

SCHEDULE A: Applications with Recommendation

17/1066

Item No: 05

Date of Committee: 08/06/2018

Appn Ref No:
17/1066

Applicant:
Mr S Fiddler

Parish:
Hayton

Agent:

Ward:
Hayton

Location: Plot 3 (Fallows End), Land to rear of Elmfield, Townhead, Hayton, Brampton, CA8 9JF

Proposal: Erection of 3no. detached dwellings without compliance with condition 2 imposed by planning permission 16/0261 to retrospectively amend the design of the roof from a hip to full gable and other revisions to the design of Plot 3.

Date of Receipt:
22/01/2018

Statutory Expiry Date
19/03/2018

26 Week Determination

REPORT

Case Officer: Jeff Tweddle

1. Recommendation

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

2. Main Issues

- 2.1 Whether the design of the proposed development is acceptable in the context of the site and the surrounding area
- 2.2 Whether the impact of the development on the living conditions/amenity of nearby residents is acceptable
- 2.3 Other Matters

3. Application Details

The Site

- 3.1 The application relates to an area of land to the rear of Elmfield at Hayton Townhead. The site is located on the south side of the U1199 unclassified public highway on the approach into Hayton Townhead from Hayton.

- 3.2 The site has recently been developed to provide three, two storey, detached dwellings with integral garages and off-street parking. This application relates specifically to Plot 3 of the development.
- 3.3 Prior to its development, the site was a largely rectangular parcel of greenfield land bound by a traditional stone wall adjacent to the highway. To the east of the site are existing residential properties, Elmfield, Woodbine Cottage and Feathers. Beyond the site to the south is open countryside in the form of agricultural pasture land.

Background

- 3.4 The application is made pursuant to Section 73 of the Town & Country Planning Act 1990 for planning permission for development already carried out but not in compliance with conditions imposed by a previous grant of planning permission. This provision allows Local Planning Authorities (LPA) to grant 'retrospective planning permission' for development that has already been carried out and where they consider this to be acceptable in accordance with development plan policies.
- 3.5 The National Planning Practice Guidance advises that where an application made under the provisions of Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. Should this be the case, a new decision notice would be issued setting out any new and all previous conditions unless they have been fully discharged.
- 3.6 Alternatively, should a proposal made under Section 73 be considered unacceptable the LPA can issue a refusal of planning permission and the developer / applicant would have to revert back to the original grant of planning or make an alternative proposal.
- 3.7 Members should note that the principle of development cannot be re-visited when assessing this type of application.

The Proposal

- 3.8 The application seeks planning permission for the erection of three dwellings without compliance with Condition 2 imposed by planning permission 16/0261. Condition 2 includes the standard 'Plans Compliance' condition imposed to confirm the list of approved plans, drawings or other documentation that constitute the planning permission and for which the development must be carried out in complete compliance with.
- 3.9 In seeking permission to carry out development not in compliance with Condition 2 the applicant is in effect seeking to vary the planning permission to allow for revisions to the design of Plot 3 of the three house development. Accordingly, the applicant has provided a set of new proposed drawings to substitute the approved drawings for Plot 3.

- 3.10 Members will note that the development is almost complete and that the three dwellings are now occupied. The proposal therefore seeks permission retrospectively in order to remedy a breach of planning control as the property in question has not been constructed in accordance with the approved plans.
- 3.11 The proposed revisions to the design of Plot 3 are to reflect the 'as built' site conditions and include:
- i. substitution of a hipped roof to that of a full gable on the North elevation;
 - ii. the omission of stone lintels throughout the development;
 - iii. the omission of a number of stone sills replaced with brick sills;
 - iv. the omission of render throughout the development;
 - v. the repositioning and altered design of the main entrance door on the East elevation along with a repositioned and larger window at first floor level;
 - vi. the inclusion of solar panels;
 - vii. the substitution of French style doors to the ground floor of the West elevation; and,
 - viii. the omission of a large area of glazing to the apex of the South facing gable elevation.

4. Summary of Representations

- 4.1 The application has been published by means of neighbour notifications carried out in accordance with the formal procedures prescribed by the Town & Country Planning (Development Management Procedure) Order 2015. This has resulted in 20 neighbouring properties being notified of the proposed development and a Site Notice being posted at the site on 31 January 2018.
- 4.2 As a result, three objections have been received from nearby residents. The concerns put forward by these residents in their letters of objection are summarised as follows:
1. The houses on the plot and particular Plot 3 are totally out of keeping with the houses in the vicinity;
 2. The design is overpowering in size considering its proximity to the road;
 3. The full gable elevation makes Plot 3 look bigger and more intrusive into the environment and to the western aspect from Hayton;
 4. The approved design was inappropriate and object further to this revised design;
 5. The house is overbearing and the full gable exacerbates this and makes it look more out of place;
 6. A hip gable would reduce the height of the north elevation and make it more attractive;
 7. It is wrong that builder can make changes to approved plans without the Council's permission. This makes a mockery of the system and encourages people to ignore the rules of planning;
 8. The north end of Plot 3 dominates the view up and down the road, its

- aspect being particularly plain, intrusive and unattractive;
9. The whole house presents itself from all directions as an ugly block, reminiscent of a factory or prison. The hip roof would have at least given it some shape and made it marginally less blocky;
 10. This design should not have been approved in the first place;
 11. The development is incongruous, with a particularly negative visual impact on the wider rural landscape;
 12. A hip construction would soften the obtrusive block effect of this large building;
 13. The full gable is a discordant feature which only serves to exacerbate the height and mass of the new build; and
 14. The proposal amounts to planning creep.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): No objection.

Hayton Parish Council: The Parish Council object to the proposal having received correspondence from a number of Parishioners. The Parish Council objected when the 2015 application for this development was submitted on the grounds of the adverse impact the height and appearance of the proposed design would have on the locality. However the application was granted permission. They understand that in 2016 when it was being built local residents advised the Planning Authority that a full gable was being constructed instead of a hip gable. There was considerable discussion at their meeting about why no enforcement action was taken. 17/1066 is dated 11/12/17 nearly 18 months later. Their meeting decided that it wished to change its comments submitted on 14 February 2018 and advise that they object to retrospective application 17/1066 because the full gable roof as built further increases the height of the building and does not improve its appearance which from the beginning was considered to not be in keeping with its location.

6. Officer's Report

Assessment

6 Assessment of the Proposal

- 6.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, require that an application for planning permission be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF), published in March 2012, maintains the supremacy of development plan policies in the consideration of all proposals for development.
- 6.2 In this case, the relevant local policy framework, against which the proposal is considered, is the Carlisle District Local Plan 2015-2030 (the CDLP), which forms the statutory development plan for the District of Carlisle and from

which policies SP1, SP6, HO8 and CM5 are of particular relevance to this application.

- 6.3 The NPPF and the National Planning Practice Guidance (NPPG) are also material considerations in the assessment of this proposed development, as is the Council's adopted Supplementary Planning Document: 'Achieving Well Designed Housing' (the Housing SPD).

- 6.4 The proposal gives rise to the following planning issues:

1. Whether the scale and design of the proposed development is acceptable in the context of the site and the surrounding area

- 6.5 CDLP policy SP6 requires development proposals to demonstrate a good standard of sustainable design that responds to, and is respectful of, the existing character and distinctiveness of the local area. Specifically with regard to house extensions, CDLP policy HO8 requires that such proposals are designed to complement the existing building and maintain the established character and pattern of the street scene resulting in a positive edition. This policy approach is echoed by Section 7 of the NPPF which emphasises the Government's commitment to achieving high quality design of the built environment. Indeed the NPPF advises that good design is indivisible from good planning and as such should contribute positively to making places better for people.
- 6.6 With regard to the full gable elevation it is worth noting that ordinarily householders could undertake a hip to gable roof extension as permitted development not requiring planning permission from the Council, however, in this case permitted development rights have been removed from these properties by a condition imposed under planning approval 15/0876.
- 6.7 In considering the acceptability of the full gable to the northern elevation, as built, regard is had to the design and general character of properties in the surrounding area. Properties opposite the site all feature gable elevations, one of which fronts onto the highway in a similar, but albeit smaller scale, fashion to that of the proposal. Further along the road, within the core of the village of Town Head, full gable elevations are the predominant design feature of properties, many of which front the highway in a similar way to that of the proposal.
- 6.8 Given the prevalence of full gable elevations in the immediate vicinity of the site it is considered that the proposal represents an appropriate form of development that conforms to the established character of the area. Indeed the proposed full gable elevation, as built, is considered to be a more appropriate and sympathetic design feature for this rural location than a hipped roof which is often found in more suburban areas.
- 6.9 The full gable does increase the scale of the northern elevation, however, it does not increase the overall height of the property and is in proportion with the overall scale and massing of the house.

- 6.10 With regard to the other proposed revisions to the design, as set out at paragraph 3.11 of this report, it is noted that objectors raise no issue with these elements of the proposal. These revisions are considered to be minor amendments to the overall design of the scheme, however, they have undoubtedly compromised the quality of the overall design of the house. The question members must therefore consider is whether these minor amendments amount to an unacceptable design by virtue of harm to the character of the surrounding area?
- 6.11 In considering this point members should note that paragraph 60 of the NPPF advises that planning policies and decisions should not attempt to impose architectural styles or particular tastes but rather reinforce local distinctiveness.
- 6.12 Officers consider the revisions to the pattern of fenestration do not give rise to any design issues. While the loss of glazing to the southern elevation makes for a more bland looking elevation this is not considered unacceptable. The omission of stone lintels and sills throughout the property is unfortunate as these features can add interest and replicate quality design features often found in rural locations. The substitution of render for a brick finish is considered to have a negligible impact on the overall design and the installation of solar panels are considered to be a welcome addition that are discreetly positioned on the south facing roof slopes where public views are limited.
- 6.13 Overall, while these minor revisions to the approved design have slightly eroded the quality of the finished property it is not considered that this amounts to any harm to the character or visual amenity of the surrounding area. Indeed, with regard to the full gable this is considered to be a more appropriate design feature which better reflects the site's rural context.
- 6.14 Consequently, with regard to matters of scale and design, the proposed development is compliant with policies SP6 and HO8 of the CDLP and the associated requirements of the NPPF as it would not harm the existing character or identity of the local area and complement the existing property.

2. Whether the impact of the development on the living conditions/amenity of nearby residents is acceptable

- 6.15 The NPPF requires the planning process to achieve a good standard of amenity for all existing and future occupiers of land and buildings. This is a core principle of the planning system and is echoed by CDLP policies SP6, HO8 and CM5 which seek to ensure that development does not result in adverse impacts to the environment, health or the amenity of future or existing occupiers. Accordingly, policies require that acceptable levels of privacy, outlook, and general amenity are maintained without resulting in any intrusive or overbearing effects.
- 6.16 Objectors in the properties opposite the site raise concerns that the full gable elevation is overbearing, overpowering and intrusive. The closest of these three neighbouring properties is Sandgate which is positioned across the road

to the northeast of Plot 3. The distance between the northern elevation of Plot 3 and the elevations of Sandgate is approx. 27m with the properties being at an oblique angle from each other.

- 6.17 Having considered the scale and positioning of the full gable elevation and its relationship and orientation to all neighbouring residential properties, it is considered that there would be no adverse impacts to the residential amenity of these, or any other, neighbouring properties.
- 6.18 Overall it is considered that the proposed development, due to its distance to and orientation with neighbouring residential properties, would not amount to an unacceptable impact on the residential amenity of neighbouring properties as it would not result in any loss of light, over shadowing or visual intrusion. The proposal would not result in any unacceptable overbearing effects or loss of privacy to neighbouring residents.
- 6.19 In this regard, the development meets the requirements set out in policies SP6, HO8 and CM5 of the CDLP and the requisite requirements of the NPPF.

3. Other matters

- 6.20 Objectors raise concern with the nature of the proposal being retrospective and take issue with the time taken for the applicant to make an application following alerting the Council to the breach of planning in June 2016.
- 6.21 It is unfortunate that the applicant has chosen to carry out development not in accordance with their approved plans, which has now resulted in this retrospective application for planning permission. However, as set out in section three of this report, there is a statutory provision that allows for applications to be submitted for 'retrospective planning permission' where works have already been carried out or completed. This can be frustrating for both local residents and for the Council to deal with but in itself cannot amount to a reason for refusing planning permission. There are sometimes legitimate reasons why amendments are required to be made to a scheme and often, where contractors are already engaged, such amendments cannot wait for the submission and determination of a planning application. Such works are always undertaken at the applicant's risk that planning permission may not be forthcoming and may result in abortive works.
- 6.22 Furthermore, it is disappointing that the applicant has taken such a long time to be forthcoming with a planning application which seeks to remedy this breach of planning control. The Council's Enforcement Officer has proactively pursued the applicant since the objectors alerted the Council to the alleged breach and this has now resulted in the submission of this application.

Conclusion

- 6.23 Overall, the proposal amounts to a revised design of Plot 3 as part of a three dwelling development on the edge of Town Head, Hayton. The revisions to the design of the house include a hip to full gable elevation, alterations to the

pattern of fenestration, substitution of render with a brick finish, the inclusion of solar panels, and the omission of stone lintels and sills.

- 6.24 The scale and design of the proposal is considered appropriate in the context of the site and is in keeping with the rural character of the surrounding locality. The proposal would not harm the visual amenity of the surrounding area or result in a discordant or incongruous form of development.
- 6.25 Given the orientation of the development and its relationship with neighbouring properties, it is not considered that the living conditions of neighbouring residents would be compromised. As such an acceptable level of residential amenity is maintained for all neighbouring properties.
- 6.26 In conclusion, having assessed the application against the relevant policies contained within both the local and national planning policy frameworks, it is considered that, subject to conditions, the proposal represents a sustainable form of development that would not result in any unacceptable impacts. The proposal is therefore recommended for member's approval.

7. Planning History

- 7.1 Outline Planning Permission was granted in January 2015 for the erection of three dwellings with some Matters Reserved (ref. 13/0455).
- 7.2 An application for Reserved Matters for the erection of three dwellings and pursuant to Outline Planning Permission 13/0455 was approved in November 2015 (ref. 15/0876).
- 7.3 Planning Permission was granted in April 2016 to vary the plans approved under application 15/0876 to allow for revisions to the design of the property proposed for Plot 2 (ref. 16/0261).
- 7.4 An application to discharge planning condition 15 (Planting Scheme) of previously approved application 13/0455 was approved in January 2017 (ref. 16/1033).

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 11 December 2017;
 - 2. the Site Location Plan submitted with application 15/0876 received 23 September 2015;
 - 3. the Proposed Site Block Plan (Drawing No. CJ/DWELL/SBP Rev A) submitted as part of application 16/0261 and received 24 March 2016 and amended, only in relation to Plot 3, by Proposed Plot 3 Ground

Floor Plan (Drawing No. SF/DWELL/PLOT 3 /GFP1 Rev B) received 16 March 2018;

4. the Proposed Plot 1 North and South Elevations (Drawing No. BM/PLOT 1/ELEV1 Rev A) submitted as part of application 15/0876 and received 23 September 2015;
5. the Proposed Plot 1 East and West Elevations (Drawing No. BM/PLOT 1/ELEV2 Rev A) submitted as part of application 15/0876 and received 23 September 2015;
6. the Proposed Plot 1 Ground Floor Plan (Drawing No. BM/PLOT 1/GFP Rev A) submitted as part of application 15/0876 and received 23 September 2015;
7. the Proposed Plot 1 First Floor Plan (Drawing No. BM/PLOT 1/FFP Rev A) submitted as part of application 15/0876 and received 23 September 2015;
8. the Proposed Plot 2 Elevations (Drawing No. CJ/DWELL/PLOT 2/ELE1 Rev A) submitted as part of application 16/0261 and received 24 March 2016;
9. the Proposed Plot 2 Floor Plans (Drawing No. CJ/DWELL/PLOT 2/FP1 Rev A) submitted as part of application 16/0261 and received 24 March 2016;
10. the Proposed Plot 3 Elevations (Drawing No. SF/DWELL/PLOT 3/ELEV Rev C) received 16 March 2018;
11. the Proposed Plot 3 Ground Floor Plan (Drawing No. SF/DWELL/PLOT 3/GFP1 Rev B) received 16 March 2018;
12. the Proposed Plot 3 First Floor Plan (Drawing No. SF/DWELL/PLOT 3/FFP1 Rev B) received 16 March 2018;
13. the Proposed Foul & Surface Water Drainage Plan (Drawing No. BM/DWELL/DRAINAGE Rev B) submitted as part of application 15/0876 and received 28 September 2015;
14. the Proposed Landscaping and Hedgerow Protection Plan (Drawing No. BM/DWELL/LAND Rev A) submitted as part of application 15/0876 and received 23 September 2015;
15. the Proposed Ground and Floor Levels Plan (Drawing No. BM/DWELL/LEVELS Rev A) submitted as part of application 15/0876 and received 23 September 2015;
16. the Proposed Surface Finishes and Parking Plan (Drawing No. BM/DWELL/PARKING Rev A) submitted as part of application 15/0876 and received 23 September 2015;

17. the Notice of Decision; and

18. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: In order to ensure that the development is carried out in complete accordance with the approved documents and to avoid any ambiguity as to what constitutes the permission.

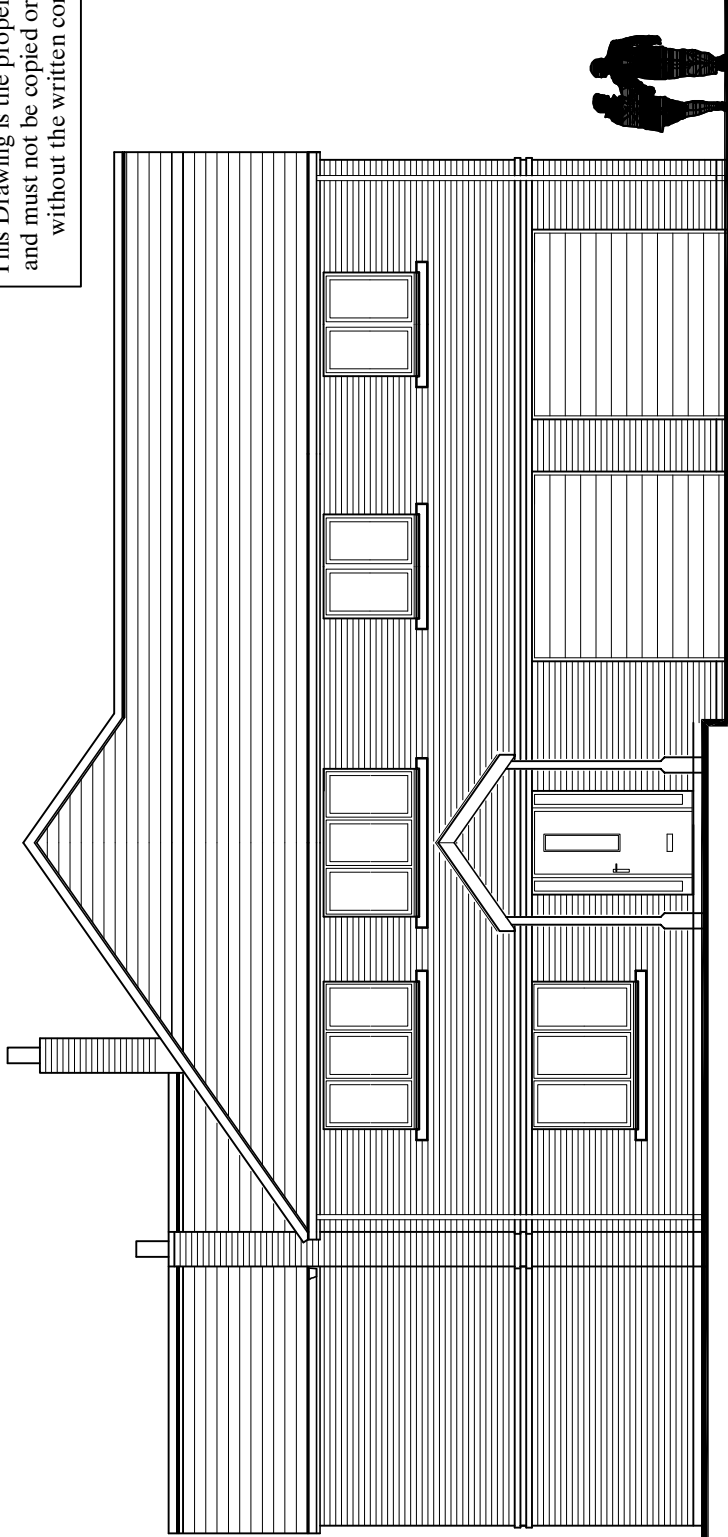
2. The Planting Scheme shall be carried out in strict accordance with the details submitted under application 16/1033 and as approved on 19 January 2017. The Planting Scheme shall be retained as such thereafter.

Reason: In order to ensure the implementation of a satisfactory landscaping scheme in accordance with policy SP6 of the Carlisle District Local Plan 2015-2030.

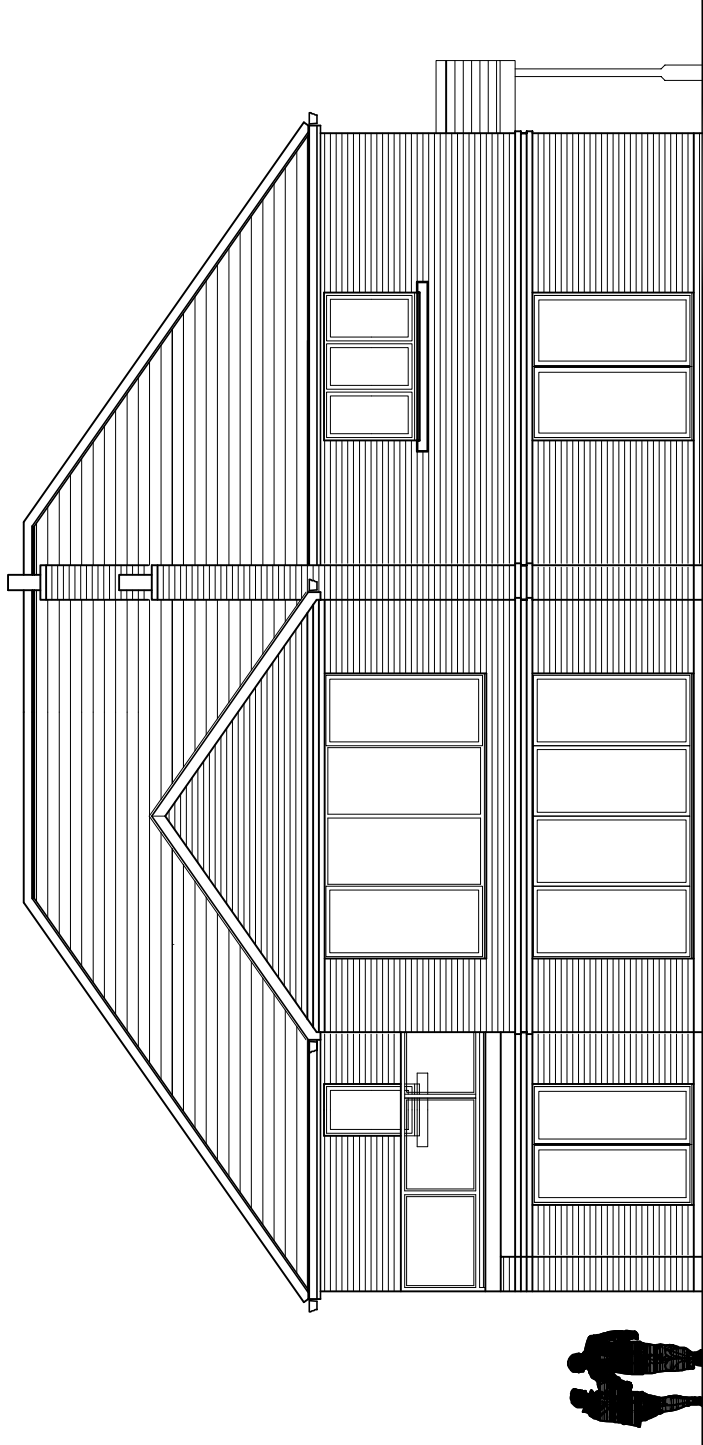
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) there shall be no enlargement or external alterations to the dwellings hereby approved in accordance with this permission, within the meaning of Schedule 2, Part 1, Classes A to E (inclusive) of the Order, without the written approval of the Local Planning Authority achieved via the submission and determination of a planning application.

Reason: To ensure that the character and attractive appearance of the building is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of policies SP6 and HO8 of the Carlisle District Local Plan 2015-2030.

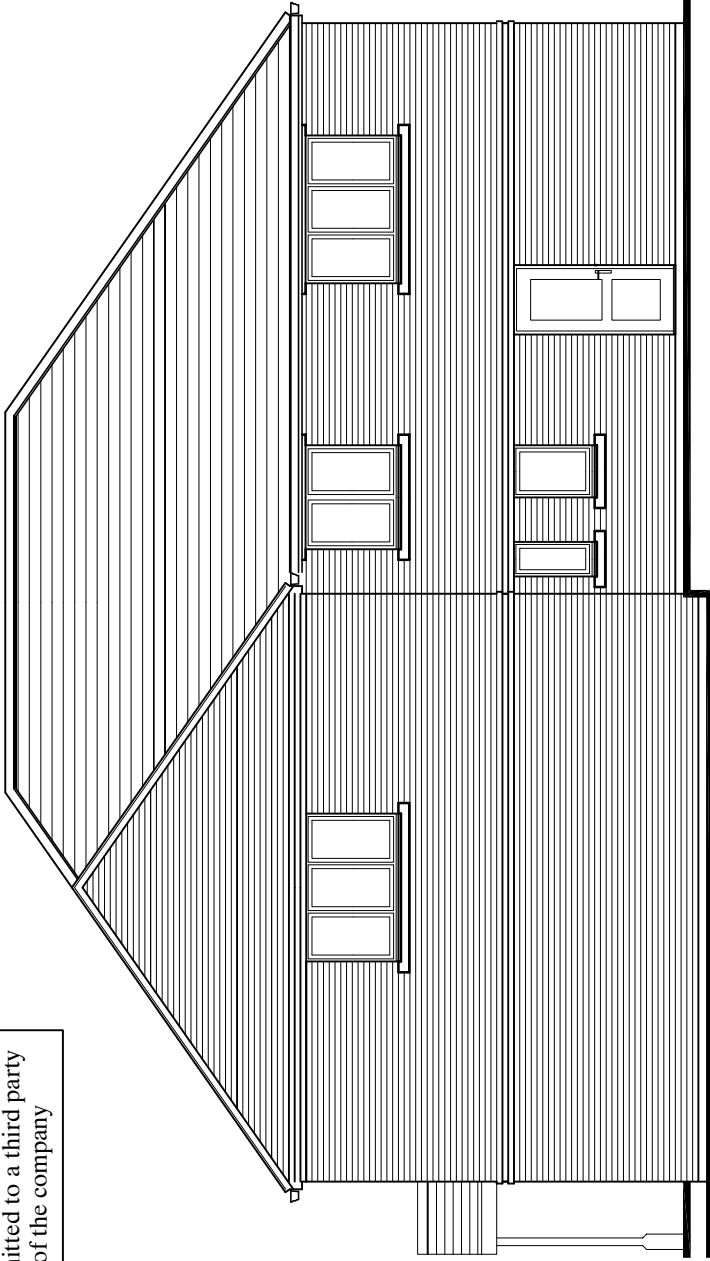
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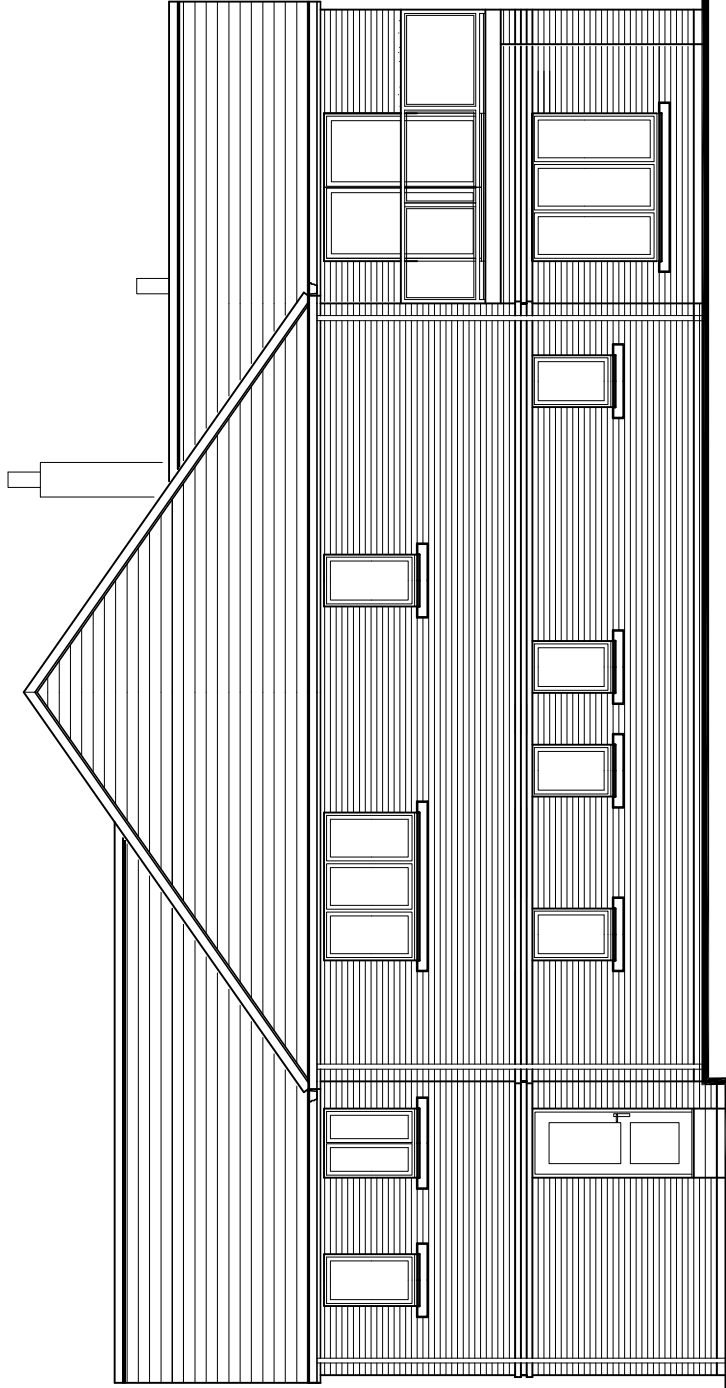
Proposed East Elevation



Proposed South Elevation



Proposed North Elevation

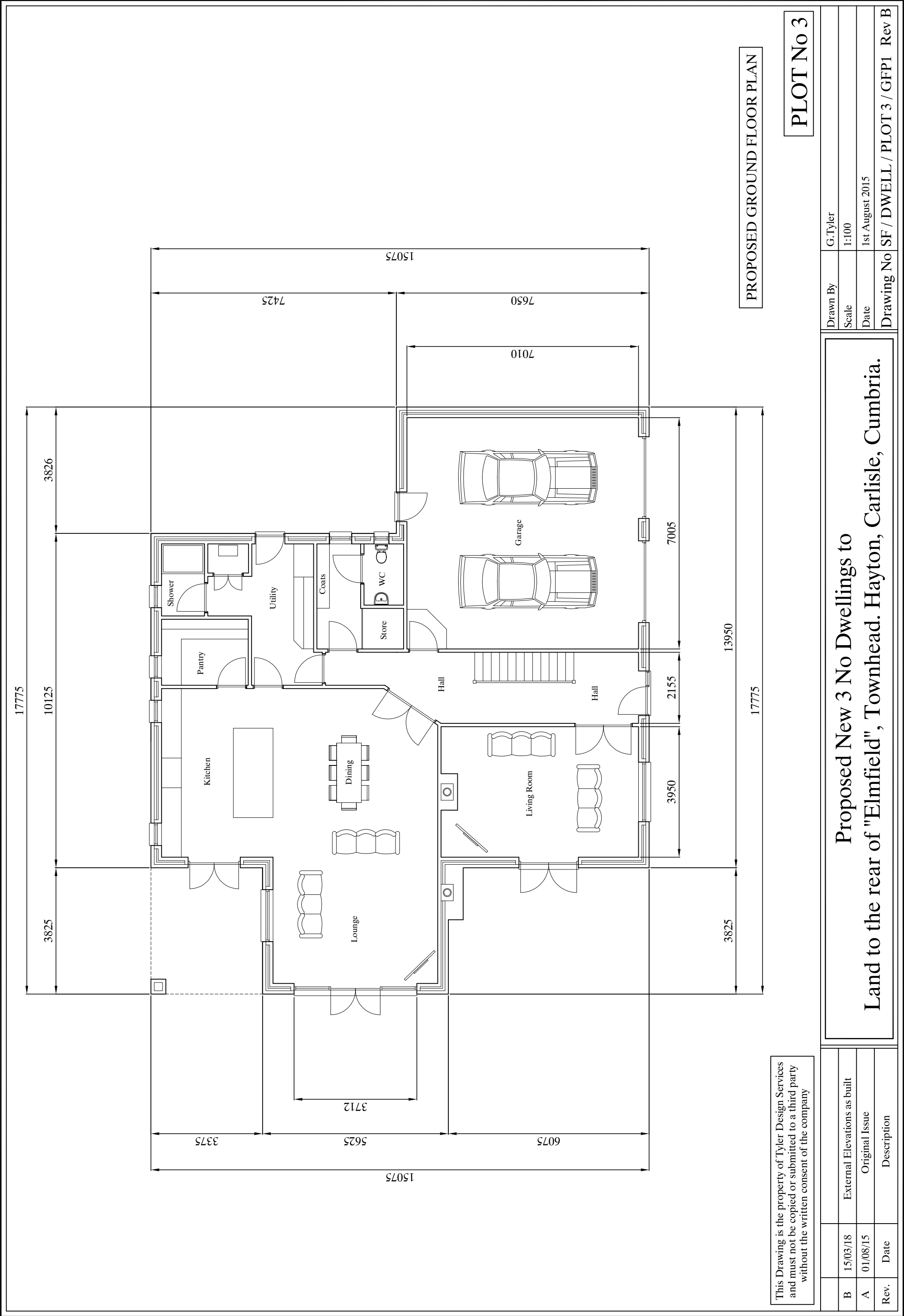


Proposed West Elevation

PLOT No 3

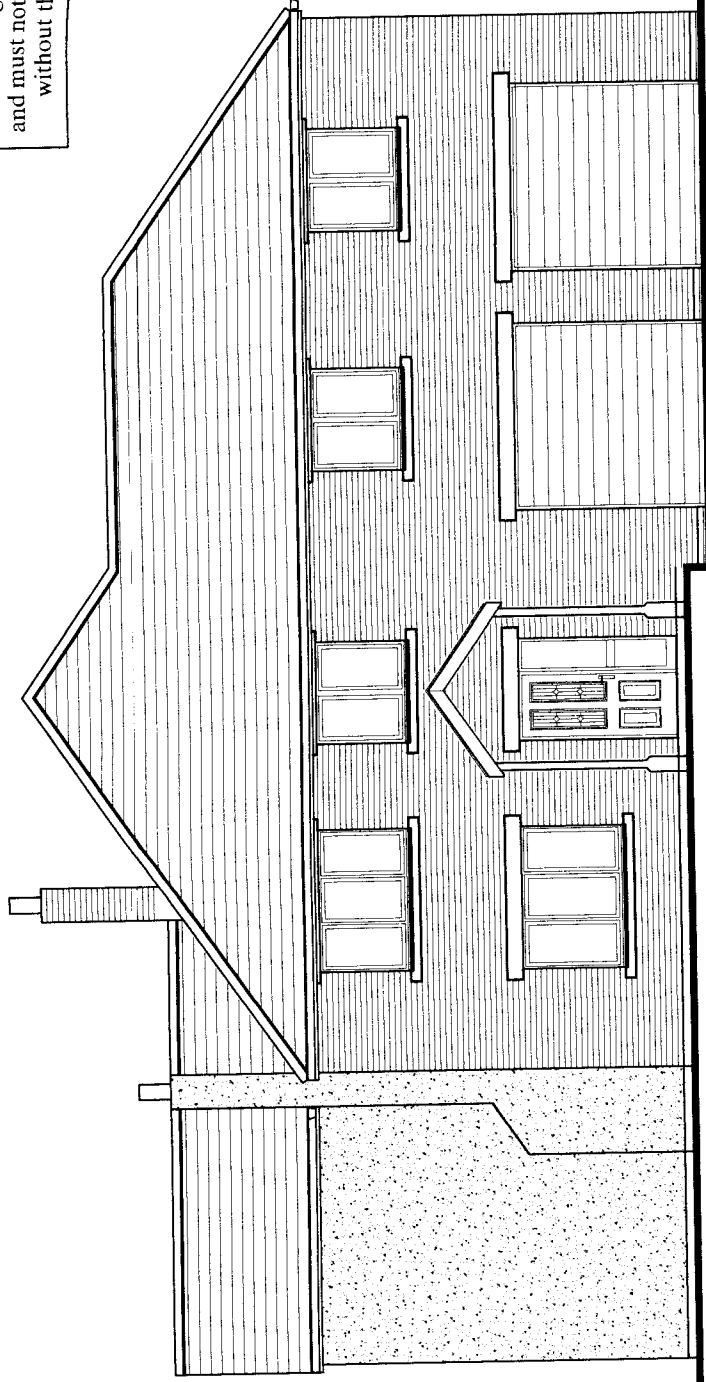
C	15/03/18	External Elevations as built
B	12/11/15	Amended
A	01/08/15	Original Issue
Rev.	Date	Description

<p style="text-align: center;">Proposed New 3 No Dwellings to Land to the rear of "Elmfield", Townhead. Hayton, Carlisle, Cumbria.</p>			Drawn By	G.Tyler
			Scale	1:100
			Date	1st August 2015
			Drawing No	SF / DWELL / PLOT 3 / ELEV Rev C

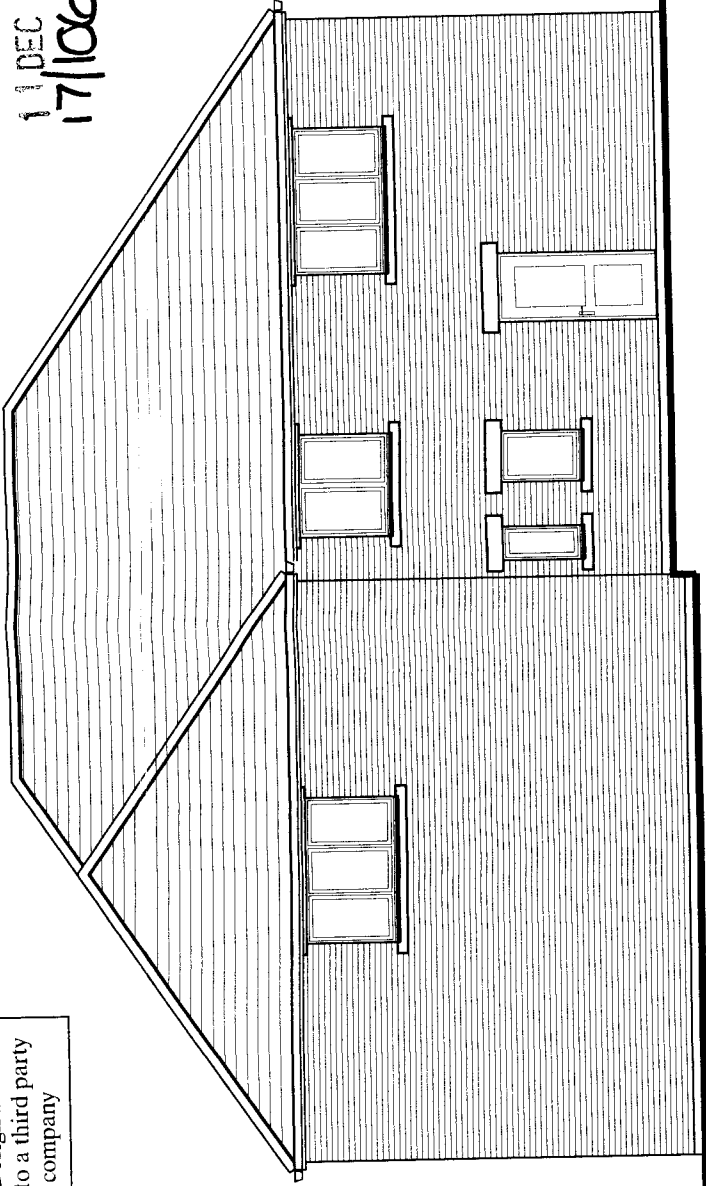


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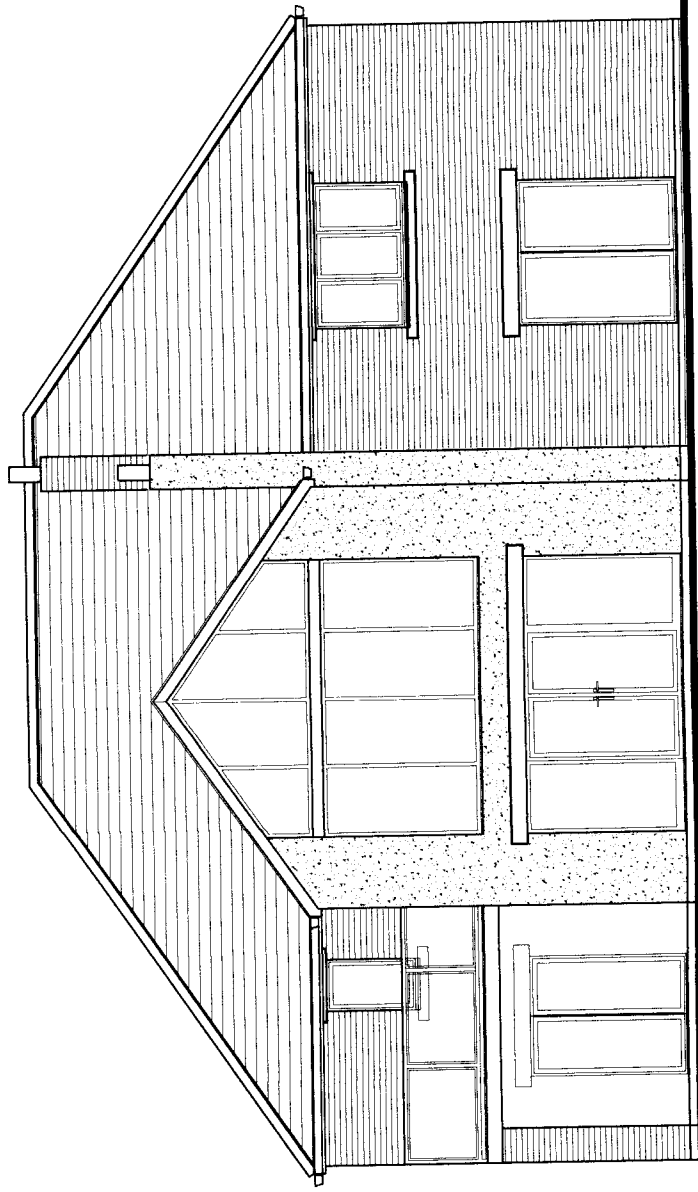
11 DEC 2017
17/1066



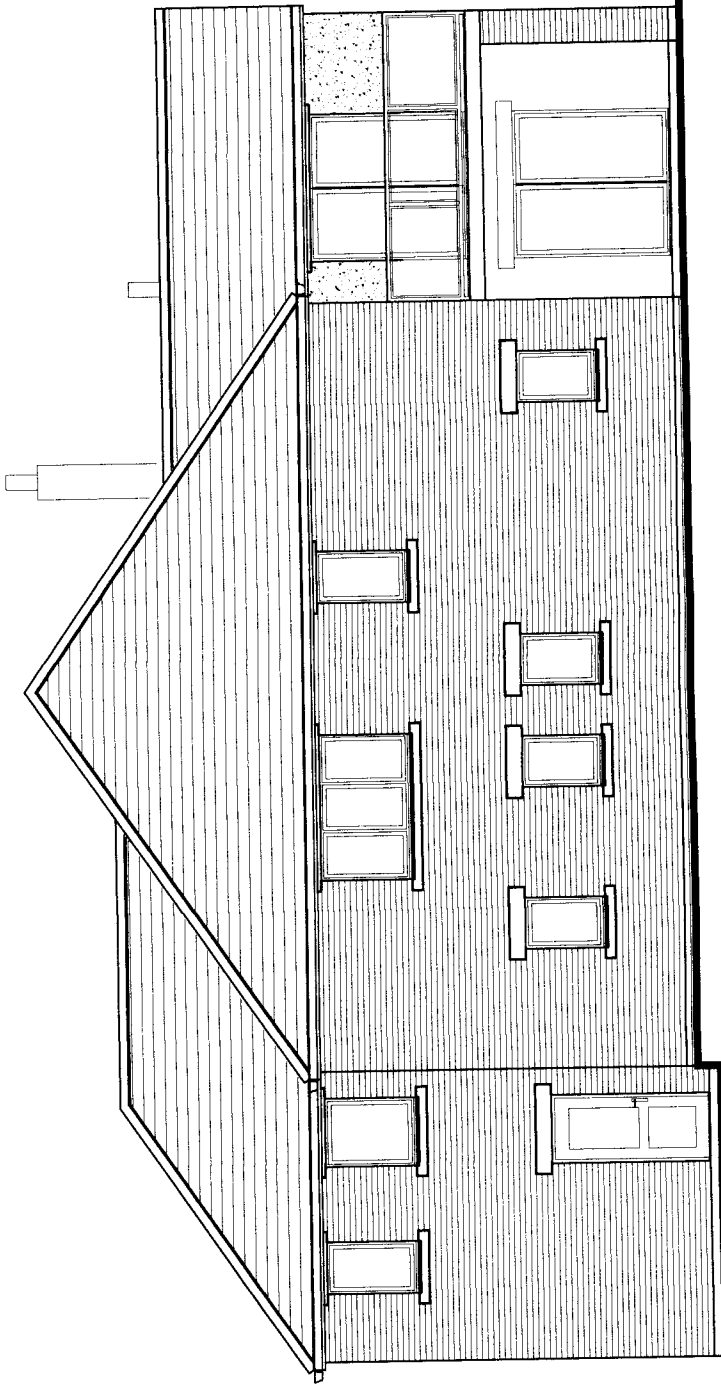
Proposed East Elevation



Proposed North Elevation



Proposed South Elevation



Proposed West Elevation

PLOT No 3

Proposed New 3 No Dwellings to "AS APPROVED"
Land to the rear of "Elmfield", Townhead. Hayton, Carlisle, Cumbria.

Drawn By	G. Tyler
Scale	1:100
Date	1st August 2015
Drawing No	SF / DWELL / PLOT 3 / ELEV Rev A

Rev.	Date	Description
A	01/08/15	Original Issue