, Low Row, Brampton, Carlisle. CA8 2LG.**

Drawing No: B2-5  
 Scale: 1:100 @A3

## SCHEDULE A: Applications with Recommendation

20/0206

Item No: 04

Date of Committee: 14/08/2020

**Appn Ref No:**  
20/0206

**Applicant:**  
Mr & Mrs Bobby & Emma  
Sherlock

**Parish:**  
Cumwhitton

**Agent:**  
Architects Plus (UK) Ltd

**Ward:**  
Brampton & Fellside

**Location:** Land adjacent Beck House, Cumwhitton, Carlisle

**Proposal:** Erection Of 1no. Dwelling

**Date of Receipt:**  
24/03/2020 23:00:58

**Statutory Expiry Date**  
19/05/2020 23:00:58

**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 Whether The Principle of Development Is Acceptable
- 2.2 Whether The Scale, Design And Impact On The Character Of The Area Is Acceptable
- 2.3 Impact On The Living Conditions Of The Occupiers Of Neighbouring Properties
- 2.4 Highway Safety And Access Issues
- 2.5 Impact On The Public Right Of Way
- 2.6 Whether The Method of Disposal of Foul And Surface Water Are Appropriate
- 2.7 Impact Of The Proposal On Biodiversity
- 2.8 Hedges And Landscaping

#### 3. Application Details

##### The Site

- 3.1 The land is currently in agricultural use and the site is located at the northern

fringe of Cumwhitton, adjacent to the County highway adjacent to residential properties to the south. On the opposite side of the road is a play area with sporadically located houses further to the north.

- 3.2 The site is currently in agricultural use and occupies an area of approximately 0.31 hectares. The site slopes very steeply upwards from west to east. To the rear, along the eastern boundary of the site, is a public footpath.

## **Proposal**

- 3.3 This application seeks planning permission for the erection of one detached two storey dwelling. The main part of the dwelling would be parallel with the road set back into the site. To facilitate this, the ground would be excavated and a retaining wall constructed.
- 3.4 The building would largely be orientated north to south but would include a gable that would then project from the property towards the road and would be lower than the main building which would be higher and set into the landscape. The gable would be finished in rough course local sandstone with the majority of the building constructed from render with stone detailing. The roof would be covered with natural slate. The composite windows and timber door openings would be proportionate. The building would also incorporate an oak framed curtain glazing system on the south elevation.
- 3.5 The dwelling would utilise the existing field access to the south which would then loop back heading north within the site and provide a parking area to the south-west corner of the property. The drive and parking areas would be tarmac and block paving.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 10 of the neighbouring properties. In response, two letters of objection have been received the main issues raised are summarised as follows:
1. the proposed development is too large, too tall, is too close on its plot to neighbouring properties and too elevated on the hillside which spoils a beautiful, pristine, ancient hillside through the removal of hundreds of tons of soil;
  2. this proposal neither protects or enhances the natural environment as it involves the removal of most of a hill with all habitat and vegetation contrary to Policy SP1;
  3. the proposal is too large and too prominently situated, is not commensurate with the setting, as a modern development it contrasts enormously with other buildings in the village. The large glazed section and is not made from the same materials as surrounding buildings. There is no need for the property 38 (out of 43) properties in the village have 3-5-bedrooms and many take over a year to sell. This proposal



- encroaches into agricultural land and the removal of the hill and will have a major and unnecessary impact on the fine landscape of the "show-field" on entry to the village contrary to Policy SP2;
4. the proposal does not respond to local context either through the building or the alteration of the topography of the land that would alter the view from both the south of the village (most houses) and from neighbouring properties contrary to Policy SP6;
  5. the fields behind Beck House have caused flooding of the house and the road. The removal of a large section of hillside, replaced with hard-standing, will increase the risk of polluted water flowing into Cumwhitton Beck, a tributary of the River Eden contrary to Policy SP8;
  6. this proposal is neither "compatible with their existing rural setting" or "in keeping in terms of scale and character with the surrounding landscape and buildings" contrary to Policy EC11;
  7. the proposal seeks to remove the contours of the land and remove part of the hill which provides screening between neighbouring properties and the proposed building contrary to Policy EC12;
  8. the development removes an important landscape feature and intrudes into open countryside; is not "contained within the topography"; adversely impacts on existing views entering and leaving the village contrary to Policy HO2;
  9. this development, in open countryside and on agricultural land, is not for "a rural worker" contrary to Policy HO6;
  10. the excavation works represent a dramatic environmental impact, with dust pollution escaping from the open hillside and foul agricultural water run-off into Cumwhitton Beck. The proposal negatively affects the visual amenity of other residents and will add traffic (the application states an additional four vehicles) contrary to Policy HO12;
  11. the removal of a chunk of landscape and the siting of a five-bedroom, two-story home here is excessive and contravenes the policy contrary to Policy GI1;
  12. the development does not provide 90 metres visibility splays which will impact on the junction to the north;
  13. there is a danger arising when turning left on exit requires an extra-large "sweep" across the road into incoming traffic;
  14. the lack of public transport and the development reduces sustainable travel from additional vehicles;
  15. the exit is opposite the entrance/exit to a children's park;
  16. children using the park would be under additional risk using the park. There is no curbing on this section of road for pedestrian access; water and air pollution concerns. It is unclear how the excavated site will be stabilised and there is a landslide risk;
  17. contamination of Cumwhitton Beck from agricultural run-off would pollute the drinking water catchment on the River Eden;
  18. loss of natural landscape to absorb rainfall and replacement with hard standing will increase risk of flooding;
  19. there is conflict with the outline planning permission for a "small and intimate development" to "improve the entrance to the village". Further, the proposal contravenes requirements for "no alteration to the ground level" and to be "single story";
  20. the current view from neighbouring properties overlooks the showfield.

The level of excavation, the height and location of the proposed development will intrude significantly on the residents' visual amenity. The intrusion from the development into neighbouring properties is considerable and represents a breach of the residents' right to privacy and visual amenity;

21. a balcony on the south elevation would overlook the occupiers of the neighbouring property;
22. there is inadequate capacity with the existing sewage system;
23. access for construction vehicles would be difficult and would lead to material being deposited onto the road.

4.2 Additionally, five letters of support have been received and the main issues raised are summarised as follows:

1. the area provides a wonderful opportunity to construct a family home that will add character and diversity to this welcoming and beautiful village;
2. the design clearly shows the lengths the architect has gone to, to ensure the house fits in with the landscape, nestling it neatly into the hillside and maintaining the profile of the hill;
3. the scheme avoids any privacy issues with neighbouring houses through the positioning of the house;
4. the building materials used to construct the house are similar to those used in the construction of buildings in the cul-de-sac at the south end of the village and mirror the age and design of many of the older properties within Cumwhiton. Furthermore, the large glass fronted extension recently added to one of the cottages in the centre of the village is another example where the design and materials to be used here would not look out of place;
5. Beck House and its grounds have never been flooded, either from surface water from the hill or from the beck overflowing. Any surface water coming off the hill is easily dealt with by using well recognised drainage solutions;
6. the public footpath going through the field has not been used and indeed access to it from the road is extremely difficult, it is not marked and there is no clear access or egress points;
7. the proposed access point to the property already exists and is regularly used by agricultural vehicles, it also sits side by side with the access point to Beck House. It therefore does not create any additional risks or danger to road users or pedestrians when entering the village;
8. the applicants have very close family connections immediately adjacent to the site and existing ties within this community. Their children attend the local school and their parents are involved in the parent/ teachers there.

4.3 Following the receipt of amended plans, further consultation was undertaken and as a response, one letter of objection has been received and the main issues raised are summarised as follows:

1. it is noted that the overall height of the house has been dropped, it is still far from the original plans passed for two single storey dwellings;
2. the sandstone previously proposed on the elevations facing the road has

now been removed. This change to the appearance of the property does not fit in with the village or the landscape as stated. This could set a dangerous precedent for other development in what is a traditional unspoiled Cumbrian village.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the following comments have been received:

### Local Highway Authority

No objection to the proposal subject to the imposition of conditions to require the provision of visibility splays, surfacing of the access, restriction of any boundary wall adjacent to the highway, details of a drainage scheme including prevention of surface water draining onto the highway and the access to be constructed in accordance with the approved plans.

Any works within or near the Highway must be authorised by Cumbria County Council and no works shall be permitted or carried out on any part of the Highway including Verges, until you are in receipt of an appropriate permit (I.E Section 184 Agreement) allowing such works. Enquires should be made to Cumbria County Councils Street Work's team - [streetworks.central@cumbria.gov.uk](mailto:streetworks.central@cumbria.gov.uk)

### Lead Local Flood Authority (LLFA)

The LLFA has no records of minor flooding to the site and the Environment Agency (EA) surface water maps do not indicate that the site is in an area of risk. This is a minor development which is below the LLFA threshold, for below 5 dwellings will be picked up by building control. The surface water drainage should not be greater than the already existing. If installing soakaway it is advised that this should not to be positioned in close proximity to the highway and should be at least 5m away from the highway and the property;

**Cumwhitton Parish Council:** - the parish council object for the following reasons:

1. the property should be built in sandstone to be in keeping with the majority of houses in the village;
2. the proposed property should be at the same ground level as that in the outline planning permission;
3. the house as proposed is raised up and will sit above other properties. It should be at the same level, not higher;
4. the houses in the outline application bared significant resemblance to Beck House this proposed house does not and is not in keeping with the majority of others in the village;
4. previous new houses in the village had to be sandstone. This new house should also be sandstone;
6. materials - revised natural stone to render, for such a prominent property

- render not in keeping, visible elevations should be sandstone;
- 7. landscape/ open space. Creates potential to further extend the village;
- 8. landscape/ character. Affects the topography at the entrance to the village;
- 9. traffic proximity of the entrance to a junction at a point where the road narrows;
- 10. traffic - proximity of the entrance to the entrance to the children's play park;

**The Ramblers:** - no response received;

**Cumbria County Council - (Highway Authority - Footpaths):** - Public Footpath 113022 follows an alignment through the proposed development area. It is noted that a formal diversion has been proposed and this will need to be carried out under Town and Country planning regulations before work on the site is initiated;

**United Utilities:** - no response received.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 6.2 The Development Plan for the purposes of the determination of this application are The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG), Policies SP2, SP6, HO2, IP3, IP4, IP6, CC5, CM5, GI3, GI5 and GI6 of the Carlisle District Local Plan 2015-2030. The City Council's Supplementary Planning Document 'Achieving Well Designed Housing' (SPD) is also a material planning consideration. The proposals raise the following planning issues.

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

- 6.3 The main issue to establish in the consideration of this application is the principle of development. 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.
- 6.4 Policy HO2 of the local plan makes provision for windfall housing development within or on the edge of villages in the rural area subject to a number of criteria covering scale, design, location, proximity to services and the need to enhance or maintain the vitality of rural communities.
- 6.5 In the assessment of the previous application submitted in 2016, it was stated that:

*"The application site is located in a sustainable location on the edge of Cumwhitton which has a range of services (public house, village hall and play area) and the proposal would create an opportunity to support these facilities. The site is well related and bounded by residential dwellings to the north and west. The development does not prejudice the plan strategy of the emerging local plan and in such circumstances the principle of additional housing in this location is deemed acceptable."*

- 6.6 Although the outline planning permission has subsequently lapsed, that decision was made under the policy context of the NPPF and the current, albeit then emerging local plan. There has been no significant change in planning policy to reverse the principle of development on this site which can therefore be considered a sustainable location for development in terms of the policies in the NPPF.
- 6.7 Given these material considerations and the fact that the site is well-related to the built form of the village, the principle of development is acceptable in policy terms. The planning issues raised by the development are discussed in the following paragraphs.

## **2. Whether The Scale, Design And Impact On The Character Of The Area Is Acceptable**

- 6.8 Paragraph 127(f) of the NPPF highlights that developments and decisions should:

*"create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. "*

- 6.9 The City Council's Supplementary Planning Document "Achieving Well Designed Housing", on the matter of privacy, states that:

*"Where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply. (para. 5. 44) While it is important to protect the privacy of existing and future residents, the creation of varied development, including mews style streets, or areas where greater enclosure is desired, may require variations in the application of minimum distances. " (para. 5. 45)*

- 6.10 Moreover, Policies SP6 and HO2 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive. Proposals should, therefore, incorporate high standards of design including care in relation to siting, scale, use of materials and landscaping that respects and, where possible, enhances the distinctive character of

townscape and landscape. Developments should therefore harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and making use of appropriate materials and detailing.

- 6.11 When outline planning permission was granted in 2016, following a site visit and debate at the Development Control Committee meeting, Members approved the application subject to the imposition of an additional condition which reads:

*“The dwellings hereby approved shall be single storey in appearance and comprising of accommodation arranged over a single floor which shall be retained as such with no additional floors created unless otherwise agreed in writing by the local planning authority.*

**Reason:** *In order that the development is appropriate within the context of the site and the character of the area in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.”*

- 6.12 The building itself would be a large detached property. Such large buildings are not uncommon within the village which also incorporates a wider mix of house types including bungalows, cottages and modern new-build houses. Separating this development from these other examples is the topography of the land and the location on the north approach to the village. The building has been designed so that as far as practicable, it would be sited within the landscape, although it would be slightly elevated about the adjacent road by approximately 1 metre and set back from the frontage.
- 6.13 In considering the outline application, Members were evaluating the proposal where all matters were reserved. Although an indicative illustration was submitted, no drawings were submitted available and therefore it was unclear how the development could be incorporated within the land. Before Members, as part of this application, are detailed drawings showing how the building would be incorporated within the landscape and particularly when approaching from the north, how the landscape would wrap around the building with the dwelling being partially screened. In addition to the drawings, a condition is imposed requiring the submission and agreement of existing and proposed ground levels to further ensure that the development is acceptable in this regard.
- 6.14 The proposed materials have been outlined earlier in this report and are commonly used on developments throughout the district. In principle they are acceptable. Reference is made in the representations received that the reduction in the amount of stone used on the building is not acceptable as it is not in keeping with the local context. The village comprises of buildings of different styles and materials with render used in varying degrees of prominence within the streetscene. For example, Beck House adjacent and the south of the site is a two storey property constructed from sandstone but its neighbour to the south, Orchard House, is constructed from red and grey facing brick. It is therefore a matter of judgement as to whether the use and amount of materials is appropriate in this location.

- 6.15 The palate of materials would be appropriate to the site and its context. The buildings would be a notable addition to the village but given the current open aspect of the site this is inevitable. The scale of the dwelling is considered to be appropriate to the size of the plot with sufficient amenity and parking spaces retained. Should planning permission be forthcoming, it would be appropriate to impose conditions requiring the submission and approval of ground levels together with a sample wall to be agreed by the local planning authority. On this basis, it is not considered that approval of this application would form a discordant feature or be prejudicial to these policy objectives. As such, the development would not be detrimental to the character or appearance of the area.

### **3. Impact On The Living Conditions Of The Occupiers Of Neighbouring Properties**

- 6.16 Development should be appropriate in terms of quality to that of the surrounding area and should not have an adverse impact on the living conditions of the occupiers of adjacent residential properties. The SPD provides guidance as to minimum distances between primary windows in order to respect privacy and avoid overlooking and states:

*"Where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply (para. 5.44). While it is important to protect the privacy of existing and future residents, the creation of varied development, including mews style streets, or areas where greater enclosure is desired, may require variations in the application of minimum distances." (para. 5.45)*

- 6.17 Given the orientation and distance of the application site from the neighbouring properties means that it is not considered that the occupiers would suffer from an unreasonable loss of daylight or sunlight. The siting, scale and design of the development will not adversely affect the living conditions of the occupiers of the neighbouring properties by virtue of over-dominance.

### **4. Highway Safety And Access Issues**

- 6.18 The site is served by an existing vehicular access. Cumbria County Council, as the Local Highway Authority has raised no objection subject to the imposition of conditions relating to the provision of visibility splays, surfacing of the access drive, any boundary wall height being no greater than 1.05 metres, measures for the prevention of water discharging onto the highway and requiring the access to be constructed prior to the occupation of the dwelling. Subject to the imposition of such conditions, the proposal does not raise any highway issues.

### **5. Impact On The Public Right Of Way**

- 6.19 Cumbria County Council has responded that Public Footpath 113022 follows an alignment through the proposed development area. Members will note from the submitted plans that this is along the eastern boundary of the site. They have advised that a formal diversion will need to be carried out under Town and Country planning regulations before work on the site is initiated.
- 6.20 Although rights of way matters are usually dealt with by the local highways authority, local planning authorities have been granted powers by Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made however where the local planning authority is satisfied that the diversion/ stopping-up is necessary to enable development to be carried out in accordance with a planning permission. The Growth and Infrastructure Act 2013 also amended section 257 of the Act to allow an diversion/ stopping-up Order to be made before planning permission has been granted provided a planning application has been submitted. An Order cannot be confirmed however, until such time as planning permission has been granted. The applicant is aware of the need to comply with this process.
- 6.21 A response is awaited from the agent as to whether the footpath would be affected by the development but notwithstanding this, it does not affect the ability to determine the planning application.

## **6. Whether The Method of Disposal of Foul And Surface Water Are Appropriate**

- 6.22 In order to protect against pollution, Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. The application form, submitted as part of the application, outlines that surface water would be disposed of by means of sustainable urban drainage systems and watercourse but no details are given in respect of the foul drainage.
- 6.23 Cumbria County Council as the Lead Local Flood Authority (LLFA) has raised no objection to the application. Subject to the imposition of conditions requiring the submission and agreement of further details, which would be subject to further consultation with the LLFA, adequate provision could be made within the development and as such, the proposal would be acceptable.

## **7. Impact Of The Proposal On Biodiversity**

- 6.24 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c. ) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European



protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.

- 6.25 As the proposal would involve an area of grassland within the village. The Design & Access Statement identifies that only a short section of the existing hedgerow that bounds the front of the site would have to be removed. The inclusion of a landscaping scheme may also result in a net gain of biodiversity enhancement on the site. As such, the proposal would not harm a protected species or their habitat; however, an Informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.
- 6.26 Reference is made in the objection received that the development has the potential to result in surface water run-off from the site, both during and after construction, that has the potential to affect the watercourse that ultimately leads into the River Eden. In addition to the aforementioned drainage conditions, members will note that there is a condition requiring the submission and agreement of a Construction Environmental Management Plan which combined, should ensure that the watercourses are protected.

## **8. Hedges And Landscaping**

- 6.27 There is a hedgerow along the southern boundary. Policy SP6 of the local plan requires landscaping schemes (both hard and soft) to be submitted for new developments in order to ensure that new developments are fully integrated into its surroundings. Layouts will be required to provide adequate spacing between existing hedges and buildings.
- 6.28 The layout of the application takes account of the hedgerow on the site. Subject to the imposition of a condition requiring the installation of appropriate protective barriers during construction, these would ensure the retention and protection of the hedge and as such, the proposal does not raise any issues in this regard. The landscaping scheme could also incorporate the retained hedge and is subject to a separate condition.

## **Conclusion**

- 6.29 In overall terms, the site is located within the village of Cumwhitton and the application is supported by the NPPF and the development plan and as such, the principle of development remains acceptable
- 6.30 The proposed development would provide a detached dwelling; however, their fenestration and layout of the development has been designed to respond to the scale and form of existing buildings within Cumwhitton. The proposed palette of materials would also respect and reflect those of the existing properties within the locality.
- 6.31 The scheme has been designed to take account of the topography of the land and nestle the building into the adjacent hillside and whilst the previous outline planning permission was subject to a condition limiting the

development to single storey, in light of the details received, it has been adequately demonstrated that whilst not in compliance with this condition, the scheme would not result in a discordant feature. The retention of the existing hedgerow together with proposed hard and soft landscaping within the site would also help to soften and blend the proposed dwellings into the street scene. Furthermore, the proposed development would also achieve adequate external space and parking provision to serve each of the dwellings. As such the proposal would respond to the local context and would not be disproportionate or obtrusive within the street scene.

- 6.32 Given the location of the application site in relation to neighbouring residential properties, the proposal would not have a detrimental impact on the living conditions of the occupiers of those properties on the basis of loss of light, overlooking or over dominance. Furthermore, to mitigate for any unacceptable noise and disturbance during construction works a condition is suggested which would limit construction hours.
- 6.33 Subject to satisfying pre-commencement conditions, the proposal will not have a detrimental impact on highway safety. Pre-commencement conditions would also ensure that the proposed drainage methods to serve the development would not have a detrimental impact on foul and surface water drainage systems. The proposal would not have a detrimental impact of existing hedgerows or biodiversity.
- 6.34 In overall terms, the proposal is considered to be compliant with the objectives of the relevant local plan policies and the NPPF.

## **7. Planning History**

- 7.1 In 2015, an application for outline planning permission for the erection of three dwelling was submitted but withdrawn prior to determination.
- 7.2 An application for outline planning permission for the erection of two dwellings was approved in 2016.

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
1. the Planning Application Form received 27th March 2020;
  2. the Site Location Plan received 6th April 2020 (Drawing no. 18054–04 Rev A);

3. the Block Plan as Proposed received 6th April 2020 (Drawing no. 18054-57 Rev A);
4. the Ground Floor Plan As Proposed received 17th June 2020 (Drawing no. 18054-48 Rev E);
5. the First Floor Plan As Proposed received 17th June 2020 (Drawing no. 18054-47 Rev D);
6. the Proposed West and North Elevations received 17th June 2020 (Drawing no. 18054-50 Rev F);
7. the Proposed South and East Elevations received 17th June 2020 (Drawing no. 18054-51 Rev D);
8. the Site Sections As Proposed received 17th June 2020 (Drawing no. 18054-53 Rev B);
9. the Design and Access Statement received 27th March 2020;
10. the Contaminated Land Desk Top Study received 27th March 2020;
11. the Residential Dwelling Supplementary Information received 27th March 2020;
12. the Flood Map Planning received 27th March 2020;
13. the Notice of Decision;
14. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Prior to the commencement of any development, a surface water drainage scheme for the site (including all measures to prevent surface water discharging onto or off the highway) based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority.

The surface water system shall demonstrate that no flooding will occur on any part of the site for a 1 in 30 year event unless designed to do so, flooding will not occur to any building in a 1 in 100 year event plus 40% to account for climate change, and where reasonably possible flows resulting from rainfall in excess of a 1 in 100 year 6 hour rainfall event are managed in conveyance routes (plans of flow routes etc). The scheme must also confirm the design of the surface water drainage system will mitigate any negative impact of surface water from the development on flood risk outside the development boundary.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the surface water public sewer, the pass forward flow rate to the surface water public sewer must be restricted to 5l/s for any storm event.

**Reason:** To ensure a satisfactory form of development and to secure a proper drainage scheme in accordance with policies within the National Planning Policy Framework, the National Planning Practice Guidance and Policies SP6 and CC5 of the Carlisle

District Local Plan 2015-2030.

4. No development approved by this permission shall be commenced until a scheme for the conveyance of foul drainage to has been submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved details.

**Reason:** To prevent pollution of the water environment in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

5. Details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwelling shall be submitted to and approved in writing by the local planning authority before development commences. The development shall be undertaken in strict accordance with the details approved in response to this condition.

**Reason:** In order that the approved development responds to planning issues associated with the topography of the area, preserves amenity and reduces flood risk, in accordance with Policies SP6 of the Carlisle District Local Plan 2015-2030.

6. Prior to the commencement of the development hereby approved, a detailed Construction Environment Management Plan for the construction phase of the development and a Construction Code of Practice shall be submitted to and approved in writing by the local planning authority.

The Construction Environment Management Plan shall provide details of measures proposed for the storage of all plant, machinery and materials to be used in connection with the construction of the development and for controlling any escape of noise and/ or fumes during the works. The development shall be carried out in accordance with the Construction Environment Management Plan.

The scheme shall in particular include:-

- locations for the storage of all plant, machinery and materials including oils and chemicals to be used in connection with the construction of the development;
- details of all bunds, fences and other physical protective measures to be placed on the site in connection with such storage including the time periods for placing and retaining such bunds, fences and measures (as the case may be);
- provision for the on-going maintenance of any such bunds, fences and other measures;
- the control and removal of spoil and wastes;
- measures to prevent the pollution of surface and ground water arising from the storage of plant and materials.
- management of surface water during the construction phase

The Code of Practice shall indicate: -

- a. the proposed hours of operation of construction activities including arrangements for the delivery of construction vehicles;

- b. the frequency, duration and means of operation involving excavations, drilling, piling, and any concrete production;
- c. sound attenuation measures incorporated to reduce noise at source;
- d. details of measures to be taken to reduce the generation of dust;
- e. the routes of construction traffic to and from the site including any off site routes for the disposal of excavated material.

The Code of Practice shall be strictly adhered to during all stages of the construction of the proposed development.

The development shall only be implemented in accordance with the Construction Environment Management Plan, provided that this may be amended in accordance with details expressly submitted to and approved in writing by the local planning authority for such purpose.

**Reason:** To ensure that the development does not adversely affect the environment or the living conditions of the occupiers of neighbouring properties in accordance with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

- 7. Prior to their use as part of the development hereby approved, full details of all materials to be used on the exterior of the buildings, including roofs, walls, cladding, doors, windows, external frames and rainwater goods shall be submitted to and approved in writing by the local planning authority. The development shall then be undertaken in strict accordance with the approved details.

**Reason:** To ensure the development is acceptable visually and harmonises with existing development, in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

- 8. Details shall be submitted of the proposed hard surface finishes to all public and private external areas within the proposed application site (including phasing/ delivery) and approved in writing by the local planning authority before their use as part of the development hereby approved. The approved development shall be carried out in strict accordance with the details approved in response to this condition.

**Reason:** To ensure that materials to be used are acceptable visually and harmonise with existing development, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

- 9. A landscaping scheme shall be implemented in strict accordance with a detailed proposal that has first been submitted to and approved in writing by the local planning authority. The scheme shall include details of the following where relevant (this list is not exhaustive):
  - 1. new areas of trees and shrubs to be planted including planting densities;
  - 2. new groups and individual specimen trees and shrubs to be planted;
  - 3. specification/age/heights of trees and shrubs to be planted;
  - 4. existing trees and shrubs to be retained or removed;

5. any tree surgery/management works proposed in relation to retained trees and shrubs;
6. any remodelling of ground to facilitate the planting;
7. timing of the landscaping in terms of the phasing of the development;
8. protection, maintenance and aftercare measures.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented, in the interests of public and environmental amenity, in accordance with Policies SP6 and GI 6 of the Carlisle District Local Plan 2015-2030.

10. As part of the development hereby approved, adequate infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the premises within the application site and shall be completed prior to the occupation of the dwelling.

**Reason:** To ensure adequate infrastructure provision and to maintain the visual character of the locality in accordance with Policy IP4 of the Carlisle District Local Plan 2015-2030.

11. No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or statutory holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

12. The development shall not commence until visibility splays providing clear visibility of 2.4 metres measured 60 metres 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety and to ensure compliance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

13. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of

the adjacent highway.

**Reason:** In the interests of highway safety and in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

14. Any existing highway fence/ wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved before the dwelling is occupied and shall not be raised to a height exceeding 1.05m thereafter.

**Reason:** In the interests of highway safety and to preserve sight lines in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

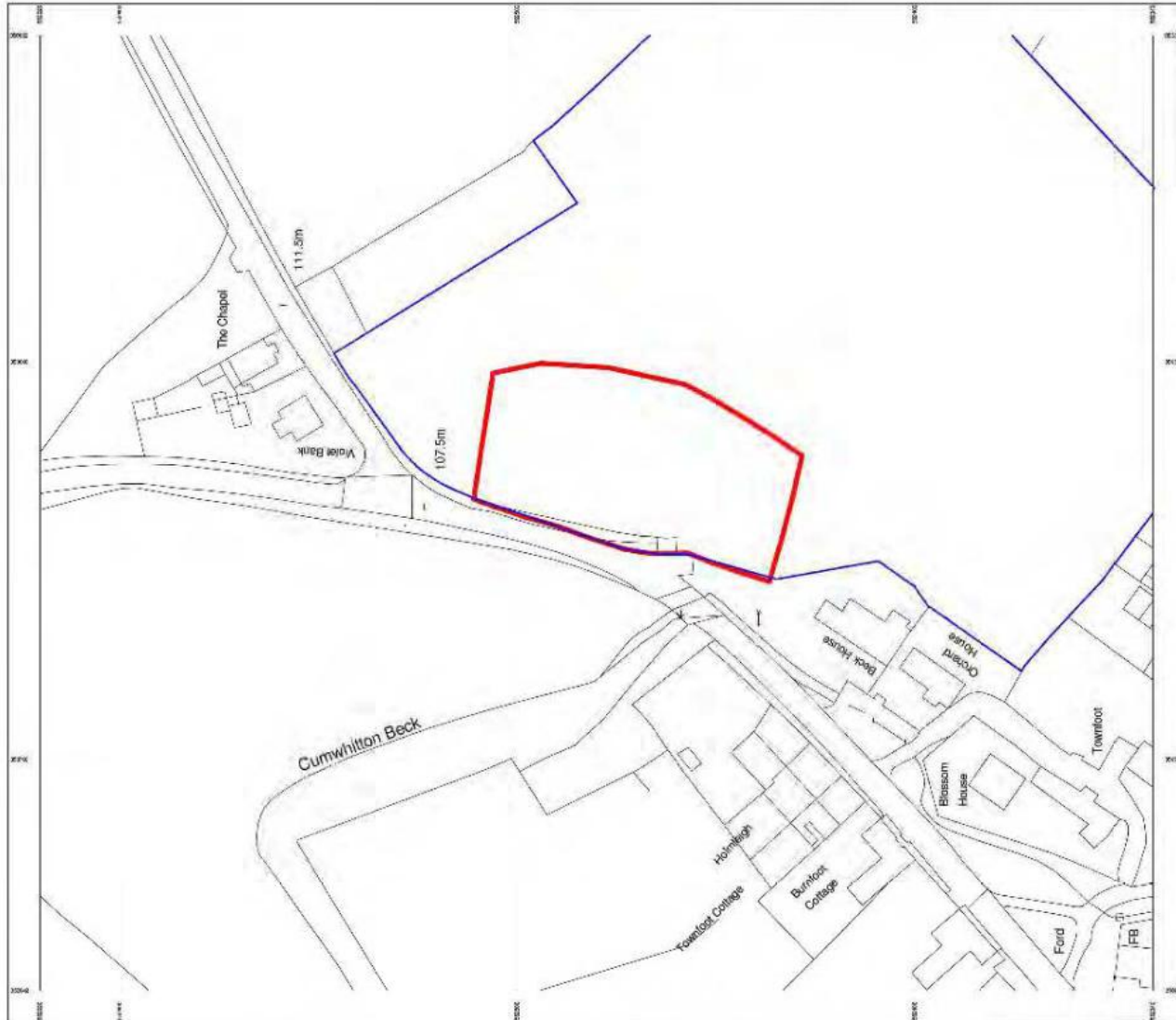
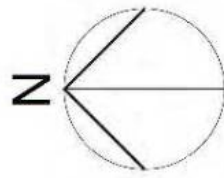
15. The dwelling shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plans.

**Reason:** To ensure that the development is served by a vehicular access constructed to the satisfaction of the local planning authority in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

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# Site Location Plan

## Beck House, Cumwhilton

1 1 : 1250

A	04/03/20	Site Location	Revisions	AN	Dr by
Rev	Date	Description	data created	approved by	
original	03/04/20			Approver	
Author					

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client  
Emma & Bobby Sherlock

project  
Beck House, Cumwhilton

drawing  
Site Location Plan

computer file  
V:\Architects Plus\Projects\Beck House\Cumwhilton\Site Location Plan.dwg

project code  
18054

drawing number  
18054-04

scale  
1 : 1250

rev  
A

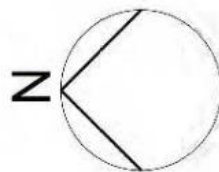
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Planning

plot date  
04/03/2020  
17:29:26

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A	02.04.20	Autumn from highway & just first boundary updated	CJ
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Rev	Date	Description	Dr by
AN		date created 20/01/2020	approved by CJ

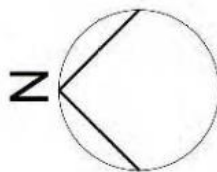
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client  
**Emma & Bobby Sherlock**

present  
New Dwelling adjacent to Beck House,  
Cumwhitton

Block Plan As Existing

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A	02.04.20	Access from highway & red-line boundary updated	CJ
Rev	Date	Description	Dt by approved by
AN		20.01.2020	CJ

# ARCHITECTS PLUS

client: Emma & Bobby Sherlock

project: New Dwelling adjacent to Beck House,  
Cumwhitton

drawings: Block Plan As Proposed

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drawing number: 18054-57	rev: A
	issue status: Planning

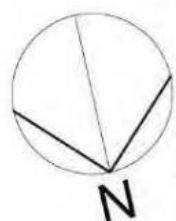
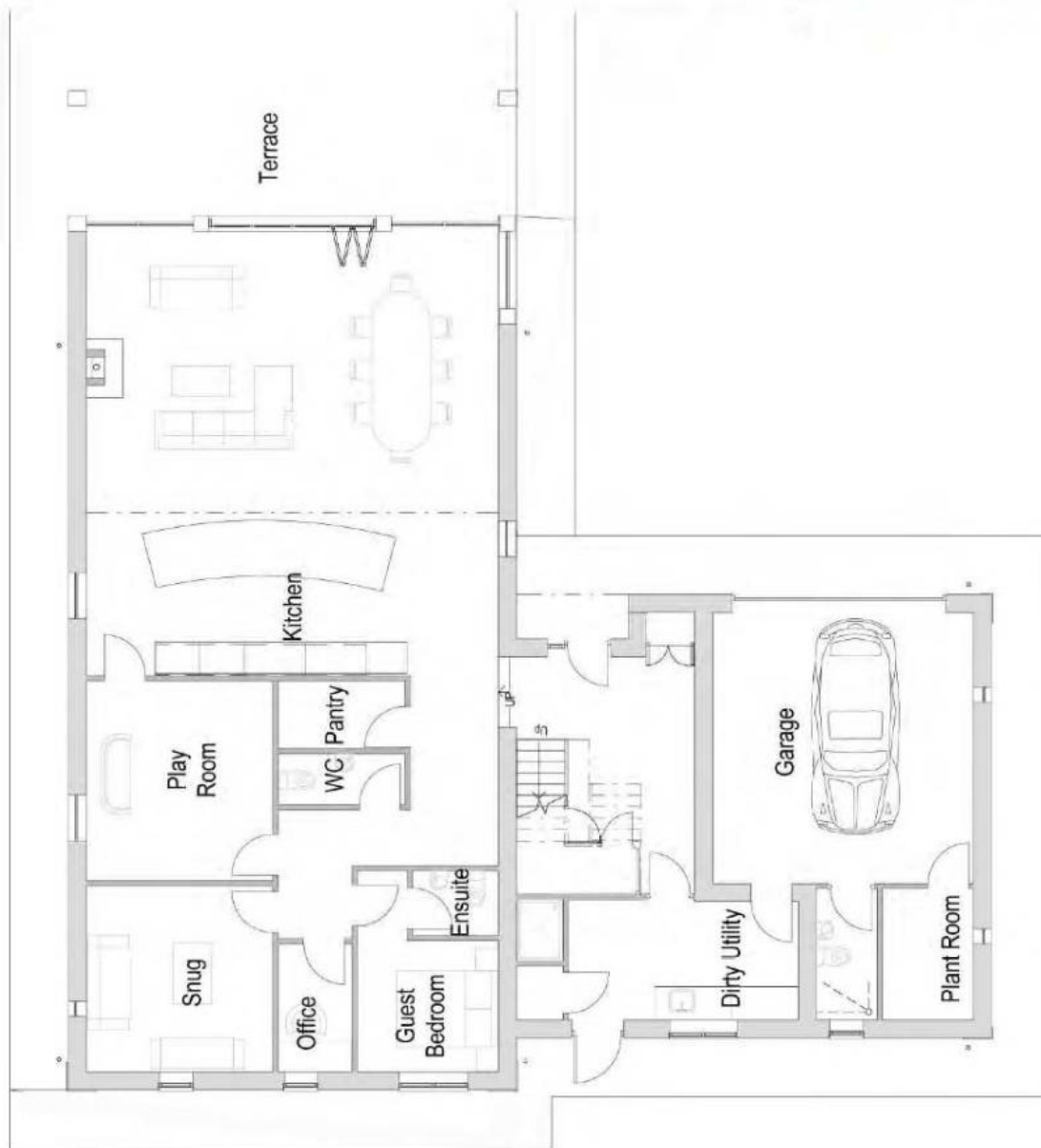
  

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Rev	Date	Description	Dr by
AN	16/01/2020	approved by	CJ
E	08/06/20	General updates to suit planners comments	CJ
D	03/03/2020	Bathroom window addition	AN
C	27/02/2020	Client requested revisions	AN
B	28/01/2020	Guest Bedroom and Dirty Utility revised	AN
A	21/01/2020	Stair position, ensuite and WC revised	AN

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client  
Emma and Bobby Sherlock

project  
New Dwelling  
Land adj to Beck House, Cumwhitton

drawing

Ground Floor Plan Option 9 - As Proposed

coordination file	plan date
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project code	scale
18054	1:100 @A3
drawing number	rev
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	Planning
Architects Plus [P] Limited, Registered in England no. 10511941	



# Ground Floor Plan Option 9 - As Proposed 208 m<sup>2</sup>

## New Dwelling

### Land adj to Beck House, Cumwhitton



Rev	Revised by	Date	Description	Dr by	approved by
D		08/06/20	Revisions to suit planners comments	CJ	
C		27/02/2020	Client requested revisions	AN	
B		28/01/2020	Bedroom sizing revisions	AN	
A		21/01/2020	Start position and ensuite revised	AN	

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project:  
New Dwelling  
Land adj to Beck House, Cumwhiton

1000

First Floor Plan, Option 9 - As Proposed

**First Floor Plan, Option 9 - As Proposed** 162 m<sup>2</sup>

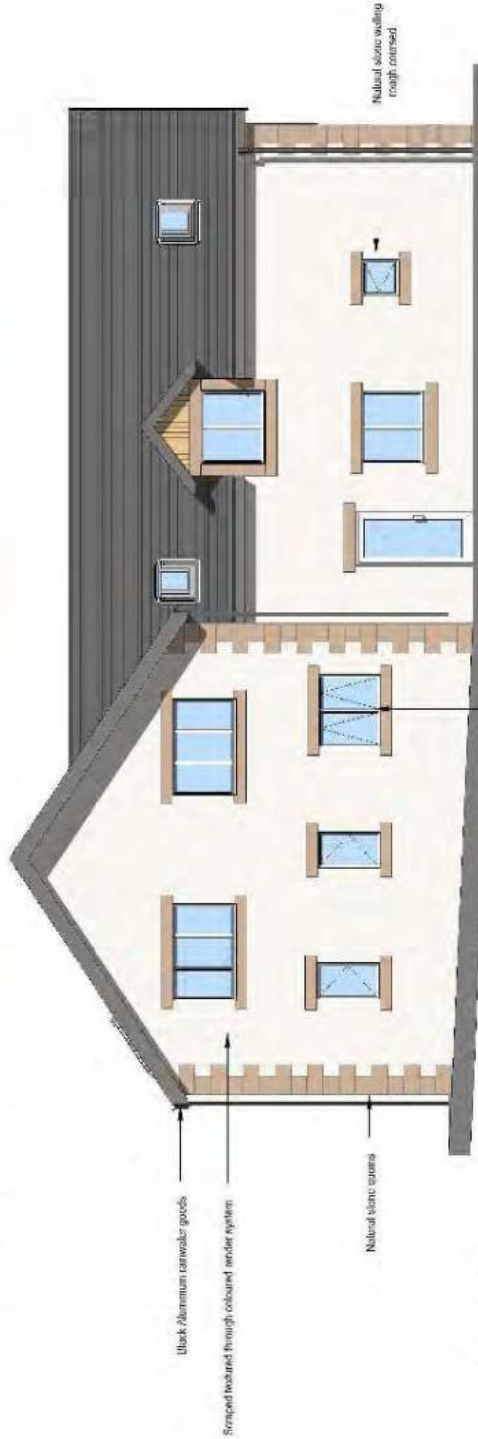
**New Dwelling**  
Land adj to Beck House, Cumwhitton

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West Elevation



North Elevation

F	16/06/2020	Adjustments to account for Planner's Requirements	CJ
E	12/03/2020	Stone framing for gable window	AN
D	03/03/2020	Bathroom window and quoin addition	AN
C	03/03/2020	Oak framing gable end window	AN
B	27/02/2020	Client requested revisions	AN
A	21/01/2020	Notes added and revised oak frame	AN
Rev	Date	Description	Dr by
AN			approved by
		16/01/2020	CJ

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client Emma and Bobby Sherlock

project New Dwelling Land adj to Beck House, Cumwhitton

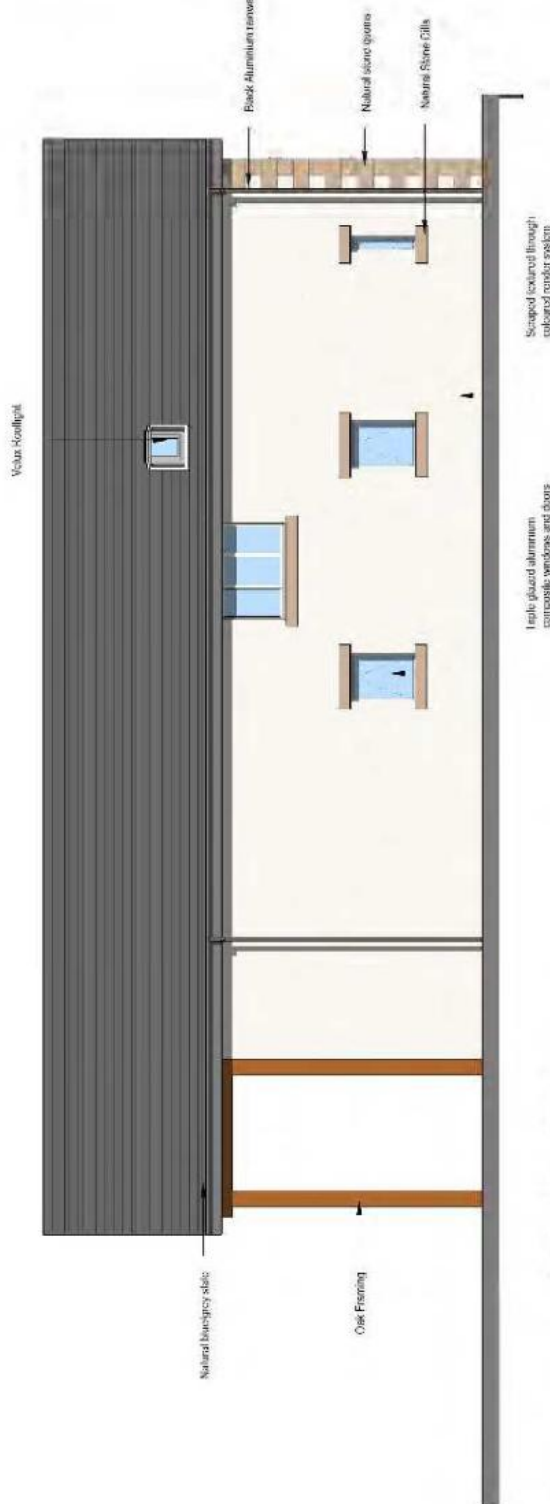
drawing Elevations

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project code 18054	rev F
drawing number 18054-50	stage station Planning





### South Elevation



### East Elevation

## Elevations

## New Dwelling

Land adj to Beck House, Cumwhitton

Rev	Date	Description	Dr by
D	16/04/2020	Adjustments to account for Planner's requirements	CJ
C	03/03/2020	Bedroom window and velux additions	AN
B	27/02/2020	Client requested revisions	AN
A	21/01/2020	Notes added and revised oak frame	AN
Rev			Dr by
AN		date created	approved by
		16/01/2020	CJ

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project  
New Dwelling  
Land ad to Beck House, Cumwhiton

Conclusion

## Elevations

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3D Entrance View

3D

New Dwelling  
Land adj to Beck House, Cumwhitton

F	16/06/2020	Adjustments to account for Planner's requirements	CJ
E	12/03/2020	Stone framing for gable window	AN
D	02/03/2020	Velux and quoin addition	AN
C	06/03/2020	Oak framing gable end window	AN
B	27/02/2020	Client requested revisions	AN
A	21/01/2020	Oak frame revisions	AN
Rev	Date	Description	Dr by
AN		revised by	approved by
		16/01/2020	CJ

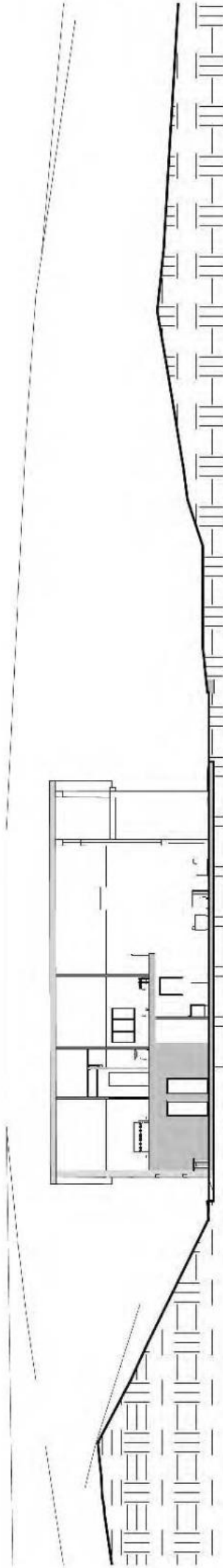
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client	Emma and Bobby Sherlock
project	New Dwelling Land adj to Beck House, Cumwhitton
drawing	3D

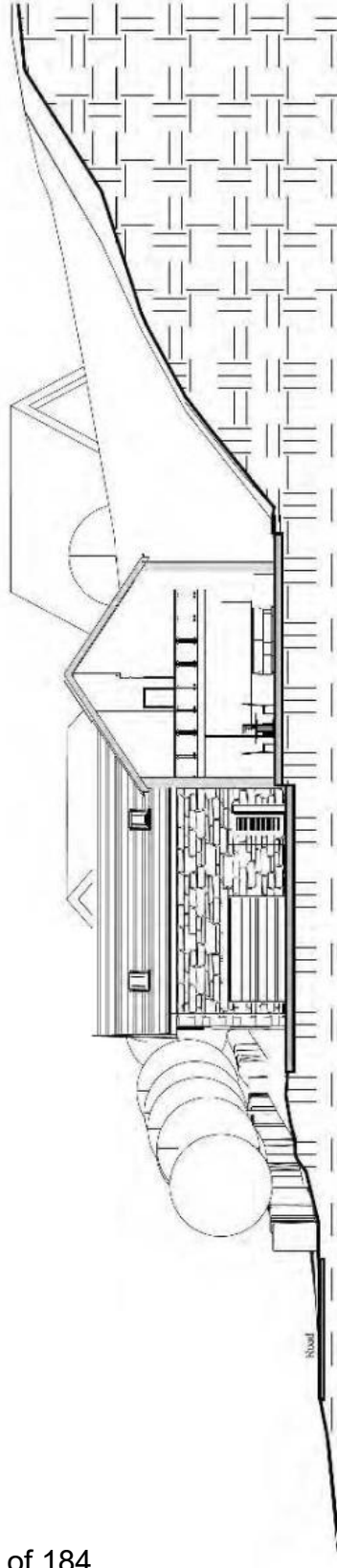
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18054-52	F
	Planning



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**1** Section 1  
1 : 200



**2** Section 2  
1 : 200

# Site Sections, Option 9 - As Proposed

## Beck House, Cumwhitton

A	Rev	Date	Client Requested Revisions	Description	Revised by	Approved by
AN		03/03/20				
AN		21/01/20				

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client  
**Emma & Bobby Sherlock**

project  
**Beck House, Cumwhitton**

drawing  
**Site Sections, Option 9 - As Proposed**

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18054-53

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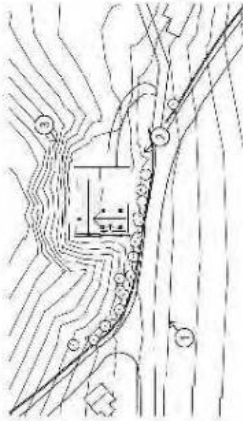
EXTERNAL VIEW 2

2



EXTERNAL VIEW 1

1



Block Plan

1 : 2000



EXTERNAL VIEW 3

3

## External Views

Beck House, Cumwhitton

C	16/06/20	Adjustments to account for Planner's requirements	CJ
B	12/03/20	Stone Gable and window framing	AN
A	27/02/20	Client Requested Revisions	AN
Rev	Date	Description	Dr by
original by		date created	approved by
AN		21/01/2020	CJ

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client  
Emma & Bobby Sherlock

project  
Beck House, Cumwhitton

drawing  
External Views

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project code  
18054

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rev  
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issue status  
Planning

drawing number  
18054-54

plot date  
16/06/2020 17:11:49

@A3











## SCHEDULE A: Applications with Recommendation

19/0898

Item No: 05

Date of Committee: 14/08/2020

**Appn Ref No:**  
19/0898

**Applicant:**  
Derwentcourt Limited

**Parish:**  
Wetheral

**Agent:**  
SRE Associates

**Ward:**  
Wetheral & Corby

**Location:** Land adjacent to St John's Hall, Cumwhinton, Carlisle, CA4 8EJ

**Proposal:** Erection Of Self Building Dwellings (Outline)

**Date of Receipt:**  
02/12/2019

**Statutory Expiry Date**  
02/03/2020

**26 Week Determination**  
21/07/2020

---

### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

##### 1.1 It is recommended

(1) that this application is approved with conditions and subject to the completion of a S106 legal agreement to secure:

- a) the units as self-build dwellings;
- b) a financial contribution of £5,500 for the gateway and speed limit changes and £5,000 for the chicane and associated signage.

(2) that should the Legal Agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

#### 2. Main Issues

- 2.1 Whether The Proposal Is Acceptable In Principle
- 2.2 The Need For Self-Build Housing
- 2.3 Impact Of The Proposal On Landscape Character
- 2.4 Impact On The Setting Of The Listed War Memorial
- 2.5 Whether The Scale And Design Would Be Acceptable
- 2.6 Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties

- 2.7 Highway Matters
- 2.8 Flooding & Drainage Issues
- 2.9 Biodiversity
- 2.10 Archaeology

### **3. Application Details**

#### **The Site**

- 3.1 The application site, which forms part of a larger field, measures approximately 0.70 hectares. The western part of the site contains a stone barn, with a single tree being located near to the eastern site boundary. A stone wall forms the boundary between the site and the B6263 and this contains a gate that provides access to the field. A further gate at the western end of the site, which is located between residential properties, also provides access to the field.
- 3.2 The application site is adjoined by the side and rear elevations of St John's Hall, which is used as a village hall/ community facility. Dwellings known as The Cottage and The Copper Beech (shown as Braeside on the OS map) adjoin the southern site boundary, along with a Grade II Listed War Memorial and the B6263. The western site boundary is adjoined by residential properties on Beech Tree Farm and a dwelling known as The Old Forge. Swallow Barn adjoins the site to east, together with an area of grassland which slopes uphill away from the site to the new Thornedge development. Further agricultural land, which is owned by the applicant, adjoins the site to the north.

#### **Background**

- 3.3 The indicative layout plan that was originally submitted with the application showed nine detached dwellings on the site. Two dwellings were shown being located towards the front of the site (between the village hall/ war memorial and Swallow Barn), with the other seven dwellings being sited to the rear of these two dwellings, the village hall and dwellings known as The Cottage and The Copper Beech which front on to the B6263. Following concerns about the adverse impact of this proposal on landscape character and the setting of the listed war memorial the plans have been amended (see below).

#### **The Proposal**

- 3.4 The proposals is seeking planning permission for self-build dwellings. The developer would install the road and services and then sell the serviced plots to individuals who wish to build their own properties. The developer has undertaken a similar development elsewhere in Cumbria.
- 3.5 The revised plans show five dwellings being located to the rear of the village hall, The Cottage and The Copper Beech. Ten car parking spaces for the village hall are shown being located towards the front of the site (between

the war memorial and Swallow Barn) and these would be screened by the existing stone boundary wall. Some land to the rear of the village hall and to the east of the village hall/ to the rear of the war memorial would be left undeveloped and could be used by users of the village hall (subject to the agreement of the land owner).

- 3.6 Whilst access does not form part of this application, the development would take access from the B6263, where there is an existing access into the field. The road would pass between the proposed car park and the war memorial and would provide access to the five dwellings to the rear of the site.

#### **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 17 neighbouring properties. In response, 33 letters of objection and an objection letter from John Stevenson MP have been received. The letters of objections raise the following concerns:

##### **Principle**

- Cumwhinton has suffered from over development in the last few years and further building is not required;
- Cumwhinton and the surrounding area has already been over developed recently putting drainage, sewerage, highways and schools under constant stress;
- the character of the village is continually being eroded as a consequence of over development - the rate at which development has occurred in Cumwhinton over the last 2 years is overwhelming - the village has already practically doubled in size in the last 10 years;
- there is no need for additional housing in the village - the school is already under pressure with the current number of pupils;
- this site was put forward through the Local Plan process and it was stated that this land would never be anything but agricultural land as it is too wet;
- the site was considered within the CDLP 2015-2030 with a yield of 20 dwellings but it was omitted;
- the village has expanded out of proportion in the last few years - there is no need for further development particularly bearing in mind the planned development to the south of Carlisle which will provide sufficient housing for the area;
- the village has nearly doubled in size over the last 10 years with no investment in additional infrastructure;
- in the last 4 years at least 102 new homes have been approved in Cumwhinton plus a further 25 if application 19/0871 is approved - approx 70 have been built and occupied which has made the village busier;
- recent developments in Cumwhinton, Scotby, Wetheral, Wetheral Pasture and Carlton since 2015 along with the Garden Village will meet the need for housing within the south of Carlisle District;
- increased housing will place further strain on the village facilities, particularly the school which already needs more places for local children;
- the school does not have capacity to cope for the demand for places from the current population let alone that which will result from the population

increase;

- the school has no capacity to expand to accommodate additional children generated by this development;
- there are multiple current developments in the village;
- this site was identified in the Local Plan Preferred Options Consultation Stage 2 (Spring 2014) but was not taken forward
- two housing sites have been allocated in Cumwhinton in the CDLP 2015-2030 - both of these are currently under construction along with 2 further sites not allocated for housing that have been developed
- the site was discarded in the Strategic Housing Land Availability Assessment - it was identified as a site with 'no potential' - concerns related to surface water flooding and the landscape impact of this prominent site;
- the site cannot be considered as a windfall housing development and the proposal is contrary to Policy HO2 (Windfall Housing Development) of the Local Plan;
- the site has no existing hedges to contain it due to it being a large agricultural field so does not comply with Policy HO2;
- the proposal is unplanned and of a piecemeal nature - it is not part of a much larger site to the rear - the site should be considered as one site;
- the application is for 9 houses covers less than 10% of the field and includes two access roads leading onto the land behind the proposed development - this is obviously just the first phase of a much larger building project and should not be treated as a stand alone application;  
the design of the road layout will allow development to quickly expand and take in the remaining field;
- whilst the current proposal is relatively modest, it appears to be merely the start of a process to cover the entire field with housing;
- similar sites in Scotby and Little Corby have been refused because the sites weren't allocated;
- Cumwhinton has significantly contributed to meet the need for additional housing in the Carlisle area and there should be no further housing development permitted in the near future;

#### Landscape Impact

- the land provides a valuable remaining area of countryside which has already been encroached upon by the Thornedegge development;
- why allow yet another development in Cumwhinton which will destroy village urban environment;
- the new housing in the village is destroying the rural character;
- the countryside in and on the edge of Cumwhinton is being decimated with development in every available field which is taking away the rural character/village life;
- the site should be left undeveloped as it is one of the few areas of countryside left in the village that is used for grazing;
- the roots to the beautiful central oak tree might be damaged during construction;
- the site is a visual village focus;

#### Flooding/ Drainage Issues

- the land is liable to flooding and is only fit for agriculture;
- the field sits in water all of the winter;



- the site is known as the village pond and the area by the entrance was once a pond;
- the site acts as a natural buffer to flooding by enabling a significant volume of water to soak into the ground naturally - development of this area would exacerbate the flooding issues which will worsen with extreme weather events associated with climate change;
- water runs off the fields opposite through the culvert under the road to the drains on the proposed site - this recently failed due to excess water and properties flooded;
- Cumwhinton has suffered from flooding for many years - this year two houses have been flooded - proposal will put more strain on the already poor drainage system;
- this year alone the fire brigade has had to attend on at least 3 occasions to to pump water away from properties on the main road at risk of flooding;
- there have been many instances of flooding affecting properties across the road (including in November 2019) and any building would be dangerous;
- this year alone has seen at least 2 events in Cumwhinton where houses have flooded;
- property has flooded twice within 6 weeks this year and more houses will make this matter far worse;
- the drainage in the field is damaged and non-existent in places;
- water from the site currently floods the road;
- had problems for many years with the road flooding and the excess water entering driveways;
- with all the building going on in the village this proposal will put more strain on the already overloaded drainage system;
- don't believe anyone can accurately predict what future flooding events would look like;
- if the development causes flooding issues in the future the residents will be left to sort out the problem at their own cost;
- the soil is full of clay which is not conducive to helping with any flooding;
- extra houses means extra sewage which increases the risk of flooding (being backed up and overflowing toilets);

#### Transport/ Highways Matters

- the road through the village is already very busy with traffic constantly speeding;
- the road through the village is used as a rat run from the A69 to the M6 (Junction 42) - crossing the road is dangerous and when the hall is in use cars are parked along the road making it single width;
- the traffic is already a nightmare;
- more traffic from the houses will cause a danger to use using the village hall and those who live nearby;
- extra traffic will increase road traffic accident risks for existing residents;
- the road has not been designed to accommodate the level of traffic that currently uses it;
- concerned about the effect of extra cars on the village;
- concerned about a new road and a new drive being created onto the main road through the village;
- most of the dwellings along the main road through the village have driveways and with the current increase in traffic use and speed of that

current traffic safe entry and exit onto those driveways has become a big safety concern;

- when events are on at the village hall cars are parked on the road/ pavement - this problem would be increased by a new access;
- the application should not be determined until a Transport Statement has been provided to allow a robust assessment of the traffic implications of this proposal;
- the proposal to provide 6 to 10 car parking spaces for the village hall would go nowhere near to solving the parking issue in the village and would still leave a good number of cars parked on the road/ pavement;
- the village hall needs at least 20 car parking spaces on a grasscrete area - if the chichane goes ahead that the Highway Authority has asked for the village hall would need another 30 spaces;
- a lot of elderly people attend events at the village hall - the proposal will have a direct negative impact on them by losing parking spaces near the hall;

#### Wildlife/ Biodiversity

- proposal will lead to loss of grazing land and the loss of a rural habitat for wildlife;
- bats has been seen in the area and they could be roosting in the derelict barn which would be removed - a bat survey of this building should be undertaken;
- proposal will increase pollution in the village;

#### Other Matters

- the proposal will detract from the war memorial;
- proposal could reduce attendance at the village hall which could affect viability;
- the village hall is in use 5 days a week and often on Sunday and urgently needs a car park;
- the village hall has been trying to buy land adjacent to the hall to solve the parking problems but has been unsuccessful;
- has research been carried out as to the location of gypsum mines in this area;
- need to ensure the fire exit on the east side of the village hall is unaffected.

4.2 A letter of objection has been also been received from John Stevenson MP, which makes reference to three current applications (including this application) in Cumwhinton.

- it is extremely important when considering the construction of new buildings and their locality that they are built in line with the agreed Local Plan which has been through the appropriate consultation and democratic decision making process;
- we need to be concentrating our efforts in ensuring the success of The Garden Village - this is a huge opportunity to develop the city in a natural way have will long term benefits for residents and the economy;
- any application (unless there are extremely good grounds for it) which falls out with the Local Plan should be rejected as a matter of principle - they are a distraction, unnecessary and should be rejected so that resources can be

concentrated on The Garden Village;

4.3 Following the receipt of amended plans, 27 letters of objection and 1 letter of comment have been received. The letters of objections raise the following concerns:

- once again revised planning has been submitted for a smaller number of houses to start with - more houses would be added if planning goes through;
- it looks like the developer is working on a piecemeal approach to gaining approval for the whole field;
- this is a back door method to increase development at a later stage - the drawing shows discontinued roads heading west and north which would be continued at some time in the near future - could lead to the whole field being developed;
- further reduction of green land is detrimental to the environment and will lead to an increase in carbon emissions;
- field should be left undeveloped - it remains the only bit of open space left in the village;
- Cumwhinton is overloaded with building at present many houses being built which will meet demand;
- there is no need or demand for additional housing - job market is shrinking at a rapid rate; historic data for house sales do not demonstrate a rising trend in house sales in any category; Covid 19 will lead to a slump in property sales;
- school is full the village shop inadequate as the owner wants to retire;
- another housing development will add a greater strain on the sewage, drainage, highways provisions and local amenities, plus impact the local school which are already under pressure;
- Cumwhinton School is already oversubscribed by 10 pupils from its maximum capacity, with Scotby School also being over subscribed;
- village is being destroyed by over development;
- Cumwhinton has been excessively developed over the past few years and if the new Garden Village is going ahead do any of the villages need to be enlarged now;
- Cumwhinton is being over developed and there should be a hold of new house building for the near future with development being directed to other settlements and the garden village;
- the village will lose its identity with the continued building taking place;
- there are significant other areas of land and numerous new estates also being or recently built within a 3 mile radius;
- garden village is proposed a few miles away why do we have to lose more of our green spaces;
- concerns about flooding remain which will be made worse;
- drainage problems need resolving before further development takes place;
- concerns about parking and traffic remain;
- main road through the village is getting busier with high vehicle speeds and this will be exacerbated by more cars from the development;
- the barn included on this planning application (which I presume will be demolished) appears to contain a roost of bats - presume there are stipulations in law about disturbing a bat roost;
- object to the demolition of the barn which contains a bat colony that roosts

- in it - all bats are protected by UK and EU law;
- noted that only ten parking spaces have been allocated for the village hall - the hall is normally used very well by the local community and when concerts, funeral teas and coffee mornings take place there are upwards of thirty cars. It is vital for the village that the hall is able to function and we need provision for thirty cars;
- also need the land at the east side of the hall as a provision for people using the fire door to exit plus using it as an area for children to play, when there is a function inside the hall;
- need to consider the effect on the village hall - might block any possible extension and impact on access to the field in case of a fire;

#### 4.4 The letter of comment makes the following points:

- no objection to a small number of dwellings being developed on this site;
- welcome the opportunity it presents for the creation of a car park for the village hall - believe that a car park area of only 10 spaces is completely inadequate - car park needs space for 20 to 25 cars to ensure vehicles don't park on the road outside the village hall which causes highway safety issues;

### 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections subject to conditions (construction details of highway/ footway/ ramps; provision of visibility splays for vehicles and pedestrians; surfacing of road; details of parking/ turning areas within the site; submission of a Construction Phase plan; details of surface water drainage; submission of a Construction Surface Water Management Plan);

**Wetheral Parish Council:** - objects - over development of the village, especially in light of the planned Garden Village which is supposed to reduce excessive development; the plans do not show other developments already under way in the village; there is already a drainage problem in Cumwhinton which is causing flooding in a number of properties - until this is resolved there should be no further development permitted in the village; the proposed site and surrounding land are already waterlogged and unsuitable for building;

**Northern Gas Networks:** - no objections;

**Local Environment - Waste Services:** - no objection in principle, subject to a suitable layout for waste collection vehicles to access the road;

**Local Environment - Environmental Protection:** - no objections subject to conditions on hours of work; noise, vibration and dust; and contamination;

**Cumbria County Council - (Archaeological Services):** - no objections subject to conditions (archaeological investigation and recording in advance of development);

**United Utilities:** - no objections subject to conditions (foul and surface water

drainage of separate systems; details of surface water drainage scheme);

**Council for Protection of Rural England/Friends of the Lake District:** - objects to the above application on the grounds of impacts on landscape and settlement character and overdevelopment.

The Carlisle Local Plan states that there is a requirement of 478 (net) new homes per year between 2013 and 2020. This amounts to a total of 3346 new homes. It also states at para. 3.13 that 30% of housing growth will take place in rural settlements. 30% of 3346 is 1003.8. The Local Plan states that there are 'many' rural settlements (para. 3.29) but does not make clear which settlements are 'rural settlements'. However, during the preparation of the Plan, its 'Rural Masterplanning' exercise covered 22 settlements, meaning that each settlement, on average, would be expected to accommodate 46 dwellings each between 2013 and 2020. Even if 'many' meant as few as half the settlements covered in the exercise, this would require each settlement to accommodate 91 dwellings each on average. The amount of development already permitted in Cumwhinton during the 2013-2020 period has already resulted in 81 dwellings (19+62). Permissions for housing on the two sites allocated for housing there in the Local Plan alone amount to 34 new dwellings (although 15 of these (12/0856) were permitted before the Plan Period began). 19 were permitted under 18/1104. Permissions on windfall sites amount to 62 (22 resulting from 15/1011, 22 resulting from 14/0816, 8 resulting from 16/1087, 5 resulting from 15/0494, 3 resulting from 19/0611 and 2 resulting from 17/0561). Whilst recognising that the figures in the Local Plan are not intended to result in precise targets or maximums for each settlement, and that some rural settlements are more remote from Carlisle or may have fewer services and facilities than Cumwhinton, a further 9 houses through the development of this site would mean that the village had accommodated 90 new dwellings in just 7 years, clearly exceeding the amount indicated in the Local Plan by almost 100% assuming there are 22 rural settlements. The cumulative impact with application 19/0871 for a further 24 dwellings must also be taken into account.

As well as demonstrating the ability of the plan area to deliver housing in relation to an overall target, one of the purposes of indicating numbers in the Local Plan is to give local people, developers and anyone else with an interest in the area an idea of what development to expect, when and where. These groups could not reasonably expect, on the basis of the numbers indicated, that Cumwhinton would see this level of development. Similarly, assessments of the Local Plan and its proposals, during its preparation and including by the Inspector when it was examined, took into account various factors of capacity and sustainability and the Plan indicated the numbers it did accordingly. On this basis, it is possible that the Plan would not have been found sound at Examination had the numbers now proposed been set out in the Plan as it was on the basis of the indicated lower level of development that the Plan was approved.

The Local Plan states at policy SP2 that development in rural settlements must be of a 'an appropriate scale and nature', 'commensurate with their

setting' and 'enable rural communities to thrive'. To expect Cumwhinton to accommodate up to almost 100% more new housing than indicated in the Local Plan (and by over 125% if 19/0871 is also accounted for) cannot be described as appropriate in scale.

A development that compromises a green space that provides an important role in the settlement's character and which would sever the settlement's visual connectivity with the countryside beyond is not commensurate with the village's setting. To thrive, communities of all kinds require many aspects to be taken into account beyond economic gains; health and wellbeing, and a sense of community, place and history are all important. By compromising, as described above, a space that plays a key role in these factors, this proposal will not enable Cumwhinton to thrive in these ways.

Policy HO2 applies to windfall sites such as this proposal. It states that "within rural settlements applicants will be expected to demonstrate how the proposed development will enhance or maintain the vitality of rural communities". Again, Cumwhinton has already accommodated its fair share of new development and to allow further development of the scale proposed that is not supported by the community will not enhance or maintain the vitality of the village. The proposal fails to meet the requirements of points 1, 2 and 3 of HO2. The proposed development:

1. is not 'appropriate to the scale, form, function and character of the existing settlement'
2. will not 'enhance or maintain the vitality of the rural community within the settlement where the housing is proposed'
3. is not 'well contained within existing landscape features', does not integrate with the settlement, and does lead to an unacceptable intrusion into open countryside.

Policy GI1 states that "all landscapes are valued for their intrinsic character and will be protected from excessive, harmful or inappropriate development" and that "proposals for development will be assessed against the criteria presented within the Cumbria Landscape Character Guidance and Toolkit". Cumwhinton lies within character type 5 Lowland and sub-type 5b, low farmland. Within this sub-type, the Toolkit states that the 'traditional feel of villages and farms can provide a sense of stepping back in time in places and is sensitive to unsympathetic village expansion' and that "views can be wide and long distance to the Fells and sea and have an expansive feeling". This proposal would compromise both these characteristics, which are very relevant in the case of Cumwhinton and this site in particular as the site provides the setting to a Listed war memorial and historic, characteristic-sandstone community hall and provides an important aspect from this focal point in the village to the open countryside.

Amongst the guidelines in the Toolkit for this sub-type are "ensure new development respects the historic form and scale of villages" and "enhance and strengthen green infrastructure to provide a link between urban areas and the wider countryside". Again, this proposal would achieve the opposite of these guidelines as it would result in overdevelopment and would wholly compromise the existing strong link between village and countryside

(provided by the visual link between a focal point in the village and the open land and trees beyond).

Carlisle City Council themselves discounted this site from further consideration in the Local Plan preparation process including on landscape grounds when the Strategic Housing Land Availability Assessment (SHLAA) concluded it had "surface water flooding issues, poor drainage, landscape impact on open setting" and would be "overly prominent". The site was referred to in the SHLAA as site CUW05.

The 'Rural Masterplanning' exercise referred to above, undertaken as part of the preparation of the Local Plan, also concluded that the "distinctive hummocky landform to the north" of Cumwhinton should be 'conserved' and the Commission for Architecture and the Built Environment (CABE) noted as part of the process that allowing substantial development in Cumwhinton would "readily become incongruous and change the character of the village". The conclusions of the exercise also remarked on St John's Hall and the Listed War Memorial, highlighting their 'charm and character'.

The Council confirmed at April 2018 that it could demonstrate a 5 year housing land supply and has also recently won Government support to go ahead with a 'garden village' development of 10,000 houses only minutes from Cumwhinton. This suggests that there are ample opportunities to meet identified needs, including for self-build, without requiring historic villages such as Cumwhinton to accommodate significant development amounting to almost 100% more than that allocated to them in the Local Plan. Particularly where this would have unacceptable impacts on landscape character and settlement character, including the setting of Cumwhinton and where it clearly conflicts with relevant Local Plan policies as set out above.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP1, SP2, SP6, HO2, HO4, HE3, GI1, GI3, GI6, CM4, CC4, CC5, IP2, IP3, IP4, IP6 and IP8 of the Carlisle District Local Plan 2015-2030. The Supplementary Planning Documents Achieving Well Designed Housing and Affordable and Specialist Housing are also material planning considerations as is the Cumbria Landscape Character Guidance and Toolkit.
- 6.3 The proposal raises the following planning issues.



## 1. Whether The Proposal Is Acceptable In Principle

- 6.4 Cumwhinton is a village that contains a range of services, including a school, a shop and public house. Given the level of service provision in Cumwhinton, the proposal to erect new dwellings within the village would be acceptable in principle.
- 6.5 Objectors, Wetheral Parish Council, the Council for Protection of Rural England/Friends of the Lake District have raised concerns about the level of development in Cumwhinton in recent years and consider that this application should be refused, particularly given that the Garden Village is being developed to accommodate future housing growth.
- 6.6 John Stevenson MP has also commented that when we are looking at new buildings and their locality that they should be built in line with the agreed Local Plan which has been through consultation and that we should be concentrating our efforts on ensuring that the Garden Village is a success. He considers that any application (unless there are extremely good grounds for it) which falls outside the Local Plan should be rejected as a matter of principle.
- 6.7 It is acknowledged that Cumwhinton has had a large amount of new housing development in recent years. There is, however, no policy which limits the number of dwellings that each settlement can accommodate. Applications are assessed against Policy HO2 and other relevant policies in the Local Plan. Policy HO2 in particular seeks to ensure that the scale and design of the proposed development is appropriate to the existing settlement. The revised indicative plan shows five self-build dwellings (for which there is a need in Carlisle District as evidenced by the numbers on the City Council's self-build register) and Policy HO2 (Windfall Housing Development) allows small scale sites to come forward within and on the edge of villages.
- 6.8 Whilst the Garden Village will accommodate significant housing development in Carlisle District in the coming years, development is not likely to start until 2022. Even when the Garden Village is under construction, small scale windfall housing development in villages (that complies with the requirement of Policy HO2) would be acceptable.

## 2. The Need For Self Build Housing

- 6.9 Section 14 of The Council's Affordable and Specialist Housing Supplementary Planning Document confirms the Council's support for individuals who wish to develop their own home, through either:-
- Self-build housing – where someone directly organises the design and construction of their new home; or
  - Custom house building – where someone works with a specialist developer to deliver their home.
- 6.10 The Council is required to establish a register of people interested in building their own home through the provisions of the Self-build and Custom House building Act (2015) and there are currently sixteen applicants on the Council's register. In addition to these sixteen people, there are likely to be

additional people who want a self-build dwelling but who have not formally registered their interest with the Council. The Housing and Planning Act (2016) places an additional duty on Local Planning Authorities to grant adequate permissions of serviced plots to meet the needs of demand on their Self and Custom Build Register. A serviced plot of land has access to a public highway and connections for electricity, water and waste water.

- 6.11 A number of applicants on the Custom and Self-Build Register have expressed an interest in rural plots within reasonable proximity of Carlisle - the application site, which is in a popular village just outside Carlisle with a range of local facilities and amenities (primary school, pub, village hall, shop/ post office) is, therefore, considered to be a potentially suitable location for serviced custom/ self-build plots.
- 6.12 The Section 106 Agreement should be suitably worded to ensure that the plots are reserved for genuine Custom and Self-builders, rather than speculative developers.

### 3. Impact Of The Proposal On Landscape Character

- 6.13 Concerns have been raised by both the Council for Protection of Rural England/Friends of the Lake District and objectors, about the landscape impact of the proposals.
- 6.14 Whilst the site does not fall under any landscape designations, Policy G1 (Landscapes) of the Local Plan states that "all landscapes are valued for their intrinsic character and will be protected from excessive, harmful or inappropriate development". It goes on to state that development will be assessed against the criteria presented within the Cumbria Landscape Character Toolkit with regard to a particular Landscape Character Area's key characteristics, local distinctiveness and capacity for change. Given that the site is located within the centre of the village and is adjoined by development to three sides it is considered that the Cumbria Landscape Character Toolkit should be given limited weight. The application should, however, be assessed against the first section of Policy G1 which seeks to protect all landscapes from harmful or inappropriate development.
- 6.15 The indicative layout plan as originally submitted with the application showed nine detached dwellings on the site. Two dwellings were shown being located towards the front of the site (between the village hall/ war memorial and Swallow Barn), with three dwellings shown to the rear of these. Four of the dwellings were shown to the rear of the village hall and dwellings known as The Cottage and The Copper Beech which front on to the B6263.
- 6.16 It was considered that development of this nature would have an adverse impact on landscape character. The field provides an important undeveloped site within the heart of the village, adjacent to the village hall and Listed war memorial, and provides views through to the field to the north. The applicant was made aware of officer's concerns and amended the indicative layout to try and overcome these.
- 6.17 The revised indicative layout has reduced the number of dwellings proposed

on the site from nine to five and has relocated all the dwellings to the rear of village hall, The Copper Beech and The Cottage. The dwellings would be adjoined by development to the south and west and would be well related to existing development. The only development shown between the village hall and Swallow Barn is a car park, which would be for users of the village hall. The revised proposal retains the open character of the site and is, therefore, considered to be acceptable in terms of landscape impact.

- 6.18 A number of objectors consider that if this proposal is approved it would lead to the whole field being developed. The plan has been revised, following discussions between the applicant and the case officer, and no dwellings would now be constructed in the area of land between the village hall and Swallow Barn to the east. This would retain the view to the open countryside beyond the application site, which is considered to be an important view that should be retained. The land to the rear of the site rises up and any development in this area would have an unacceptable adverse impact on the landscape and would not, therefore, be supported.

#### 4. Impact On The Setting Of The Listed War Memorial

- 6.19 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that:

*"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".*

- 6.20 Policy HE3 of the adopted Local Plan seeks to ensure that Listed Buildings and their settings will be preserved and enhanced.
- 6.21 The Cumwhinton War Memorial is Grade II Listed. The memorial, which was built in 1922, is set within a semi-circular walled enclosure, which is adjoined by the application site, which currently provides an open aspect to the rear.
- 6.22 Whilst the indicative layout plan that was originally submitted with the application showed an area of public open space to rear of the war memorial, it also showed dwellings to the rear and east of the war memorial which would have had an adverse impact on its setting. The revised indicative layout plan retains the open aspect of the land to the rear of the war memorial, with the dwellings now being sited to the rear of the village hall, The Cottage and The Copper Beech. The land to the east of the war memorial would contain a car park but this would be largely screened by the existing boundary wall. It is acknowledged that an access road would run in close proximity to the war memorial but it is not considered that this would have an adverse impact on the setting of the structure that would be significant enough to warrant refusal of the application.

#### 5. Whether The Scale & Design Would Be Acceptable

6.23 The application is in outline with all matters (including the scale and appearance of the dwellings) reserved for subsequent approval. The indicative layout plan that has been submitted with the application shows five detached properties, which is considered to be an acceptable scale. The dwellings would be self-build and the design of the dwellings would be determined through subsequent applications.

#### 6. Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties

6.24 The indicative layout plan shows the five dwellings located to the east of 7 and 8 Beech Tree Farm and to the north of The Cottage and The Copper Beech. The Council's Achieving Well Designed Housing SPD provides guidance on separation distances between existing and proposed dwellings (12m from a primary window to a blank gable and 21m between facing primary windows) and any subsequent Reserved Matters applications would have to comply with this guidance. It is clear that some dwellings could be accommodated on this site without having an adverse impact on the living conditions of the occupiers of any neighbouring properties through loss of light, loss of privacy or over-dominance.

#### 7. Highway Matters

6.25 The site would be accessed from the B6263 which is a 30mph highway which runs through the centre of the village of Cumwhinton with the access point into the proposed development located to the east of the village hall. The outline layout plan illustrates that a 2m wide footway would be provided either side of the new access which would have a carriageway width of 4.8m. This is acceptable to the Highways Authority and the kerb radii entering the proposed development would be 6m which is in line with the requirements of the Cumbria Development Design Guide.

6.26 The applicant has not provided details of the visibility splays that would be provided for the new access. As the development is within a 30mph zone, visibility splays of 60m x 2.4m are required and this is achievable at this location providing issues with cars obstructing the highway are removed.

6.27 A number of objectors have referred to road safety issues that are caused by cars parking on the B6263 by visitors to the village hall. It is shown within the indicative layout plan that ten car parking spaces would be provided within the application site for car parking associated with the village hall. This would help to prevent cars from parking along the B6263 and obstructing the visibility splays. Whilst some objectors consider that the size of the car park should be increased to 20-25 cars, it would not be reasonable to expect the developer to provide a car park for 20-25 cars. They are only seeking planning permission for five dwellings and are already funding a car park for ten cars and some highway improvements.

6.28 The B6263 currently has issues relating to the speeds of vehicular traffic at the location of the proposed new access. As the proposed development is

likely to exacerbate the number of vehicles using the B6263, it is expected that the applicant would contribute towards traffic calming along the B6263. The applicant would, therefore, be required to fund, at the western approach to the village on the B6263, a revised 30mph entry point and a gateway feature which would reduce vehicle speeds entering the village. This would also require that the current speed limit and its signage are revisited and potentially amended. Further to this, the applicant would also be required to fund a chicane on the B6263 outside the village hall to further assist with reducing vehicle speeds within the village itself. The applicant would need to design these features and submit drawings to the Highways Authority for comment. The traffic calming measures required would need to be installed prior to the access being formed for the proposed development. It should be noted that following discussions with the applicant no objections were raised with regards to them funding the required works on the B6263.

6.29 The costs of the aforementioned (which would be secured through a S106 Legal Agreement) would be:

- £5,500 for the gateway and speed limit changes
- £5,000 for the chicane and associated signage

6.30 The applicant has not stated the car parking provision for each of the dwellings associated with this outline application. As such, it is expected that for a 5 bedroom development 4 car parking spaces are required, for a 4 bedroom development 3 car parking spaces are required, and for a 2 bedroom development 2 car parking spaces are required. It is also expected that for each dwelling electric car charging ports are installed within the curtilage of each dwelling and for the visitor car parking spaces associated with the village hall.

6.31 In conclusion, the Highways Authority has no objections to the proposal subject to conditions and a contribution of £10,500 toward the installation of a revised 30mph speed limit on the B6263, a gateway feature and a chicane outside the village hall.

## 8. Flooding & Drainage Issues

6.32 A number of objectors and the Parish Council have raised concerns about on-going flooding issues in the village and are concerned that this development would make the situation worse.

6.33 The applicant has detailed within the application that the surface water discharge for the development would be into a culverted ordinary watercourse which flows through the site. The applicant has not provided any details of working through the hierarchy of drainage options as stated within the Cumbria Development Design Guide. It is expected that the applicant would undertake a number of infiltration tests in accordance with the BRE 365 method to ascertain if soakaways are a valid method of surface water disposal. Once these tests have been undertaken the results are to be submitted to the Lead Local Flood Authority for comment.

- 6.34 If the BRE 365 tests fail, then it can be considered discharging surface water into the existing ordinary watercourse. It is known following flooding which occurred within Cumwhinton on the 10 August and 1 October 2019 that the ordinary watercourse which flows through the site is a contributory factor. The Lead Local Flood Authority conducted a CCTV survey which discovered a blockage, siltation and a collapse of the culverted ordinary watercourse which the applicant is proposing to discharge surface water into. As a result, it is expected that this ordinary watercourse on the applicant's land is day lighted and reinstated to its natural condition to reduce the flood risk to the development site and Cumwhinton village.
- 6.35 Attenuation will also be required on site to accommodate a 1 in 100 year plus 40% to account for climate change storm event. The applicant at a later stage of the planning process would need to submit detailed calculations stating how the drainage network would accommodate this attenuation and also that the discharge rate from the site is controlled through a hydrobrake to the greenfield runoff rate. The attenuation is to be provided through a series of rain gardens, permeable paving, attenuation ponds and swales. It is the preference of the LLFA that drainage features are not piped but surface features which are easily maintainable and provide additional biodiversity benefits.
- 6.36 It is deemed that the information stated above regarding the surface water discharge method which is required as part of this application can be submitted at a later stage of the planning process and secured through the use of planning conditions. Therefore, to conclude the Lead Local Flood Authority has no objections with regards to the approval of planning permission subject to conditions.

## 9. Biodiversity

- 6.37 The application consists of grazing land which is of low value in terms of biodiversity. The provision of gardens and landscaping within the site should have a positive impact on biodiversity.
- 6.38 The site does contain a stone barn which would need be demolished for the development to proceed. A bat and barn owl survey would need to be submitted with any Reserved Matters application to establish if bats or barn owls are present within the barn. If bats or barn owls are found to be present, then suitable mitigation would need to be provided within the site (through the provision of bat boxes, bat friendly ridge tiles, owl boxes etc). Conditions have been added to the permission to require the submission of a bat and barn owl survey with the Reserved Matters application and to require details of wildlife enhancement measures to be incorporated into the site to be agreed with the local planning authority.

## 10. Archaeology

- 6.39 The County Archaeologist has been consulted on the application. Records indicate that the site lies in an area of archaeological potential. Cumwhinton is mentioned in 12th century documents and the strip field systems that

surround the present day village originate from that period. An archaeological investigation undertaken on the opposite side of the road at Peter Gate revealed evidence for a 12th and 14th century pottery workshop and the well-preserved remains of a corn drying kiln. It is, therefore, considered that the site has the potential for medieval remains to survive below ground and that they will be disturbed by the construction of the proposed development.

- 6.40 As a consequence, in the event planning consent is granted, the site should be subject to archaeological investigation and recording in advance of development. This work should be commissioned and undertaken at the expense of the developer and can be secured through the inclusion of a condition in any planning consent.

#### Conclusion

- 6.41 The proposal to erect five self-build dwellings, for which there is a need in Carlisle District, would be acceptable in principle. The proposal would not have an adverse impact on landscape character or on the listed Cumwhinton War Memorial if the dwellings are sited to the rear of the village hall and existing dwellings and the open views to the land to rear are retained. The scale and design of the proposal would be determined through a Reserved Matters application, but five dwellings is considered to be an acceptable scale. The proposal would lead to the provision of a car park for the village hall which would benefit users of the village hall and would remove ten cars from the adjacent highway. The proposal would deliver traffic calming measures along the B6263 (provision of a revised 30mph entry point and a gateway feature on the western approach to the village; revisiting the current speed limit and its signage; funding a chicane on the B6263 outside the village hall). The proposal would also lead to the day lighting of the existing watercourse that runs through the site and reinstating it to its natural condition and this would reduce the flood risk to the development site and also Cumwhinton village. The proposal would not have an adverse impact on biodiversity or on archaeology. The proposal is, therefore, recommended for approval subject to conditions and the completion of a S106 Agreement.

- 6.42 If Members are minded to grant planning approval it is requested that “authority to issue” the approval is given subject to the completion of a S106 agreement to secure:

- a) the units as self-build dwellings;
- b) a financial contribution of £5,500 for the gateway and speed limit changes and £5,000 for the chicane and associated signage.

If the Legal Agreement is not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

## 7. Planning History

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



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

1. Application for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission and the development of each individual plot hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved for that plot or 7 years from the date of this outline permission whichever is the longer.

**Reason:** In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended by The Planning and Compulsory Purchase Act 2004).

2. Approval of the details of the layout of the development, the scale and appearance of the dwellings, the means of access and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before the construction of the dwelling on that particular plot is commenced. The development of each plot shall be carried out as approved.

**Reason:** The application was submitted as an outline application in accordance with the provisions of Article 2 of the Town and Country Planning (Development Management Procedure)(England) Order 2015.

3. The development shall be undertaken in strict accordance with the approved documents for this Outline Planning Permission which comprise:

1. the submitted planning application form, received
2. Planning Statement including Design and Access Statement, received 2nd December 2019;
3. Heritage Statement, received 2nd December 2019;
4. Location Plan, received 25th November 2019;
5. the Notice of Decision; and
6. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

4. Prior to any above ground works associated with any dwelling hereby approved, samples or full details of all materials to be used on the external surfaces of the respective dwelling shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out and completed in strict accordance with the approved details unless otherwise agreed in writing by the local planning authority.

**Reason:** In the interests of visual amenity in accordance with Policies HO2 and SP6 of the Carlisle District Local Plan 2015-2030.

5. No work with the exception of any work in connection with the servicing of the plots, shall take place until full landscaping details for each plot have been submitted to and approved in writing by the local planning authority, having full regard to the details approved through condition 2 of this permission. The approved landscaping scheme shall be undertaken within each of the individual plots not later than the first planting season following the plastering out of that dwelling within the plot and thereafter maintained. If at any time during the subsequent five years any tree, shrub or hedge forming part of the landscaping scheme shall for any reason die, be removed or felled it shall be replaced with another tree or shrub of the same species during the next planting season to the satisfaction of the local planning authority unless otherwise agreed in writing.

**Reason:** To ensure that an acceptable landscaping scheme is prepared and to ensure compliance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

6. Prior to the formation of any boundary treatment within the individual plots, particulars of height and materials of all screen walls and boundary fences for that plot shall be submitted to and approved by the local planning authority. Thereafter all works comprised in the approved details of means of enclosure and boundary treatment shall be carried out in accordance with the approved details prior to the occupation of that dwelling unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure the design and materials to be used are appropriate and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

7. Prior to the commencement of development within each plot, details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of that dwelling and garage (if proposed) shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in strict accordance with the approved details unless otherwise agreed in writing by the local planning authority.

**Reason:** In order that the approved development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

8. A bat and barn owl survey of the barn to be demolished shall be submitted with the first Reserved Matters application.

**Reason:** To ensure that the development does not have an adverse impact on protected species, in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

9. No development shall commence until full details of the wildlife enhancement measures to be undertaken at the site (together with the

timing of these works) have been submitted to and approved in writing by the Local Planning Authority. Prior to the commencement of development of each plot, details of the wildlife enhancement measures to be incorporated into each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the agreed details.

**Reason:** In order to enhance the habitat for wildlife in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

10. No development shall commence until full details of the proposed car park to be created on the site, including the timing of these works, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the agreed details.

**Reason:** In order to ensure that parking is provided for the village hall in accordance with Policy IP3 of the Carlisle District Local Plan 2015-2030.

11. Prior to the occupation of each dwelling hereby permitted suitable receptacles shall be provided for the collection of waste and recycling in line with the schemes available in the Carlisle District.

**Reason:** In accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

12. As part of the development hereby approved, adequate infrastructure to serve each of the dwellings shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the dwellings within the application site and shall be respectively completed prior to the occupation of each of the dwellings hereby approved.

**Reason:** To maintain the visual character of the locality in accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Further guidance can be found on the Carlisle City Council website "Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers."

Site investigations should follow the guidance in *BS10175:2011 (or updated version)* "Investigation of Potentially Contaminated Sites.- Code of Practice".

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14. No construction work (other than internal works) associated with the development hereby approved shall be carried out before 07.30 hours or after 18.00 hours Monday to Friday, before 07.30 hours or after 16.00 hours on Saturdays, nor at any times on Sundays or Bank Holidays.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

15. Prior to the commencement of development, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. The development shall then be undertaken in strict accordance with the Construction Management Plan

**Reason:** In order to ensure that the development does not have an adverse impact on the occupiers of neighbouring properties during construction, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

16. No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i) An archaeological evaluation;
- i) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- ii) Where significant archaeological remains are revealed by the programme of archaeological work, there shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the LPA: a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of the results for publication in a suitable journal.

**Reason:** To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the preservation, examination or recording of such remains).

17. Foul and surface water shall be drained on separate systems.

**Reason:** To secure proper drainage and to manage the risk of flooding and pollution.

18. Prior to the commencement of any development a scheme for the conveyance of foul drainage shall be submitted to and approved in writing by the local planning authority. The foul drainage scheme shall be undertaken in strict accordance with the approved details prior to the commencement of any dwelling subject of this approval.

**Reason:** To prevent pollution of the water environment in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

19. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance 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, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed, 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. This condition is imposed in light of policies within the NPPF and NPPG.

20. No development shall commence until a Construction Surface Water Management Plan has been agreed in writing with the local planning authority. The development shall then be undertaken in strict accordance with the Construction Surface Water Management Plan.

**Reason:** To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems.

21. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. The highway improvement works (chicane, revised 30mph zone and gateway feature) so approved shall be constructed before the access onto the B6263 into the development site is complete.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

22. Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority for approval before development commences. Any details so approved shall be constructed as part of the development.

**Reason:** To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

23. The development shall not commence until visibility splays providing clear visibility of 60 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

24. The access from the B6263 shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is occupied/brought into use.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

25. Any existing highway fence/wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved before development commences and shall not be raised to a height exceeding 1.05m thereafter.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

26. Details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for staff and visitors, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading

and manoeuvring facilities constructed. The approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.

**Reason:** To ensure that vehicles can be properly and safely accommodated clear of the highway and to support Local Transport Plan Policies LD7 & LD8.

27. Development shall not commence until a Construction Phase Plan (CPP) that covers the construction of the access road, site infrastructure and each individual dwelling has been submitted to and approved in writing by the local planning authority. The CPP shall include details of:

- pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
- details of proposed crossings of the highway verge;
- retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- the management of junctions to and crossings of the public highway and other public rights of way/footway;
- details of any proposed temporary access points (vehicular / pedestrian)
- surface water management details during the construction phase

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety and to support Local Transport Plan Policies WS3 and LD4.

28. A 2.4 metre x 2.4 metre pedestrian visibility sight splay as measured from the highway boundary (or footpath boundary), shall be provided on both sides of the vehicular access.

**Reason:** To provide adequate inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the access and to support Local Transport Plan Policies LD7 & LD8.



29. Prior to the occupation of each dwelling, a 32Amp single phase electrical supply shall be installed to allow future occupiers to incorporate an individual electric car charging point for the property. The approved works for each dwelling shall be implemented on site before that unit is occupied and shall be retained thereafter for the lifetime of the development.

**Reason:** To ensure the provision of electric vehicle charging points for each dwelling, in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

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## Land adjacent to St John's Hall, Cumwhinton



0 50  
Metres



Plan Produced for: SRE Associates  
Date Produced: 21 Nov 2019  
Plan Number/Project ID: TQRQM19325155653124  
Scale: 1:1250 @ A4

Rev	Description	Drawn	Date
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Planning

Land to the rear of St John's Hall,  
Cumwhinton

Outline Proposal

Drawn	Check	Rev	Date
1/5/00	AT	JE	10/99
1889		002	-



# SCHEDULE B

# SCHEDULE B

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**Item No: 06**

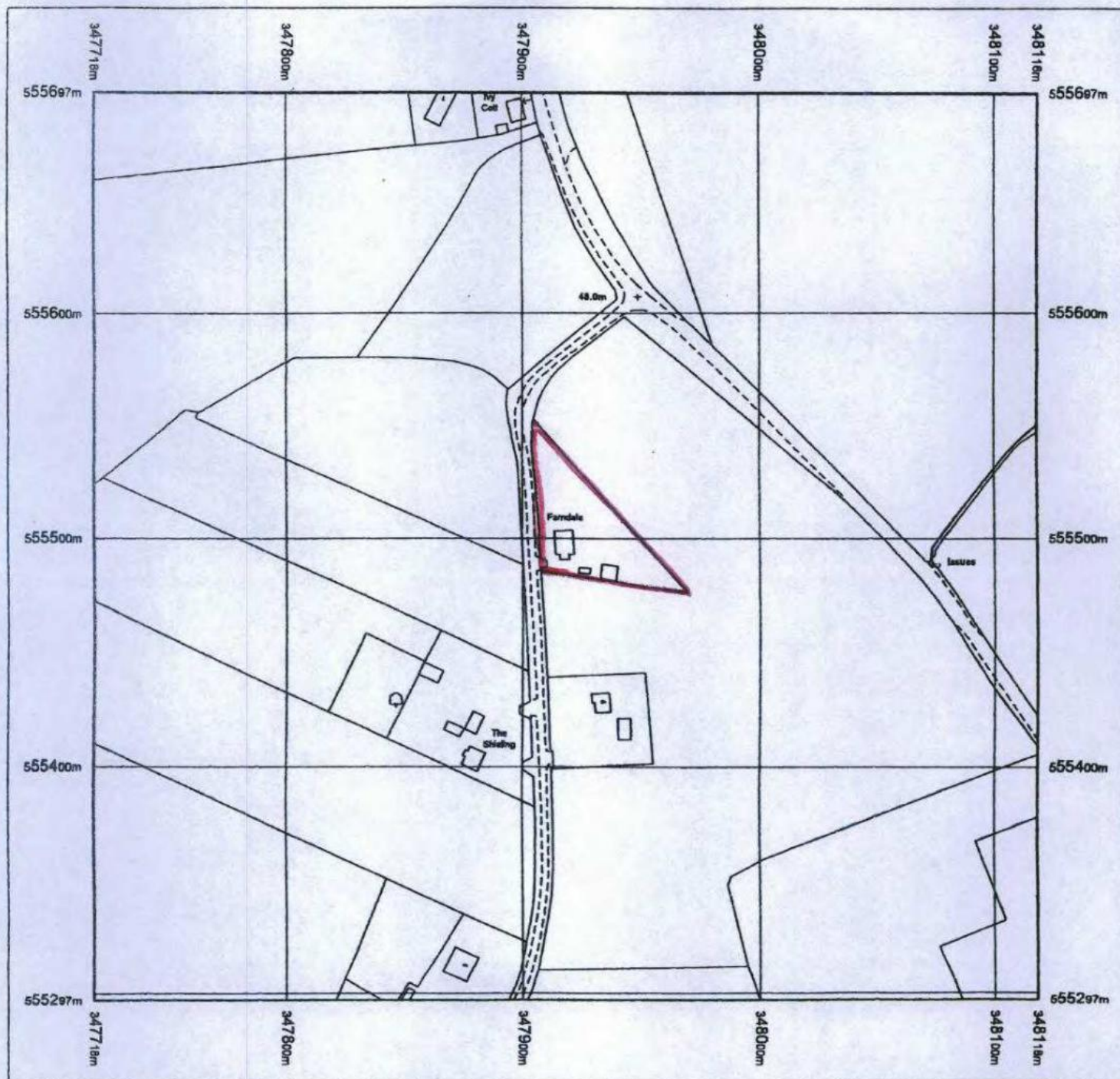
Between 03/07/2020 and 30/07/2020

**Appn Ref No:**  
19/0540**Applicant:**  
Dr J Deeble**Parish:**  
Wetheral**Date of Receipt:**  
10/07/2019**Agent:****Ward:**  
Wetheral & Corby**Location:**  
Pennine View, Sandy Lane, Broadwath, Heads  
Nook, Brampton, CA8 9BQ**Grid Reference:**  
347925 555515**Proposal:** Removal Of Condition 4 (Closure of Existing Access) Of Previously  
Approved Permission 17/0857**Amendment:**  
  

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**REPORT****Case Officer:** Richard Maunsell**Decision on Appeals:****Appeal Against:** Appeal against refusal of planning perm.**Type of Appeal:** Written Representations**Report:****Appeal Decision:** Appeal Allowed with Conditions      **Date:** 24/07/2020





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**PROPOSED REPLACEMENT DWELLING - FARNDALE - SANDY LANE - HEADS NOOK**  
**LOCATION PLAN**



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## Appeal Decision

Site visit made on 6 July 2020

**by Philip Lewis BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> July 2020**

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**Appeal Ref: APP/E0915/W/20/3247551**

**Pennine View, Sandy Lane, Broadwath, Heads Nook CA8 9BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Dr Jennifer Deeble against the decision of Carlisle City Council.
  - The application Ref 19/0540, dated 8 July 2019, was refused by notice dated 30 August 2019.
  - The application sought planning permission for the erection of replacement dwelling (revised application) without complying with a condition attached to planning permission Ref 17/0857 (APP/E0915/W/18/3201371), dated 11 April 2019.
  - The condition in dispute is No 4 which states that: Within 3 months from the date of this permission, the existing accesses to the highway shown on the Block Plan As Existing Drawing no. 3001/2 serving the property formerly known as Farndale, shall be permanently closed and the highway crossings and boundaries shall be reinstated in accordance with details have been submitted to and approved in writing by the local planning authority.
  - The reason given for the condition is to re-enforce the impression of Farndale being ancillary to Pennine View and from that single point of access, access to both buildings would be both clear, convenient and logical.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of replacement dwelling (revised application) at Pennine View, Sandy Lane, Broadwath, Heads Nook CA8 9BQ in accordance with the application Ref 19/0540 made on 8 July 2019 without complying with condition No 4 set out in planning permission Ref 17/0857 (APP/E0915/W/18/3201371) granted on 11 April 2019, but otherwise subject to the attached schedule of conditions.

### Application for costs

2. An application for costs was made by Carlisle City Council against Dr Jennifer Deeble. This application is the subject of a separate Decision.

### Background and Main Issue

3. Pennine View is a detached dwelling which was permitted as a replacement dwelling for a bungalow known as 'Farndale', which was to be demolished. The original planning permission<sup>1</sup> set out that the existing access for Farndale should be closed permanently and the boundaries reinstated. This matter was

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<sup>1</sup> Council reference 13/0916

subsequently considered in a Planning Appeal<sup>2</sup> which sought development of the land without complying with that requirement along with another planning condition. That appeal was dismissed.

4. Farndale has since been permitted to be retained on the basis that it is occupied solely as ancillary accommodation to Pennine View<sup>3</sup>. Condition 4 of that permission, which is in dispute in this appeal, requires the access to be closed permanently and the boundary to be reinstated. The reasoning given in the decision is to re-enforce the impression of Farndale being ancillary to Pennine View, with a single point of access to both buildings being clear, convenient and logical.
5. Therefore, the main issue for the appeal is whether the condition is necessary, having regard to development plan policies relating to housing in the countryside and the living conditions of the occupiers of the Farndale annex with regard to accessibility.

## **Reasons**

*Is the disputed condition necessary?*

*Housing in the countryside*

6. Policy HO2 (Windfall Housing Development) of the Carlisle District Local Plan 2015-2030 (CDLP) sets out where new housing development would be acceptable. In the rural area that means within or adjacent to villages. CDLP Policy HO6 (Other Housing in the Open Countryside) sets out the special circumstances where new housing will be allowed in the countryside, including replacement dwellings. Pennine View was allowed in the countryside as a replacement dwelling. The supporting text to Policy HO6 is clear that in terms of replacement dwellings, the existing house on the site must be demolished on completion of the new dwelling. In this case, Farndale has been retained solely as an annex to Pennine View and in planning terms is no longer permitted as an independent dwelling.
7. The existing access, subject to the disputed condition, provides a separate and independent access to the Farndale annex and to a detached garage. I saw at my site visit that retention of the access erodes the appearance of Farndale as an annex to Pennine View and gives the appearance of it being a separate dwelling when viewed from Sandy Lane. This is despite similarities in the external finishes of Pennine View and the Farndale annex. Whilst condition 3 of the permission sets out that Farndale should not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 'Pennine View' and shall not be sold separately or occupied as a separate dwelling, the retention of the access sought undermines the purpose and reason for that condition. This is because it facilitates independent access and occupation of the Farndale annex, the retention of which as an independent dwelling would be contrary to the CDLP, given that Pennine View has been permitted as a replacement dwelling. The retention of the access would therefore be contrary to CLP Policies HO2 and HO6 and a condition is necessary to secure the removal of the access to the Farndale annex.

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<sup>2</sup> APP/E0915/W/16/3160411 Council reference 16/0196

<sup>3</sup> APP/E0915/W/18/3201371 Council ref 17/0857



### *Living conditions*

8. I saw at my site visit that land to the front of Pennine View is largely surfaced in unbound gravel, with areas of paving near to both Pennine View and Farndale. I have had regard to the health considerations put forward by the appellant and agree that the gravel surface may affect accessibility to Farndale from the Pennine View parking area for people with mobility problems. However, that matter could be readily addressed through a change in surfacing materials which would provide appropriate access for the long term, including use of a buggy and allow for any such future changes in health of occupiers of the annex. Whilst compliance with the condition would involve some further expense, this has been a consistent requirement of the development of Pennine View as a replacement dwelling.
9. Although the closure of the access would effectively prevent vehicular access to the retained garage for Farndale as presently configured, a large garage has been erected with Pennine View and the gravel parking area provides for parking for a number of vehicles, where electric car charging could be facilitated. The use of these facilities in a shared way would accord with the ancillary use of Farndale.
10. The appellant has referred to paragraphs 59 and 61 of the National Planning Policy Framework in respect of meeting the housing needs of different groups and the Planning Practice Guidance regarding housing for older and disabled people. I am satisfied that the removal of the access does not conflict with this national policy and guidance, as appropriate vehicular and pedestrian access can be provided for all users within the site utilising the Pennine View access.
11. The disputed condition would not have an unacceptable effect on the living conditions of the occupiers of Farndale and this matter does not persuade me that the condition is unnecessary.
12. To conclude on this matter, I find that the retention of the access would be contrary to CDLP Policies HO2 and HO6. A planning condition to secure the permanent closure and reinstatement of the existing access to Farndale is therefore necessary.

### **Other matters**

13. Sandy Lane is a single track road and I have had regard to the comments from the Highway Authority that the retention of the access would not be prejudicial to highway safety. Whilst the retention of the entrance may provide some benefit as a passing place, I consider that this would be of limited benefit given the nature of the road.
14. In the Council Officers Report there is discussion of whether an access could be formed to the Farndale annex in the future as a fallback position. However, I have not been provided with details of such a scheme to consider. Consequently, the question of whether there is a potential fallback position is one which does not change my decision.

### **Conclusion and conditions**

15. For the reasons set out above, I find that a condition to secure the closure of the existing access to the Farndale annex and the reinstatement of the boundary is necessary. However, given that the disputed condition required

the access to be closed within 3 months of the date of the permission and the works have not been carried out, that condition has been breached.

16. Consequently, I am allowing the appeal and issuing a new permission with a modified condition 4. The Parties were given the opportunity to comment on the wording for the modified condition and I have had regard to the response received in reaching my decision. The modified condition 4 is imposed to ensure that a scheme for closing the existing access is submitted, approved and implemented in full so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the closure of the access before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
17. The guidance in the PPG makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose them all. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. I have imposed a plans condition for certainty, a condition to removed permitted development rights to ensure that Farndale remains ancillary to Pennine View, a condition to ensure that Farndale is not occupied or sold as a separate dwelling from Pennine View to prevent the creation of a new dwelling in the countryside, and a condition in respect of the provision of visibility spays in the interests of highway safety.

*Philip Lewis*

INSPECTOR

## **Schedule of conditions**

- 1) The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the Planning Application Form received 4th October 2017;
  2. the Planning Statement received 4th October 2017;
  3. the Planning Statement Appendix received 4th October 2017;
  4. the Notice of Decision;
  5. And the following plans : Drawing no. 3001/1; Drawing no. 3001/2; Drawing no. 3001/2C; Drawing no. 3001/4; Drawing no. 3001/5; Drawing no. 3001/6; the Supportive Statement received 20th November 2013; the Stage One Desk Top Study Assessment of Likelihood Of Contamination Of Proposed Development received 20th November 2013; the Hedge Survey Schedule received 20th November 2013.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling unit to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.
- 3) The bungalow known as 'Farndale' shall cease its independent residential use and shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 'Pennine View' and shall not be sold separately or occupied as a separate dwelling.
- 4) Unless within 2 months of the date of this decision a scheme for the permanent closure of the existing access to the highway shown on the Block Plan Drawing no. 3001/2D serving the Farndale Annex and for the reinstatement of the highway crossing and boundary is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented and completed within 3 months of the local planning authority's approval, the occupation of the Farndale Annex shall cease until such time as a scheme is approved and implemented in full.

Upon completion of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 5) Visibility splays providing clear visibility of 2 metres by 45 metres measured down the centre of the access road and the nearside channel line of the major road shall be provided at the junction of the access road with the county highway in both directions. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of

any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

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**Item No: 07**

Between 03/07/2020 and 30/07/2020

**Appn Ref No:**  
19/0588**Applicant:**  
Mr Monkhouse**Parish:**  
Stanwix Rural**Date of Receipt:**  
22/08/2019**Agent:****Ward:**  
Stanwix & Houghton**Location:**  
25 Whiteclosegate, Carlisle, CA3 0JA**Grid Reference:**  
341068 557859**Proposal:** Change Of Use Of Agricultural Land To Garden (Retrospective)**Amendment:**  
  

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**REPORT****Case Officer:** Alanzon Chan**Decision on Appeals:****Appeal Against:** Appeal against refusal of planning perm.**Type of Appeal:** Written Representations**Report:****Appeal Decision:** Appeal Dismissed**Date:** 28/07/2020



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## Appeal Decision

Site visit made on 6 July 2020

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 July 2020**

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**Appeal Ref: APP/E0915/W/20/3250546**

**25 Whiteclosegate, Carlisle CA3 0JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr N Monkhouse against the decision of Carlisle City Council.
  - The application Ref: 19/0588, dated 30 July 2019, was refused by notice dated 17 October 2019.
  - The development proposed is a change of use of agricultural land to garden.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have used the Council's description of the development proposed in the banner heading above as it is more precise.
3. I observed on my site visit that the change of use of the land has taken place and that it has been enclosed by a fence. I have therefore determined the appeal on the basis that the development has already occurred and with regard to the plans submitted with the application.

### Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

5. The appeal site is a small rectangular parcel of land, of approximately 55m<sup>2</sup>, adjoining the rear garden of No 25 Whiteclosegate (No 25). Around three sides of its perimeter is a fence made up of concrete gravel boards, concrete posts and solid wooden panels which are stated by the appellant to vary in height from about 1.2m to about 1.8m.
6. Although some of the occupants of houses along this side of Whiteclosegate have extended their rear gardens from the original boundary line, the majority have not. In this respect, the original demarcation of the rear residential curtilages in this area still remains substantially defined.
7. The prevailing character and appearance of the area is quite different on either side of the original rear boundary line. The area to the east is characterised by medium density residential development, comprising detached and semi-detached houses within generous and mature plots which are enclosed to

- the rear by a variety of boundary treatments. Whereas the area to the west is characterised by open agricultural fields that are interspersed by isolated trees and field boundaries of hedges and/or post and wire fences.
8. The development extends the manicured domestic garden of No 25 beyond the original residential curtilage into agricultural land. In doing so it detrimentally forms a suburban incursion into an open, semi-rural landscape. This combined with the domestic nature and very solid appearance of the concrete frame and wooden panels which border the appeal site, creates a discordant feature which is out of keeping with the prevalent characteristics of the area.
  9. Whilst the size of the garden extension is modest, given the topography of the land, the change of use and its enclosure cause it to be unduly conspicuous when viewed from the nearby public footpath accessed from Brampton Road. This emphasises its incongruity within the open landscape setting of this side of Whiteclosegate and its adverse effect on the character and appearance of the area.
  10. The appellant has highlighted the inconsistency of the Council in its decisions, and has drawn my attention to the grant of recent planning permissions for similar proposals<sup>1</sup>, along with an example of a close boarded fence to the curtilage of another property in the wider area. Nevertheless, I do not know the full details or exact circumstances that led to these permissions being granted. From the information before me and my observations on site, the permission and other example within the wider area which incorporate close boarded fences, relate to either a different use of the land or the enclosure of an original residential curtilage. While, the permissions to the rear of other properties along Whiteclosegate incorporate post and rail or post and wire fences of a more open and agrarian form. On this basis, I do not consider any of these developments to be directly comparable to the appeal before me.
  11. Additionally, in my judgement and notwithstanding the form and materials of the enclosures permitted, the examples along Whiteclosegate referred to further demonstrate the harmful impact that sporadic, domestic interruptions into open agricultural land can have on the intrinsic character of a semi-rural landscape. Therefore, the presence of apparently similar proposals is not, in itself, a reason to allow more inappropriate and unacceptable development. I have determined the appeal before me on its own planning merits and found that it causes harm.
  12. Drawing the above points together, I conclude that the development has a harmful effect on the character and appearance of the area. This is contrary to Policies SP 6 and GI 1 of the Carlisle District Local Plan 2015-2030 (CDLP) insofar as they seek development to respond to local context, respect local landscape character and to be fully integrated into its surroundings; and to protect the intrinsic character of landscapes from excessive, harmful or inappropriate development.
  13. It also conflicts with provisions within the National Planning Policy Framework (the Framework) which aim to achieve well-designed places, along with

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<sup>1</sup> Application Ref: 19/0682 Change Of Use Of Agricultural Land To Garden at 7, 9 and 15 Whiteclosegate, Carlisle, CA3 0JA; Application Ref: 18/0504 Change Of Use Of Agricultural Land To Garden at 29 Whiteclosegate, Carlisle, CA3 0JA; and Application Ref: 15/1142 Change Of Use Of Part Field To Provide Horse Arena (Manege) For Private Use.



guidance in the National Design Guide which advocates the need for development to respond to and be integrated into its context.

### **Other Matters**

14. I have had regard to the fact that the appeal property is located within Hadrian's Wall Vallum, which is designated as a World Heritage Site and Scheduled Monument, and given consideration to any impact of the development on its significance.
15. The Framework declares that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It goes on to advise that significance can be harmed or lost from an asset's alteration or destruction, or from development within its setting and that this should require clear and convincing justification<sup>2</sup>.
16. World Heritage Sites and Scheduled Monuments are identified within the Framework as designated heritage assets of the highest significance, which substantial harm to or loss of should be wholly exceptional<sup>3</sup>.
17. From the evidence before me and insofar as it pertains to this appeal, I consider that the significance of Hadrian's Wall Vallum to be largely derived from its historical illustrative value and evidential value, as an internationally significant asset of one of the frontiers of the Roman Empire and Roman military planning. The wider landscape setting of the Vallum also contributes to its significance.
18. Taking into account the relatively modest size and nature of the development and noting the comments made by Historic England, I consider that the development has a neutral impact on the identified significance of this designated heritage asset and its setting. As such, the change of use of the land and its enclosure does not conflict with Policy HE 2 of the CDLP which states that development will not be permitted where it would cause substantial harm to the significance of a scheduled monument. It also complies with provisions within the Framework which seek to protect the significance of designated heritage assets. Nonetheless, a neutral impact in this regard does not amount to a consideration in support of the appeal.
19. Whilst no objections to the development were submitted regarding highways or flood risk and no concerns were raised in relation to any impact on the living conditions of neighbours, these are neutral considerations in the planning balance. Furthermore, although the appellant contends that no verbal or written complaints or comments have been made in the two years since the fence was erected, this does not denote a lack of harm. Therefore, these matters do not alter my conclusion on the main issue.
20. I am aware of the clause within the legal contract entered into by the appellant when the land was purchased, requiring a fence of a minimum height of 1.5m to be erected and maintained around the appeal site. I also note the appellant's concerns in relation to the use of the adjacent and neighbouring field to hold livestock (horses) and the effectiveness of a post and rail fence to enclose his land. However, these are legal and/or civil matters and not for me to consider

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<sup>2</sup> National Planning Policy Framework Paragraphs 193 and 194.

<sup>3</sup> National Planning Policy Framework Paragraph 194 (b).

in the context of an appeal under Section 78 of the Town and Country Planning Act 1990.

21. I note the appellant's comments regarding alleged procedural impropriety by a Councillor who sits on Stanwix Rural Parish Council. However, it is not within the remit of the appeals process to comment on the internal procedures of the Parish Council or the Council. Consequently, this matter is not determinative in this appeal.
22. I recognise that a decision to dismiss the appeal may well cause inconvenience and expense to the appellant. However, unauthorised development has been undertaken and I must deal with the appeal having regard to the development plan and all other material considerations.

### **Conclusion**

23. For the reasons given above, I conclude that the appeal should be dismissed.

*F Cullen*

INSPECTOR

